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HOUSE BILL 300

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

INTRODUCED BY

Harry Garcia and Derrick J. Lente and Rodolpho "Rudy" S.
Martinez and Joanne J. Ferrary

AN ACT

RELATING TO ALCOHOLIC BEVERAGE SALES; PROHIBITING SALES OF
ALCOHOLIC BEVERAGES TO A PERSON WITH AN IGNITION INTERLOCK
LICENSE OR A CERTAIN IDENTIFICATION CARD THAT INDICATES THAT
THE PURCHASE OF ALCOHOLIC BEVERAGES IS PROHIBITED; PROVIDING
PENALTIES.

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

SECTION 1. A new section of the Liquor Control Act is
enacted to read:

"[NEW MATERIAL] SALES PROHIBITED TO PERSONS WITH CERTAIN
FORMS OF IDENTIFICATION.--A licensee or a licensee's agent or
employee shall not sell alcoholic beverages to a person who
presents identification to the licensee or licensee's agent or
employee that is an ignition interlock license issued pursuant
to the Ignition Interlock Licensing Act or identification card

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1 issued pursuant to Section 66-5-401 or 66-5-404 NMSA 1978 that
2 indicates that the person is prohibited from purchasing
3 alcoholic beverages."

4 SECTION 2. Section 60-6C-1 NMSA 1978 (being Laws 1981,
5 Chapter 39, Section 97, as amended) is amended to read:

6 "60-6C-1. GROUNDS FOR SUSPENSION, REVOCATION OR
7 ADMINISTRATIVE FINE--REPORTING REQUIREMENT.--

8 A. The director may suspend or revoke the license
9 or permit or fine the licensee in an amount not more than ten
10 thousand dollars (\$10,000), or both, when ~~[he]~~ the director
11 finds that ~~[any]~~ a licensee has:

12 (1) violated ~~[any]~~ a provision of the Liquor
13 Control Act or ~~[any regulation]~~ a rule or order promulgated
14 pursuant to that act;

15 (2) been convicted of a felony pursuant to the
16 provisions of the Criminal Code, the Liquor Control Act or
17 federal law; or

18 (3) ~~[permitted his]~~ allowed the licensee's
19 licensed premises to remain a public nuisance in the
20 neighborhood where it is located after written notice from the
21 director that investigation by the department has revealed that
22 the establishment is a public nuisance in the neighborhood.

23 B. The director shall suspend or revoke the license
24 or permit and may fine the licensee in an amount not to exceed
25 ten thousand dollars (\$10,000), or both, when ~~[he]~~ the director

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1 finds that [~~any~~] a licensee or:

2 (1) [~~his~~] the licensee's employee or agent
3 knowingly has sold, served or given [~~any~~] an alcoholic beverage
4 to a minor in violation of Section 60-7B-1 NMSA 1978, [~~or~~] to
5 an intoxicated person in violation of Section 60-7A-16 NMSA
6 1978 or to a person with an ignition interlock license or
7 identification card that indicates that the person is
8 prohibited from purchasing alcoholic beverages in violation of
9 Section 1 of this 2017 act, on two separate occasions within
10 any twelve-month period; or

11 (2) [~~his~~] the licensee's agent has made any
12 material false statement or concealed any material facts in
13 [~~his~~] the licensee's application for the license or permit
14 granted [~~him~~] the licensee pursuant to the provisions of the
15 Liquor Control Act.

16 C. [~~Any~~] A licensee aggrieved by a revocation,
17 suspension or fine proposed to be imposed by the director
18 pursuant to this section shall be entitled to the hearing
19 procedures set forth in Chapter 60, Article 6C NMSA 1978 before
20 the revocation, suspension or fine shall be effective.

21 D. [~~Any~~] A charge filed against a licensee by the
22 department and the resulting disposition of the charge shall be
23 reported to the department of public safety and local law
24 enforcement agencies whose jurisdictions include the licensed
25 establishment.

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1 E. For the purposes of this section:

2 (1) "ignition interlock license" means a
3 license issued pursuant to the Ignition Interlock Licensing
4 Act; and

5 (2) "identification card" means an
6 identification card issued by the taxation and revenue
7 department pursuant to Section 66-5-401 or 66-5-404 NMSA 1978."

8 SECTION 3. Section 60-6E-8 NMSA 1978 (being Laws 1999,
9 Chapter 277, Section 9) is amended to read:

10 "60-6E-8. SERVER PERMIT--SUSPENSION--REVOCATION--
11 ADMINISTRATIVE FINES--PENALTIES.--

12 A. In addition to any other penalties available,
13 [~~the following penalties may be imposed~~] for sales to [~~minors~~
14 ~~or intoxicated persons~~] a minor, an intoxicated person or a
15 person with an ignition interlock license or identification
16 card that indicates that the person is prohibited from
17 purchasing alcoholic beverages in violation of the provisions
18 of the Liquor Control Act or rules [of] promulgated by the
19 division, [A.] the director:

20 (1) may suspend a server's server permit for a
21 period of thirty days or fine the server in an amount not to
22 exceed five hundred dollars (\$500), or both, when [~~he~~] the
23 director finds that the server is guilty of a first offense of
24 selling, serving or dispensing an alcoholic beverage to an
25 intoxicated person in violation of Section 60-7A-16 NMSA 1978

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1 ~~[or]~~, to a minor in violation of Section 60-7B-1 NMSA 1978 or
2 to a person with an ignition interlock license or
3 identification card that indicates that the person is
4 prohibited from purchasing alcoholic beverages in violation of
5 Section 1 of this 2017 act;

6 ~~[B.—the director]~~ (2) shall suspend a
7 server's server permit for a period of one year when ~~[he]~~ the
8 director finds that the server is guilty of a second offense of
9 selling, serving or dispensing an alcoholic ~~[beverages to~~
10 ~~intoxicated persons]~~ beverage to an intoxicated person in
11 violation of Section 60-7A-16 NMSA 1978 ~~[or]~~, to ~~[minors]~~ a
12 minor in violation of Section 60-7B-1 NMSA 1978 or to a person
13 with an ignition interlock license or identification card that
14 indicates that the person is prohibited from purchasing
15 alcoholic beverages in violation of Section 1 of this 2017 act
16 arising separately from the incident giving rise to ~~[his]~~ the
17 server's first offense; and

18 ~~[G.—the director]~~ (3) shall permanently
19 revoke a server's server permit when ~~[he]~~ the director finds
20 that the server is guilty of a third offense of selling,
21 serving or dispensing an alcoholic ~~[beverages to intoxicated~~
22 ~~persons]~~ beverage to an intoxicated person in violation of
23 Section 60-7A-16 NMSA 1978 ~~[or]~~, to ~~[minors]~~ a minor in
24 violation of Section 60-7B-1 NMSA 1978 or to a person with an
25 ignition interlock license or identification card that

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1 indicates that the person is prohibited from purchasing an
2 alcoholic beverage in violation of Section 1 of this 2017 act
3 arising separately from the incidents giving rise to [~~his~~] the
4 server's first and second offenses.

5 [~~D. no~~] B. A person whose server permit is
6 suspended or revoked pursuant to the provisions of this section
7 [~~may~~] shall not be a server of alcoholic beverages on a
8 licensed premises during the period of suspension or
9 revocation.

10 [~~E. no~~] C. A person whose server permit is
11 suspended [~~may~~] shall not serve alcoholic beverages on or after
12 the date of suspension unless the person obtains a new server
13 permit in accordance with the provisions of [~~Article 6D of~~]
14 Chapter 60, Article 6E NMSA 1978.

15 [~~F.~~] D. Nothing in [~~this~~] the Alcohol Server
16 Education Article of the Liquor Control Act shall be
17 interpreted to waive [~~any~~] a license holder's liability that
18 may arise pursuant to the provisions of [~~this~~] the Liquor
19 Control Act.

20 E. For the purposes of this section:
21 (1) "ignition interlock license" means a
22 license issued pursuant to the Ignition Interlock Licensing
23 Act; and
24 (2) "identification card" means an
25 identification card issued by the taxation and revenue

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1 department pursuant to Section 66-5-401 or 66-5-404 NMSA 1978."

2 SECTION 4. Section 66-5-405 NMSA 1978 (being Laws 1978,
3 Chapter 35, Section 332, as amended) is amended to read:

4 "66-5-405. CONTENTS OF CARD.--

5 A. An identification card shall bear the
6 applicant's full legal name; date of birth; sex; current New
7 Mexico residence address; full-face or front-view digital
8 photograph of the identification card holder; a unique
9 identification card number; a date of issuance; an expiration
10 date; a brief description of the identification card holder and
11 the signature of the holder, and the identification card shall
12 indicate donor status. All identification cards of persons
13 under the age of twenty-one years shall have a printed legend
14 indicating that the person is under twenty-one. All
15 identification cards issued to a person who is a first offender
16 or a subsequent offender as defined in the Motor Vehicle Code
17 shall have a printed legend that indicates that the person is
18 prohibited from purchasing alcoholic beverages, as provided in
19 Section 66-5-405 NMSA 1978. An identification card issued to
20 a:

21 (1) first offender shall include the required
22 printed legend for a period of one year from the date of
23 issuance;

24 (2) subsequent offender who has been
25 adjudicated guilty of the charge of driving a motor vehicle

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1 while under the influence of intoxicating liquor or drugs only
2 two times shall include the required printed legend for a
3 period of two years from the date the card is first issued to
4 the person following the second adjudication;

5 (3) subsequent offender who has been
6 adjudicated guilty of the charge of driving a motor vehicle
7 while under the influence of intoxicating liquor or drugs only
8 three times shall include the required printed legend for a
9 period of three years from the date the card is first issued to
10 the person following the third adjudication; and

11 (4) subsequent offender who has been
12 adjudicated guilty of the charge of driving a motor vehicle
13 while under the influence of intoxicating liquor or drugs four
14 or more times shall include the required printed legend from
15 the date the card is first issued for the remainder of the
16 person's natural life.

17 B. An identification card not intended to be
18 accepted by federal agencies for official federal purposes
19 shall bear the statement:

20 "STATE OF NEW MEXICO IDENTIFICATION

21 CARD NO. _____

22 This card is provided solely for the purpose of establishing
23 that the bearer described on the card was not the holder of a
24 New Mexico driver's license as of the date of issuance of this
25 card. This identification card is not a license. ISSUED FOR

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1 IDENTIFICATION PURPOSES ONLY. NOT FOR FEDERAL PURPOSES."

2 C. An identification card that meets federal
3 requirements to be accepted by federal agencies for official
4 federal purposes shall be distinguishable in color or design
5 from an identification card not intended to be accepted by
6 federal agencies for official federal purposes and shall bear
7 the statement:

8 "STATE OF NEW MEXICO IDENTIFICATION

9 CARD NO. _____

10 This card is provided for the purpose of establishing that the
11 bearer described on the card was not the holder of a New Mexico
12 driver's license as of the date of issuance of this card. This
13 identification card is not a license. ISSUED FOR
14 IDENTIFICATION PURPOSES ONLY."

15 D. An identification card that meets federal
16 requirements to be accepted by federal agencies for official
17 federal purposes issued to a foreign national with lawful
18 status who fails to prove that the foreign national's lawful
19 status will not expire prior to the date on which the
20 identification card applied for would expire but for the person
21 being a foreign national shall clearly indicate on its face and
22 in the machine readable zone that it is temporary and shall
23 bear the word "TEMPORARY".

24 E. Five years from the date of issuance of an
25 identification card to a subsequent offender who has been

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1 adjudicated guilty of the charge of driving a motor vehicle
2 while under the influence of intoxicating liquor or drugs four
3 or more times, and every five years thereafter, that person may
4 apply to a district court to allow issuance of a card without
5 the printed legend on the person's identification card that
6 indicates that the person is prohibited from purchasing
7 alcoholic beverages. The court may, for good cause shown,
8 order the issuance of an identification card without the
9 printed legend to the person; provided that the person has not
10 been subsequently adjudicated guilty of the charge of driving a
11 motor vehicle while under the influence of intoxicating liquor
12 or drugs and otherwise qualifies for issuance of the card."

13 SECTION 5. Section 66-5-501 NMSA 1978 (being Laws 2003,
14 Chapter 239, Section 1) is amended to read:

15 "66-5-501. SHORT TITLE.--Sections [~~1 through 4 of this~~
16 ~~act~~] 66-5-501 through 66-5-504 NMSA 1978 may be cited as the
17 "Ignition Interlock Licensing Act"."

18 SECTION 6. Section 66-5-502 NMSA 1978 (being Laws 2003,
19 Chapter 239, Section 2, as amended) is amended to read:

20 "66-5-502. DEFINITIONS.--As used in the Ignition
21 Interlock Licensing Act:

22 A. "denied" means the division has refused to issue
23 an instruction permit, driver's license or provisional license
24 pursuant to the provisions of Subsection D or E of Section
25 66-5-5 NMSA 1978;

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1 B. "ignition interlock device" means a device,
2 approved by the traffic safety bureau, that prevents the
3 operation of a motor vehicle by an intoxicated or impaired
4 person;

5 C. "ignition interlock license" means a driver's
6 license issued to a person by the division that allows that
7 person to operate a motor vehicle with an ignition interlock
8 device after that person's driving privilege or driver's
9 license has been revoked or denied. The division shall clearly
10 mark an ignition interlock license to distinguish it from other
11 driver's licenses and to provide that the license holder is
12 prohibited from purchasing alcoholic beverages; and

13 D. "revoked" means the division, pursuant to the
14 provisions of Section 66-5-29 or 66-8-111 NMSA 1978, has
15 terminated a person's driving privilege or driver's license
16 for:

17 (1) driving while under the influence of
18 intoxicating liquor or drugs; or

19 (2) a conviction of homicide by vehicle or
20 great bodily harm by vehicle while under the influence of
21 intoxicating liquor or drugs."

22 SECTION 7. Section 66-5-503 NMSA 1978 (being Laws 2003,
23 Chapter 239, Section 3, as amended) is amended to read:

24 "66-5-503. IGNITION INTERLOCK LICENSE--REQUIREMENTS.--

25 A. A person whose driving privilege or driver's

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1 license has been revoked or denied or who has not met the
2 ignition interlock license requirement as a condition of
3 reinstatement pursuant to Section 66-5-33.1 NMSA 1978 may apply
4 for an ignition interlock license from the division.

5 B. An applicant for an ignition interlock license
6 shall:

7 (1) provide proof of installation of the
8 ignition interlock device by a traffic safety bureau-approved
9 ignition interlock installer on any vehicle the applicant
10 drives; and

11 (2) sign an affidavit acknowledging that:

12 (a) operation by the applicant of any
13 vehicle that is not equipped with an ignition interlock device
14 is subject to penalties for driving with a revoked license;

15 (b) tampering or interfering with the
16 proper and intended operation of an ignition interlock device
17 may subject the applicant to penalties for driving with a
18 license that was revoked for driving under the influence of
19 intoxicating liquor or drugs or a violation of the Implied
20 Consent Act; and

21 (c) the applicant shall maintain the
22 ignition interlock device and keep up-to-date records in the
23 motor vehicle showing required service and calibrations and be
24 able to provide the records upon request.

25 C. The division shall prohibit the purchase of

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1 alcoholic beverages by a person to whom an ignition interlock
2 license is issued.

3 D. An ignition interlock license shall be clearly
4 marked to distinguish it from other driver's licenses and shall
5 include a printed legend that indicates that the licensed
6 person is prohibited from purchasing alcoholic beverages. The
7 legend shall be printed so that it is easily read by a person
8 who inspects the license.

9 [~~G-~~] E. A person who has been convicted of homicide
10 by vehicle or great bodily harm by vehicle while under the
11 influence of intoxicating liquor or drugs, as provided in
12 Section 66-8-101 NMSA 1978, shall not be issued an ignition
13 interlock license unless the person has completed serving the
14 sentence for that crime, including any period of probation and
15 parole."

16 **SECTION 8.** Section 66-8-102 NMSA 1978 (being Laws 1953,
17 Chapter 139, Section 54, as amended) is amended to read:

18 "66-8-102. DRIVING UNDER THE INFLUENCE OF INTOXICATING
19 LIQUOR OR DRUGS--AGGRAVATED DRIVING UNDER THE INFLUENCE OF
20 INTOXICATING LIQUOR OR DRUGS--PENALTIES.--

21 A. It is unlawful for a person who is under the
22 influence of intoxicating liquor to drive a vehicle within this
23 state.

24 B. It is unlawful for a person who is under the
25 influence of any drug to a degree that renders the person

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1 incapable of safely driving a vehicle to drive a vehicle within
2 this state.

3 C. It is unlawful for:

4 (1) a person to drive a vehicle in this state
5 if the person has an alcohol concentration of eight one
6 hundredths or more in the person's blood or breath within three
7 hours of driving the vehicle and the alcohol concentration
8 results from alcohol consumed before or while driving the
9 vehicle; or

10 (2) a person to drive a commercial motor
11 vehicle in this state if the person has an alcohol
12 concentration of four one hundredths or more in the person's
13 blood or breath within three hours of driving the commercial
14 motor vehicle and the alcohol concentration results from
15 alcohol consumed before or while driving the vehicle.

16 D. Aggravated driving under the influence of
17 intoxicating liquor or drugs consists of:

18 (1) driving a vehicle in this state with an
19 alcohol concentration of sixteen one hundredths or more in the
20 driver's blood or breath within three hours of driving the
21 vehicle and the alcohol concentration results from alcohol
22 consumed before or while driving the vehicle;

23 (2) causing bodily injury to a human being as
24 a result of the unlawful operation of a motor vehicle while
25 driving under the influence of intoxicating liquor or drugs; or

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1 (3) refusing to submit to chemical testing, as
2 provided for in the Implied Consent Act, and in the judgment of
3 the court, based upon evidence of intoxication presented to the
4 court, the driver was under the influence of intoxicating
5 liquor or drugs.

6 E. A first conviction pursuant to this section
7 shall be punished, notwithstanding the provisions of Section
8 31-18-13 NMSA 1978, by imprisonment for not more than ninety
9 days or by a fine of not more than five hundred dollars (\$500),
10 or both; provided that if the sentence is suspended in whole or
11 in part or deferred, the period of probation may extend beyond
12 ninety days but shall not exceed one year. Upon a first
13 conviction pursuant to this section, an offender shall be
14 sentenced to not less than twenty-four hours of community
15 service. In addition, the offender may be required to pay a
16 fine of three hundred dollars (\$300). The offender shall be
17 ordered by the court to participate in and complete a screening
18 program described in Subsection L of this section and to attend
19 a driver rehabilitation program for alcohol or drugs, also
20 known as a "DWI school", approved by the bureau and also may be
21 required to participate in other rehabilitative services as the
22 court shall determine to be necessary. In addition to those
23 penalties, when an offender commits aggravated driving under
24 the influence of intoxicating liquor or drugs, the offender
25 shall be sentenced to not less than forty-eight consecutive

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1 hours in jail. If an offender fails to complete, within a time
2 specified by the court, any community service, screening
3 program, treatment program or DWI school ordered by the court
4 or fails to comply with any other condition of probation, the
5 offender shall be sentenced to not less than an additional
6 forty-eight consecutive hours in jail. Any jail sentence
7 imposed pursuant to this subsection for failure to complete,
8 within a time specified by the court, any community service,
9 screening program, treatment program or DWI school ordered by
10 the court or for aggravated driving under the influence of
11 intoxicating liquor or drugs shall not be suspended, deferred
12 or taken under advisement. On a first conviction pursuant to
13 this section, any time spent in jail for the offense prior to
14 the conviction for that offense shall be credited to any term
15 of imprisonment fixed by the court. A deferred sentence
16 pursuant to this subsection shall be considered a first
17 conviction for the purpose of determining subsequent
18 convictions.

19 F. A second or third conviction pursuant to this
20 section shall be punished, notwithstanding the provisions of
21 Section 31-18-13 NMSA 1978, by imprisonment for not more than
22 three hundred sixty-four days or by a fine of not more than one
23 thousand dollars (\$1,000), or both; provided that if the
24 sentence is suspended in whole or in part, the period of
25 probation may extend beyond one year but shall not exceed five

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1 years. Notwithstanding any provision of law to the contrary
2 for suspension or deferment of execution of a sentence:

3 (1) upon a second conviction, an offender
4 shall be sentenced to a jail term of not less than ninety-six
5 consecutive hours, not less than forty-eight hours of community
6 service and a fine of five hundred dollars (\$500). In addition
7 to those penalties, when an offender commits aggravated driving
8 under the influence of intoxicating liquor or drugs, the
9 offender shall be sentenced to a jail term of not less than
10 ninety-six consecutive hours. If an offender fails to
11 complete, within a time specified by the court, any community
12 service, screening program or treatment program ordered by the
13 court, the offender shall be sentenced to not less than an
14 additional seven consecutive days in jail. A penalty imposed
15 pursuant to this paragraph shall not be suspended or deferred
16 or taken under advisement; and

17 (2) upon a third conviction, an offender shall
18 be sentenced to a jail term of not less than thirty consecutive
19 days, not less than ninety-six hours of community service and a
20 fine of seven hundred fifty dollars (\$750). In addition to
21 those penalties, when an offender commits aggravated driving
22 under the influence of intoxicating liquor or drugs, the
23 offender shall be sentenced to a jail term of not less than
24 sixty consecutive days. If an offender fails to complete,
25 within a time specified by the court, any community service,

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1 screening program or treatment program ordered by the court,
2 the offender shall be sentenced to not less than an additional
3 sixty consecutive days in jail. A penalty imposed pursuant to
4 this paragraph shall not be suspended or deferred or taken
5 under advisement.

6 G. Upon a fourth conviction pursuant to this
7 section, an offender is guilty of a fourth degree felony and,
8 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
9 shall be sentenced to a term of imprisonment of eighteen
10 months, six months of which shall not be suspended, deferred or
11 taken under advisement.

12 H. Upon a fifth conviction pursuant to this
13 section, an offender is guilty of a fourth degree felony and,
14 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
15 shall be sentenced to a term of imprisonment of two years, one
16 year of which shall not be suspended, deferred or taken under
17 advisement.

18 I. Upon a sixth conviction pursuant to this
19 section, an offender is guilty of a third degree felony and,
20 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
21 shall be sentenced to a term of imprisonment of thirty months,
22 eighteen months of which shall not be suspended, deferred or
23 taken under advisement.

24 J. Upon a seventh conviction pursuant to this
25 section, an offender is guilty of a third degree felony and,

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1 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
2 shall be sentenced to a term of imprisonment of three years,
3 two years of which shall not be suspended, deferred or taken
4 under advisement.

5 K. Upon an eighth or subsequent conviction pursuant
6 to this section, an offender is guilty of a second degree
7 felony and, notwithstanding the provisions of Section 31-18-15
8 NMSA 1978, shall be sentenced to a term of imprisonment of
9 twelve years, ten years of which shall not be suspended,
10 deferred or taken under advisement.

11 L. Upon any conviction pursuant to this section, an
12 offender shall be required to participate in and complete,
13 within a time specified by the court, an alcohol or drug abuse
14 screening program approved by the department of finance and
15 administration and, if necessary, a treatment program approved
16 by the court. The requirement imposed pursuant to this
17 subsection shall not be suspended, deferred or taken under
18 advisement.

19 M. Upon a second or third conviction pursuant to
20 this section, an offender shall be required to participate in
21 and complete, within a time specified by the court:

22 (1) not less than a twenty-eight-day
23 inpatient, residential or in-custody substance abuse treatment
24 program approved by the court;

25 (2) not less than a ninety-day outpatient

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1 treatment program approved by the court;

2 (3) a drug court program approved by the
3 court; or

4 (4) any other substance abuse treatment
5 program approved by the court.

6 The requirement imposed pursuant to this subsection shall
7 not be suspended, deferred or taken under advisement.

8 N. Upon a felony conviction pursuant to this
9 section, the corrections department shall provide substance
10 abuse counseling and treatment to the offender in its custody.
11 While the offender is on probation or parole under its
12 supervision, the corrections department shall also provide
13 substance abuse counseling and treatment to the offender or
14 shall require the offender to obtain substance abuse counseling
15 and treatment.

16 O. Upon a conviction pursuant to this section, an
17 offender shall be required to:

18 (1) obtain an ignition interlock license that
19 includes a printed legend that indicates that the offender is
20 prohibited from purchasing alcoholic beverages; and

21 (2) have an ignition interlock device
22 installed and operating on all motor vehicles driven by the
23 offender, pursuant to rules adopted by the bureau.

24 P. Unless determined by the bureau to be indigent,
25 [~~the~~] an offender required pursuant to Subsection O of this

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1 section to have ignition interlock devices installed on motor
2 vehicles driven by the offender shall pay all costs associated
3 with having an ignition interlock device installed on the
4 appropriate motor vehicles. The offender shall operate only
5 those vehicles equipped with ignition interlock devices for:

6 (1) a period of one year, for a first
7 offender;

8 (2) a period of two years, for a second
9 conviction pursuant to this section;

10 (3) a period of three years, for a third
11 conviction pursuant to this section; or

12 (4) the remainder of the offender's life, for
13 a fourth or subsequent conviction pursuant to this section.

14 ~~[P-]~~ Q. Five years from the date of conviction and
15 every five years thereafter, a fourth or subsequent offender
16 may apply to a district court for removal of the ignition
17 interlock device requirement provided in this section and for
18 restoration of a driver's license. A district court may, for
19 good cause shown, remove the ignition interlock device
20 requirement and order restoration of the license; provided that
21 the offender has not been subsequently convicted of driving a
22 motor vehicle under the influence of intoxicating liquor or
23 drugs. Good cause may include an alcohol screening and proof
24 from the interlock vendor that the person has not had
25 violations of the interlock device.

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1 ~~[Q-]~~ R. An offender who obtains an ignition
2 interlock license and installs an ignition interlock device
3 prior to conviction shall be given credit at sentencing for the
4 time period the ignition interlock device has been in use.

5 ~~[R-]~~ S. In the case of a first, second or third
6 offense under this section, the magistrate court has concurrent
7 jurisdiction with district courts to try the offender.

8 ~~[S-]~~ T. A conviction pursuant to a municipal or
9 county ordinance in New Mexico or a law of any other
10 jurisdiction, territory or possession of the United States or
11 of a tribe, when that ordinance or law is equivalent to New
12 Mexico law for driving under the influence of intoxicating
13 liquor or drugs, and prescribes penalties for driving under the
14 influence of intoxicating liquor or drugs, shall be deemed to
15 be a conviction pursuant to this section for purposes of
16 determining whether a conviction is a second or subsequent
17 conviction.

18 ~~[T-]~~ U. In addition to any other fine or fee that
19 may be imposed pursuant to the conviction or other disposition
20 of the offense under this section, the court may order the
21 offender to pay the costs of any court-ordered screening and
22 treatment programs.

23 ~~[U-]~~ V. With respect to this section and
24 notwithstanding any provision of law to the contrary, if an
25 offender's sentence was suspended or deferred in whole or in

underscoring material = new
~~[bracketed material] = delete~~

1 part and the offender violates any condition of probation, the
2 court may impose any sentence that the court could have
3 originally imposed and credit shall not be given for time
4 served by the offender on probation.

5 [V.] W. As used in this section:

6 (1) "bodily injury" means an injury to a
7 person that is not likely to cause death or great bodily harm
8 to the person, but does cause painful temporary disfigurement
9 or temporary loss or impairment of the functions of any member
10 or organ of the person's body; and

11 (2) "commercial motor vehicle" means a motor
12 vehicle or combination of motor vehicles used in commerce to
13 transport passengers or property if the motor vehicle:

14 (a) has a gross combination weight
15 rating of more than twenty-six thousand pounds inclusive of a
16 towed unit with a gross vehicle weight rating of more than ten
17 thousand pounds;

18 (b) has a gross vehicle weight rating of
19 more than twenty-six thousand pounds;

20 (c) is designed to transport sixteen or
21 more passengers, including the driver; or

22 (d) is of any size and is used in the
23 transportation of hazardous materials, which requires the motor
24 vehicle to be placarded under applicable law."

25 **SECTION 9. EFFECTIVE DATE.**--The effective date of the
.205871.2

underscoring material = new
[bracketed material] = delete

1 provisions of this act is July 1, 2017.

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