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SENATE BILL 85

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Craig W. Brandt

AN ACT

RELATING TO PUBLIC EDUCATION; PROVIDING FOR THE SUSPENSION OR
POSTPONEMENT OF DRIVING PRIVILEGES OF SCHOOL-AGE PERSONS WHO
ARE IN VIOLATION OF THE COMPULSORY SCHOOL ATTENDANCE LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-12-7 NMSA 1978 (being Laws 1967,
Chapter 16, Section 175, as amended) is amended to read:

"22-12-7. ENFORCEMENT OF ATTENDANCE LAW--HABITUAL
TRUANTS--PENALTY--SUSPENSION OR DENIAL OF DRIVING PRIVILEGES--
APPEAL TO SCHOOL DISTRICT, DEPARTMENT AND DISTRICT COURT.--

A. Each local school board and each governing body
of a charter school or private school shall initiate the
enforcement of the provisions of the Compulsory School
Attendance Law for students enrolled in their respective
schools.

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1 B. To initiate enforcement of the provisions of the
2 Compulsory School Attendance Law against ~~[an]~~ a student who is
3 a habitual truant, a local school board or governing body of a
4 charter school or private school or its authorized
5 representatives shall give written notice of the habitual
6 truancy by mail to or by personal service on the parent of the
7 student subject to and in noncompliance with the provisions of
8 the Compulsory School Attendance Law. The notice shall include
9 a date, time and place for the parent to meet with the local
10 school district, charter school or private school to develop
11 intervention strategies that focus on keeping the student in an
12 educational setting.

13 C. If unexcused absences continue after written
14 notice of habitual truancy as provided in Subsection B of this
15 section has occurred, the student shall be reported to the
16 juvenile probation ~~[services]~~ office of the judicial district
17 where the student resides for an investigation as to whether
18 the student shall be considered to be a neglected child or a
19 child in a family in need of services because of habitual
20 truancy and thus subject to the provisions of the Children's
21 Code. The juvenile probation ~~[services]~~ office may send a
22 written notice to a parent of the student directing the parent
23 and student to report to the juvenile probation ~~[services]~~
24 office to discuss services for the student or the family. ~~[In~~
25 ~~addition to any other disposition, the children's court may~~

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1 ~~order the habitual truant's driving privileges to be suspended~~
2 ~~for a specified time not to exceed ninety days on the first~~
3 ~~finding of habitual truancy and not to exceed one year for a~~
4 ~~subsequent finding of habitual truancy.]~~

5 D. If, after review by the juvenile probation
6 office where the student resides, a determination and finding
7 is made that the habitual truancy by the student may have been
8 caused by the parent of the student, then the matter [~~will~~]
9 shall be referred by the juvenile probation office to the
10 district attorney's office or any law enforcement agency having
11 jurisdiction for appropriate investigation and filing of
12 charges allowed under the Compulsory School Attendance Law.
13 Charges against the parent may be filed in metropolitan court,
14 magistrate court or district court.

15 E. A parent of the student who, after receiving
16 written notice as provided in Subsection B of this section and
17 after the matter has been reviewed in accordance with
18 Subsection D of this section, knowingly allows the student to
19 continue to violate the Compulsory School Attendance Law [~~shall~~
20 ~~be~~] is guilty of a petty misdemeanor. Upon the first
21 conviction, a fine of not less than twenty-five dollars
22 (\$25.00) or more than one hundred dollars (\$100) may be
23 imposed, or the parent of the student may be ordered to perform
24 community service. If violations of the Compulsory School
25 Attendance Law continue, upon the second and subsequent

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1 convictions, the parent of the student who knowingly allows the
2 student to continue to violate the Compulsory School Attendance
3 Law [~~shall be~~] is guilty of a petty misdemeanor and shall be
4 subject to a fine of not more than five hundred dollars (\$500)
5 or imprisonment for a definite term not to exceed six months or
6 both.

7 F. [~~The provisions of this section shall apply~~
8 ~~beginning July 1, 2004.~~] Starting with the 2016-2017 school
9 year, when a student in grade eight through twelve accumulates
10 ten or more unexcused absences and becomes a habitual truant:

11 (1) a school may give to the student's parent
12 a notice of noncompliance with the Compulsory School Attendance
13 Law containing:

14 (a) the name, date of birth and address
15 of the student;

16 (b) a statement that the student is in
17 noncompliance with the Compulsory School Attendance Law due to
18 habitual truancy and the number and dates of unexcused
19 absences; and

20 (c) notice of the opportunity for the
21 student's parent to request an optional meeting with the school
22 principal or head administrator within two weeks to: 1) commit
23 to returning to school and complying with the Compulsory School
24 Attendance Law; 2) contest the occurrences and number of the
25 student's unexcused absences; or 3) provide evidence that the

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1 student is no longer subject to the Compulsory School
2 Attendance Law;

3 (2) a school district or state-chartered
4 charter school shall give to the student's parent and the motor
5 vehicle division of the taxation and revenue department a
6 state-provided certification of noncompliance with the
7 Compulsory School Attendance Law no less than thirty days after
8 the notice of noncompliance with the Compulsory School
9 Attendance Law is sent to the parent pursuant to Paragraph (1)
10 of this subsection if the student remains noncompliant;

11 (3) upon the motor vehicle division's receipt
12 of a state-provided certification of noncompliance with the
13 Compulsory School Attendance Law, the motor vehicle division
14 shall suspend or deny the issuance of an instruction permit,
15 driver's license or provisional license to a student pursuant
16 to the Motor Vehicle Code until the student reaches the age of
17 eighteen years; and

18 (4) following the suspension or denial of an
19 instruction permit, driver's license or provisional license,
20 the student may:

21 (a) request a meeting with the school
22 district or state-chartered charter school to provide evidence
23 supporting a request that the school district or state-
24 chartered charter school provide to the motor vehicle division
25 a certification that the student is in compliance with or is no

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1 longer subject to the Compulsory School Attendance Law;
2 (b) appeal the school district's or
3 state-chartered charter school's determination by requesting a
4 hearing and final decision from the department pursuant to its
5 rules; and

6 (c) appeal the department's final
7 decision to the district court for the county in which the
8 student resides pursuant to Section 39-3-1.1 NMSA 1978."

9 SECTION 2. A new section of the Motor Vehicle Code is
10 enacted to read:

11 "[NEW MATERIAL] AUTHORITY OF DIVISION TO SUSPEND LICENSE
12 OF SCHOOL-AGE PERSON.--

13 A. The division is authorized:

14 (1) upon receipt of a state-provided
15 certification of noncompliance with the Compulsory School
16 Attendance Law, pursuant to Section 22-12-7 NMSA 1978, to
17 suspend or deny the granting of an instruction permit, driver's
18 license or provisional license, without a preliminary hearing,
19 of a school-age person until the school-age person reaches the
20 age of eighteen years; and

21 (2) upon receipt of a state-provided
22 certification that the school-age person is in compliance with
23 or is no longer subject to the Compulsory School Attendance
24 Law, to:

25 (a) reinstate a suspended instruction

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1 permit, driver's license or provisional license of a school-age
2 person; or

3 (b) grant an instruction permit,
4 driver's license or provisional license to a school-age person
5 pursuant to the Motor Vehicle Code.

6 B. The division may adopt and promulgate rules to
7 implement the provisions of this section."