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HOUSE BILL 23

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Sarah Maestas Barnes

AN ACT

RELATING TO CRIME; INCREASING THE PENALTY FOR HOMICIDE BY
VEHICLE WHILE RECKLESSLY DRIVING.

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

SECTION 1. Section 66-8-101 NMSA 1978 (being Laws 1978,
Chapter 35, Section 509, as amended) is amended to read:

"66-8-101. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY
VEHICLE.--

A. Homicide by vehicle is the killing of a human
being in the unlawful operation of a motor vehicle.

B. Great bodily harm by vehicle is the injuring of
a human being, to the extent defined in Section 30-1-12 NMSA
1978, in the unlawful operation of a motor vehicle.

C. A person who commits homicide by vehicle while
under the influence of intoxicating liquor or while under the

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1 influence of any drug is guilty of a second degree felony and
2 shall be sentenced pursuant to the provisions of Section
3 31-18-15 NMSA 1978.

4 D. A person who commits homicide by vehicle while
5 violating Section 66-8-113 NMSA 1978 is guilty of a [~~third~~
6 second degree felony and shall be sentenced pursuant to the
7 provisions of Section 31-18-15 NMSA 1978, provided that
8 violation of speeding laws as set forth in the Motor Vehicle
9 Code shall not per se be a basis for violation of Section
10 66-8-113 NMSA 1978.

11 E. A person who commits great bodily harm by
12 vehicle while under the influence of intoxicating liquor, while
13 under the influence of any drug or while violating Section
14 66-8-113 NMSA 1978 is guilty of a third degree felony and shall
15 be sentenced pursuant to the provisions of Section 31-18-15
16 NMSA 1978, provided that violation of speeding laws as set
17 forth in the Motor Vehicle Code shall not per se be a basis for
18 violation of Section 66-8-113 NMSA 1978.

19 F. A person who commits homicide by vehicle or
20 great bodily harm by vehicle while under the influence of
21 intoxicating liquor or while under the influence of any drug,
22 as provided in Subsection C or E of this section, and who has
23 incurred a prior DWI conviction within ten years of the
24 occurrence for which the person is being sentenced under this
25 section shall have the person's basic sentence increased by

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1 four years for each prior DWI conviction.

2 G. For the purposes of this section, "prior DWI
3 conviction" means:

4 (1) a prior conviction under Section 66-8-102
5 NMSA 1978; or

6 (2) a prior conviction in New Mexico or any
7 other jurisdiction, territory or possession of the United
8 States, including a tribal jurisdiction, when the criminal act
9 is driving under the influence of alcohol or drugs.

10 H. A person who willfully operates a motor vehicle
11 in violation of Subsection C of Section 30-22-1 NMSA 1978 and
12 directly or indirectly causes the death of or great bodily harm
13 to a human being is guilty of a third degree felony and shall
14 be sentenced pursuant to the provisions of Section 31-18-15
15 NMSA 1978."

16 SECTION 2. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2017.