

HOUSE BILL 470

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

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AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; CREATING THE DWI ACT; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE MOTOR VEHICLE CODE.

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

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

"66-1-1. SHORT TITLE.--~~[Articles 1 through 8 of Chapter 64 NMSA 1953]~~ Chapter 66 NMSA 1978 may be cited as the "Motor Vehicle Code"."

SECTION 2. Section 66-1-4.3 NMSA 1978 (being Laws 1990, Chapter 120, Section 4, as amended) is amended to read:

"66-1-4.3. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "camping body" means a vehicle body primarily

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1 designed or converted for use as temporary living quarters for  
2 recreational, camping or travel activities excluding  
3 recreational vehicles unless used in commerce;

4 B. "camping trailer" means a camping body, mounted  
5 on a chassis, or frame with wheels, designed to be drawn by  
6 another vehicle and that has collapsible partial side walls  
7 that fold for towing and unfold at the campsite;

8 C. "cancellation" means that a driver's license is  
9 annulled and terminated because of some error or defect or  
10 because the licensee is no longer entitled to the license, but  
11 cancellation of a license is without prejudice, and application  
12 for a new license may be made at any time after cancellation;

13 D. "casual sale" means the sale of a motor vehicle  
14 by the registered owner of the vehicle if the owner has not  
15 sold more than four vehicles in that calendar year;

16 E. "chassis" means the complete motor vehicle,  
17 including standard factory equipment, exclusive of the body and  
18 cab;

19 F. "collector" means a person who is the owner of  
20 one or more vehicles of historic or special interest who  
21 collects, purchases, acquires, trades or disposes of these  
22 vehicles or parts thereof for the person's own use in order to  
23 preserve, restore and maintain a similar vehicle for hobby  
24 purposes;

25 G. "combination" means any connected assemblage of

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1 a motor vehicle and one or more semitrailers, trailers or  
2 semitrailers converted to trailers by means of a converter  
3 gear;

4 H. "combination gross vehicle weight" means the sum  
5 total of the gross vehicle weights of all units of a  
6 combination;

7 I. "commerce" means the transportation of persons,  
8 property or merchandise for hire, compensation, profit or in  
9 the furtherance of a commercial enterprise in this state or  
10 between New Mexico and a place outside New Mexico, including a  
11 place outside the United States;

12 J. "commercial motor vehicle" means a [~~self-~~  
13 ~~propelled or towed vehicle, other than special mobile~~  
14 ~~equipment~~] motor vehicle or combination of motor vehicles used  
15 [~~on public highways~~] in commerce to transport passengers or  
16 property [~~when~~] if the motor vehicle:

17 (1) [~~is operated interstate and~~] has a gross  
18 [~~vehicle weight rating or gross~~] combination weight rating [~~or~~  
19 ~~gross vehicle weight or gross combination weight, of four~~  
20 ~~thousand five hundred thirty-six kilograms, or ten thousand one~~  
21 ~~pounds or more; or is operated only in intrastate commerce and~~  
22 ~~has a gross vehicle weight rating or gross combination weight~~  
23 ~~rating, or gross vehicle weight or gross combination weight~~] of  
24 more than twenty-six thousand [~~one or more~~] pounds inclusive of  
25 a towed unit with a gross vehicle weight rating of more than

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1 ten thousand pounds;

2 [~~(2) is designed or used to transport more~~  
3 ~~than eight passengers, including the driver, and is used to~~  
4 ~~transport passengers for compensation;]~~

5 (2) has a gross vehicle weight rating of more  
6 than twenty-six thousand pounds;

7 (3) is designed [~~or used~~] to transport sixteen  
8 or more passengers, including the driver [~~and is not used to~~  
9 ~~transport passengers for compensation~~]; or

10 (4) is of any size and is used [~~to transport~~]  
11 in the transportation of hazardous materials [~~of the type or~~  
12 ~~quantity requiring placarding under rules prescribed by~~  
13 ~~applicable federal or state law~~], as provided in 49 CFR Part  
14 383.5;

15 K. "controlled-access highway" means every highway,  
16 street or roadway in respect to which owners or occupants of  
17 abutting lands and other persons have no legal right of access  
18 to or from the highway, street or roadway except at those  
19 points only and in the manner as may be determined by the  
20 public authority having jurisdiction over the highway, street  
21 or roadway;

22 L. "controlled substance" means any substance  
23 defined in Section 30-31-2 NMSA 1978 as a controlled substance;

24 M. "converter gear" means any assemblage of one or  
25 more axles with a fifth wheel mounted thereon, designed for use

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1 in a combination to support the front end of a semitrailer but  
2 not permanently attached thereto. A converter gear shall not  
3 be considered a vehicle, as that term is defined in Section  
4 66-1-4.19 NMSA 1978, but weight attributable thereto shall be  
5 included in declared gross weight;

6 N. "conviction":

7 (1) means:

8 (a) a finding of guilt in the trial  
9 court in regard to which the violator has waived or exhausted  
10 all rights to appeal;

11 (b) a plea of guilty or nolo contendere  
12 accepted by the court;

13 (c) an unvacated forfeiture of bail or  
14 collateral deposited to secure a person's appearance in court;  
15 or

16 (d) the promise to mail a payment on a  
17 penalty assessment; and

18 (2) does not include a conditional discharge  
19 as provided in Section 31-20-13 NMSA 1978 or a deferred  
20 sentence when the terms of the deferred sentence are met;

21 O. "crosswalk" means:

22 (1) that part of a roadway at an intersection  
23 included within the connections of the lateral lines of the  
24 sidewalks on opposite sides of the highway measured from the  
25 curbs or, in the absence of curbs, from the edges of the

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1 traversable roadway; and

2 (2) any portion of a roadway at an  
3 intersection or elsewhere distinctly indicated for pedestrian  
4 crossing by lines or other markings on the surface; and

5 P. "curb cut" means a short ramp through a curb or  
6 built up to the curb."

7 **SECTION 3.** Section 66-5-54 NMSA 1978 (being Laws 1989,  
8 Chapter 14, Section 3, as amended) is amended to read:

9 "66-5-54. DEFINITIONS.--As used in the New Mexico  
10 Commercial Driver's License Act:

11 A. "commerce" means:

12 (1) trade, traffic or transportation within  
13 the jurisdiction of the United States between a place in New  
14 Mexico and a place outside of New Mexico, including a place  
15 outside of the United States; and

16 (2) trade, traffic or transportation in the  
17 United States that affects any trade, traffic or transportation  
18 described in Paragraph (1) of this subsection;

19 B. "commercial driver's license holder" means an  
20 individual to whom a license has been issued by a state or  
21 other jurisdiction, in accordance with the standards found in  
22 49 CFR Part 383, as amended or renumbered, that authorizes the  
23 individual to operate a commercial motor vehicle;

24 C. "commercial driver's license information system"  
25 means the information system created pursuant to the federal

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1 Commercial Motor Vehicle Safety Act of 1986 that contains  
2 information pertaining to operators of commercial motor  
3 vehicles;

4 ~~[D. "commercial motor vehicle" means a motor~~  
5 ~~vehicle or combination of motor vehicles used in commerce to~~  
6 ~~transport passengers or property if the motor vehicle:~~

7 ~~(1) has a gross combination weight rating of~~  
8 ~~more than twenty-six thousand pounds inclusive of a towed unit~~  
9 ~~with a gross vehicle weight rating of more than ten thousand~~  
10 ~~pounds;~~

11 ~~(2) has a gross vehicle weight rating of more~~  
12 ~~than twenty-six thousand pounds;~~

13 ~~(3) is designed to transport sixteen or more~~  
14 ~~passengers, including the driver; or~~

15 ~~(4) is of any size and is used in the~~  
16 ~~transportation of hazardous materials, as provided in 49 CFR~~  
17 ~~Part 383.5~~

18 ~~E.]~~ D. "conviction" means:

19 (1) an unvacated adjudication of guilt or a  
20 determination that a person has violated or failed to comply  
21 with the law by:

22 (a) a court of original jurisdiction; or  
23 (b) an authorized administrative  
24 tribunal;

25 (2) an unvacated forfeiture of bail or

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1 collateral deposited to secure a person's appearance in court;

2 (3) a plea of guilty or nolo contendere  
3 accepted by the court;

4 (4) the payment of a fine or court cost;

5 (5) a violation of a condition of release  
6 without bail, regardless of whether the payment is rebated,  
7 suspended or probated;

8 (6) an assignment to a diversion program or a  
9 driver improvement school; or

10 (7) a conditional discharge as provided in  
11 Section 31-20-13 NMSA 1978;

12 ~~[F-]~~ E. "director" means the director of the motor  
13 vehicle division of the department;

14 ~~[G-]~~ F. "disqualification" means:

15 (1) a suspension, revocation or cancellation  
16 of a commercial driver's license by the state or jurisdiction  
17 that issued the commercial driver's license;

18 (2) a withdrawal of a person's privileges to  
19 drive a commercial motor vehicle by a state or other  
20 jurisdiction as the result of a violation of state or local law  
21 relating to motor vehicle control other than a parking, vehicle  
22 weight or vehicle defect violation; and

23 (3) a determination by the federal motor  
24 carrier safety administration that a person is not qualified to  
25 operate a motor vehicle;

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1           ~~[H.]~~ G. "division" means the motor vehicle division  
2 of the department;

3           ~~[I.]~~ H. "driving a commercial motor vehicle while  
4 under the influence of alcohol" means:

5                   (1) driving a commercial motor vehicle while  
6 the driver has an alcohol concentration in the driver's blood  
7 or breath of four one hundredths or more;

8                   (2) driving a commercial motor vehicle while  
9 the driver is under the influence of intoxicating liquor; or

10                   (3) refusal to submit to chemical tests  
11 administered pursuant to Section 66-8-107 NMSA 1978;

12           ~~[J.]~~ I. "employee" means an operator of a  
13 commercial motor vehicle, including full-time, regularly  
14 employed drivers; casual, intermittent or occasional drivers;  
15 leased drivers; and independent owner-operator contractors,  
16 while in the course of operating a commercial motor vehicle,  
17 who is either directly employed by or under lease to an  
18 employer;

19           ~~[K.]~~ J. "employer" means a person, including the  
20 United States, a state and a political subdivision of a state  
21 or their agencies or instrumentalities, that owns or leases a  
22 commercial motor vehicle or assigns employees to operate such a  
23 vehicle;

24           ~~[L.]~~ K. "fatality" means the death of a person as a  
25 result of a motor vehicle accident;

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1           ~~[M.]~~ L. "gross combination weight rating" means the  
2 value specified by the manufacturer as the loaded weight of a  
3 combination vehicle. In the absence of a value specified by  
4 the manufacturer, gross combination weight rating shall be  
5 determined by adding the gross vehicle weight rating of the  
6 power unit and the total weight of the towed unit or units and  
7 any load thereon;

8           ~~[N.]~~ M. "gross vehicle weight rating" means the  
9 value specified by the manufacturer as the loaded weight of a  
10 single vehicle;

11           ~~[O.]~~ N. "imminent hazard" means a condition that  
12 presents a substantial likelihood that death, serious illness,  
13 severe personal injury or a substantial endangerment to health,  
14 property or the environment will occur before the reasonable  
15 foreseeable completion date of a formal proceeding to lessen  
16 the risk of that death, illness, injury or endangerment;

17           ~~[P.]~~ O. "noncommercial motor vehicle" means a motor  
18 vehicle or combination of motor vehicles that is not a  
19 commercial motor vehicle;

20           ~~[Q.]~~ P. "nonresident commercial driver's license"  
21 means a commercial driver's license issued by another state to  
22 a person domiciled in that state or by a foreign country to a  
23 person domiciled in that country;

24           ~~[R.]~~ Q. "out-of-service order" means a declaration  
25 by an authorized enforcement officer of a federal, state,

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1 Canadian, Mexican or local jurisdiction that a driver, a  
2 commercial motor vehicle or a motor carrier operation is  
3 temporarily prohibited from operating;

4 ~~[S-]~~ R. "railroad-highway grade crossing violation"  
5 means a violation of a provision of Section 66-7-341 or  
6 66-7-343 NMSA 1978 or a violation of federal or local law,  
7 ordinance or rule pertaining to stopping at or crossing a  
8 railroad-highway grade crossing;

9 ~~[F-]~~ S. "serious traffic violation" means  
10 conviction of any of the following if committed when operating  
11 a motor vehicle:

12 (1) speed of fifteen miles or more per hour  
13 above the posted limits;

14 (2) reckless driving as defined by Section  
15 66-8-113 NMSA 1978 or a municipal ordinance or the law of  
16 another state;

17 (3) homicide by vehicle, as defined in Section  
18 66-8-101 NMSA 1978;

19 (4) injury to pregnant women by vehicle as  
20 defined in Section 66-8-101.1 NMSA 1978 or a municipal  
21 ordinance or the law of another state;

22 (5) any other violation of law relating to  
23 motor vehicle traffic control, other than a parking violation,  
24 that the secretary determines by regulation to be a serious  
25 traffic violation. "Serious traffic violation" does not

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1 include a vehicle weight or vehicle defect violation;

2 (6) improper or erratic lane changes in  
3 violation of Section 66-7-317 NMSA 1978;

4 (7) following another vehicle too closely in  
5 violation of Section 66-7-318 NMSA 1978;

6 (8) texting while driving in violation of  
7 Section 66-7-374 NMSA 1978 or a municipal ordinance;

8 (9) use of a handheld mobile communication  
9 device while driving a commercial motor vehicle in violation of  
10 Section [~~1 of this 2016 act~~] 66-7-375 NMSA 1978 or a municipal  
11 ordinance;

12 (10) directly or indirectly causing death or  
13 great bodily injury to a human being in the unlawful operation  
14 of a motor vehicle in violation of Section 66-8-101 NMSA 1978;

15 (11) driving a commercial motor vehicle  
16 without possession of a commercial driver's license in  
17 violation of Section 66-5-59 NMSA 1978;

18 (12) driving a commercial motor vehicle  
19 without the proper class of commercial driver's license and  
20 endorsements pursuant to Section 66-5-65 NMSA 1978 and the  
21 Motor Carrier Safety Act for the specific vehicle group  
22 operated or for the passengers or type of cargo transported; or

23 (13) driving a commercial motor vehicle  
24 without obtaining a commercial driver's license in violation of  
25 Section 66-5-59 NMSA 1978; and

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1           [~~U~~] T. "state of domicile" means the state in  
2 which a person has a true, fixed and permanent home and  
3 principal residence and to which the person has the intention  
4 of returning whenever the person has been absent from that  
5 state."

6           SECTION 4. A new Section 66-14-1 NMSA 1978 is enacted to  
7 read:

8           "66-14-1. [NEW MATERIAL] DWI ACT--SHORT TITLE.--Sections  
9 66-14-1 through 66-14-22 NMSA 1978 may be cited as the "DWI  
10 Act"."

11          SECTION 5. A new Section 66-14-2 NMSA 1978 is enacted to  
12 read:

13          "66-14-2. [NEW MATERIAL] DRIVING UNDER THE INFLUENCE OF  
14 INTOXICATING LIQUOR--AGGRAVATED DRIVING UNDER THE INFLUENCE OF  
15 INTOXICATING LIQUOR--UNLAWFUL ALCOHOL CONCENTRATIONS.--

16           A. Driving under the influence of intoxicating  
17 liquor consists of a person who is under the influence of  
18 intoxicating liquor driving a vehicle within this state.

19           B. It is unlawful for a person to drive:

20                   (1) a vehicle in this state if the person has  
21 an alcohol concentration of eight one hundredths or more in the  
22 person's blood or breath within three hours of driving the  
23 vehicle and the alcohol concentration results from alcohol  
24 consumed before or while driving the vehicle; or

25                   (2) a commercial motor vehicle in this state

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1 if the person has an alcohol concentration of four one  
2 hundredths or more in the person's blood or breath within three  
3 hours of driving the commercial motor vehicle and the alcohol  
4 concentration results from alcohol consumed before or while  
5 driving the vehicle.

6 C. Aggravated driving under the influence of  
7 intoxicating liquor consists of a person:

8 (1) driving a vehicle in this state with an  
9 alcohol concentration of sixteen one hundredths or more in the  
10 driver's blood or breath within three hours of driving the  
11 vehicle and the alcohol concentration results from alcohol  
12 consumed before or while driving the vehicle;

13 (2) causing bodily injury to a human being as  
14 a result of the unlawful operation of a motor vehicle while  
15 driving under the influence of intoxicating liquor; or

16 (3) refusing to submit to chemical testing, as  
17 provided for in the Implied Consent Act, and in the judgment of  
18 the court, based upon evidence of intoxication presented to the  
19 court, the driver was under the influence of intoxicating  
20 liquor."

21 SECTION 6. A new Section 66-14-3 NMSA 1978 is enacted to  
22 read:

23 "66-14-3. [NEW MATERIAL] DRIVING UNDER THE INFLUENCE OF  
24 INTOXICATING DRUGS--AGGRAVATED DRIVING UNDER THE INFLUENCE OF  
25 INTOXICATING DRUGS.--

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1           A. Driving under the influence of an intoxicating  
2 drug consists of a person:

3                   (1) who is under the influence of a drug to a  
4 degree that renders the person incapable of safely driving a  
5 vehicle within this state; or

6                   (2) who is under the influence of a  
7 combination of a drug and alcohol to a degree that renders the  
8 person incapable of safely driving a vehicle within this state.

9           B. Aggravated driving under the influence of an  
10 intoxicating drug consists of a person causing bodily injury to  
11 a human being as a result of unlawful operation of a motor  
12 vehicle while driving under the influence of an intoxicating  
13 drug."

14           SECTION 7. A new Section 66-14-4 NMSA 1978 is enacted to  
15 read:

16                   "66-14-4. [NEW MATERIAL] FIRST CONVICTION FOR DRIVING  
17 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

18                   A. A first conviction for driving under the  
19 influence of intoxicating liquor or drugs shall be punished,  
20 notwithstanding the provisions of Section 31-18-13 NMSA 1978,  
21 by imprisonment for not more than ninety days or by a fine of  
22 not more than five hundred dollars (\$500), or both; provided  
23 that if the sentence is suspended in whole or in part or  
24 deferred, the period of probation may extend beyond ninety days  
25 but shall not exceed one year.

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1           B. Upon a first conviction pursuant to this  
2 section, an offender shall be sentenced to not less than  
3 twenty-four hours of community service.

4           C. Upon a first conviction pursuant to this  
5 section, an offender may be required to pay a fine of three  
6 hundred dollars (\$300).

7           D. Upon a first conviction pursuant to this  
8 section, an offender shall be ordered by the court to  
9 participate in and complete a screening program described in  
10 Section 66-14-14 NMSA 1978 and to attend a driver  
11 rehabilitation program for alcohol or drugs, also known as a  
12 "DWI school", approved by the bureau and also may be required  
13 to participate in other rehabilitative services as the court  
14 shall determine to be necessary.

15           E. When an offender commits aggravated driving  
16 under the influence of intoxicating liquor or drugs, the  
17 offender shall be sentenced to not less than forty-eight  
18 consecutive hours in jail.

19           F. If an offender fails to complete, within a time  
20 specified by the court, any community service, screening  
21 program, treatment program or DWI school ordered by the court  
22 or fails to comply with any other condition of probation, the  
23 offender shall be sentenced to not less than an additional  
24 forty-eight consecutive hours in jail.

25           G. A jail sentence imposed pursuant to Subsection F  
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1 of this section or for aggravated driving under the influence  
2 of intoxicating liquor or drugs shall not be suspended,  
3 deferred or taken under advisement.

4 H. On a first conviction for driving under the  
5 influence of intoxicating liquor or drugs, time spent in jail  
6 for the offense prior to the conviction for that offense shall  
7 be credited to a term of imprisonment fixed by the court. A  
8 deferred sentence pursuant to this subsection shall be  
9 considered a first conviction for the purpose of determining  
10 subsequent convictions."

11 SECTION 8. A new Section 66-14-5 NMSA 1978 is enacted to  
12 read:

13 "66-14-5. [NEW MATERIAL] SECOND CONVICTION FOR DRIVING  
14 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

15 A. A second conviction for driving under the  
16 influence of intoxicating liquor or drugs shall be punished,  
17 notwithstanding the provisions of Section 31-18-13 NMSA 1978,  
18 by imprisonment for not more than three hundred sixty-four days  
19 or by a fine of not more than one thousand dollars (\$1,000), or  
20 both; provided that if the sentence is suspended in whole or in  
21 part, the period of probation may extend beyond one year but  
22 shall not exceed five years.

23 B. Notwithstanding any provision of law to the  
24 contrary for suspension or deferment of execution of a  
25 sentence, upon a second conviction:

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1 (1) an offender shall be sentenced to a jail  
2 term of not less than ninety-six consecutive hours, not less  
3 than forty-eight hours of community service and a fine of five  
4 hundred dollars (\$500);

5 (2) when an offender commits aggravated  
6 driving under the influence of intoxicating liquor or drugs,  
7 the offender shall be sentenced to a jail term of not less than  
8 ninety-six consecutive hours; and

9 (3) if an offender fails to complete, within a  
10 time specified by the court, any community service, screening  
11 program or treatment program ordered by the court, the offender  
12 shall be sentenced to not less than an additional seven  
13 consecutive days in jail.

14 C. A penalty imposed pursuant to Subsection B of  
15 this section shall not be suspended or deferred or taken under  
16 advisement.

17 D. Upon a second conviction for driving under the  
18 influence of intoxicating liquor or drugs, an offender shall be  
19 required to participate in and complete, within a time  
20 specified by the court:

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

24 (2) not less than a ninety-day outpatient  
25 treatment program approved by the court;

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

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

5 E. The requirements imposed pursuant to Subsection  
6 D of this section shall not be suspended, deferred or taken  
7 under advisement."

8 SECTION 9. A new Section 66-14-6 NMSA 1978 is enacted to  
9 read:

10 "66-14-6. [NEW MATERIAL] THIRD CONVICTION FOR DRIVING  
11 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

12 A. A third conviction for driving under the  
13 influence of intoxicating liquor or drugs shall be punished,  
14 notwithstanding the provisions of Section 31-18-13 NMSA 1978,  
15 by imprisonment for not more than three hundred sixty-four days  
16 or by a fine of not more than one thousand dollars (\$1,000) or  
17 both; provided that if the sentence is suspended in whole or in  
18 part, the period of probation may extend beyond one year but  
19 shall not exceed five years.

20 B. Notwithstanding any provision of law to the  
21 contrary for suspension or deferment of execution of a  
22 sentence, upon a third conviction:

23 (1) an offender shall be sentenced to a jail  
24 term of not less than thirty consecutive days, not less than  
25 ninety-six hours of community service and a fine of seven

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1 hundred fifty dollars (\$750);

2 (2) when an offender commits aggravated  
3 driving under the influence of intoxicating liquor or drugs,  
4 the offender shall be sentenced to a jail term of not less than  
5 sixty consecutive days; and

6 (3) if an offender fails to complete, within a  
7 time specified by the court, any community service, screening  
8 program or treatment program ordered by the court, the offender  
9 shall be sentenced to not less than an additional sixty  
10 consecutive days in jail.

11 C. A penalty imposed pursuant to Subsection B of  
12 this section shall not be suspended or deferred or taken under  
13 advisement.

14 D. Upon a third conviction for driving under the  
15 influence of intoxicating liquor or drugs, an offender shall be  
16 required to participate in and complete, within a time  
17 specified by the court:

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

21 (2) not less than a ninety-day outpatient  
22 treatment program approved by the court;

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

25 (4) any other substance abuse treatment

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1 program approved by the court.

2 E. The requirements imposed pursuant to Subsection  
3 D of this section shall not be suspended, deferred or taken  
4 under advisement."

5 SECTION 10. A new Section 66-14-7 NMSA 1978 is enacted to  
6 read:

7 "66-14-7. [NEW MATERIAL] FOURTH CONVICTION FOR DRIVING  
8 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a  
9 fourth conviction for driving under the influence of  
10 intoxicating liquor or drugs, an offender is guilty of a fourth  
11 degree felony and, notwithstanding the provisions of Section  
12 31-18-15 NMSA 1978, shall be sentenced to a term of  
13 imprisonment of eighteen months, six months of which shall not  
14 be suspended, deferred or taken under advisement."

15 SECTION 11. A new Section 66-14-8 NMSA 1978 is enacted to  
16 read:

17 "66-14-8. [NEW MATERIAL] FIFTH CONVICTION FOR DRIVING  
18 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a  
19 fifth conviction for driving under the influence of  
20 intoxicating liquor or drugs, an offender is guilty of a fourth  
21 degree felony and, notwithstanding the provisions of Section  
22 31-18-15 NMSA 1978, shall be sentenced to a term of  
23 imprisonment of two years, one year of which shall not be  
24 suspended, deferred or taken under advisement."

25 SECTION 12. A new Section 66-14-9 NMSA 1978 is enacted to  
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1 read:

2 "66-14-9. [NEW MATERIAL] SIXTH CONVICTION FOR DRIVING  
3 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a  
4 sixth conviction for driving under the influence of  
5 intoxicating liquor or drugs, an offender is guilty of a third  
6 degree felony and, notwithstanding the provisions of Section  
7 31-18-15 NMSA 1978, shall be sentenced to a term of  
8 imprisonment of thirty months, eighteen months of which shall  
9 not be suspended, deferred or taken under advisement."

10 SECTION 13. A new Section 66-14-10 NMSA 1978 is enacted  
11 to read:

12 "66-14-10. [NEW MATERIAL] SEVENTH OR SUBSEQUENT  
13 CONVICTION FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING  
14 LIQUOR OR DRUGS.--Upon a seventh or subsequent conviction for  
15 driving under the influence of intoxicating liquor or drugs, an  
16 offender is guilty of a third degree felony and,  
17 notwithstanding the provisions of Section 31-18-15 NMSA 1978,  
18 shall be sentenced to a term of imprisonment of three years,  
19 two years of which shall not be suspended, deferred or taken  
20 under advisement."

21 SECTION 14. Section 66-8-101.1 NMSA 1978 (being Laws  
22 1985, Chapter 239, Section 2) is recompiled as Section 66-14-11  
23 NMSA 1978 and is amended to read:

24 "66-14-11. INJURY TO PREGNANT [~~WOMAN~~] PERSON BY  
25 VEHICLE.--

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1           A. Injury to pregnant [~~woman~~] person by vehicle is  
2 injury to a pregnant [~~woman~~] person by a person other than the  
3 [~~woman~~] pregnant person in the unlawful operation of a motor  
4 vehicle causing [~~her~~] the pregnant person to suffer a  
5 miscarriage or stillbirth as a result of that injury.

6           B. As used in this section:

7                   (1) "miscarriage" means the interruption of  
8 the normal development of the fetus, other than by a live birth  
9 and which is not an induced abortion, resulting in the complete  
10 expulsion or extraction from a pregnant [~~woman~~] person of a  
11 product of human conception; and

12                   (2) "stillbirth" means the death of a fetus  
13 prior to the complete expulsion or extraction of the fetus from  
14 [~~its mother~~] the pregnant person, irrespective of the duration  
15 of pregnancy and which is not an induced abortion; and death is  
16 manifested by the fact that after the expulsion or extraction  
17 the fetus does not breathe spontaneously or show any other  
18 evidence of life such as heart beat, pulsation of the umbilical  
19 cord or definite movement of voluntary muscles.

20           C. Any person who commits injury to pregnant  
21 [~~woman~~] person by vehicle while under the influence of  
22 intoxicating liquor or while under the influence of any drug or  
23 while violating Section 66-8-113 NMSA 1978 is guilty of a third  
24 degree felony and shall be sentenced pursuant to the provisions  
25 of Section 31-18-15 NMSA 1978, provided that violation of

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1 speeding laws as set forth in the Motor Vehicle Code shall not  
2 per se be a basis for violation of Section 66-8-113 NMSA 1978."

3 SECTION 15. Section 66-8-102.5 NMSA 1978 (being Laws  
4 2019, Chapter 79, Section 1) is recompiled as Section 66-14-12  
5 NMSA 1978 and is amended to read:

6 "66-14-12. DRIVING WHILE INTOXICATED WITH A MINOR IN THE  
7 VEHICLE--DRIVING WHILE INTOXICATED WITH A TEENAGE MINOR IN THE  
8 VEHICLE--PENALTY.--

9 A. Driving while intoxicated with a minor in the  
10 vehicle consists of a person committing a violation of Section  
11 [~~66-8-102~~] 66-14-2 NMSA 1978 when a minor is in the vehicle and  
12 when the minor does not suffer great bodily harm or death.  
13 Whoever commits driving while intoxicated with a minor in the  
14 vehicle is guilty of a misdemeanor and shall participate in a  
15 parenting class.

16 B. Driving while intoxicated with a teenage minor  
17 in the vehicle consists of a person committing a violation of  
18 Section 66-14-2 NMSA 1978 when a teenage minor is in the  
19 vehicle and when the teenage minor does not suffer great bodily  
20 harm or death. Whoever commits driving while intoxicated with  
21 a teenage minor in the vehicle shall pay a penalty assessment  
22 of three hundred dollars (\$300) and participate in a parenting  
23 class.

24 [~~B.~~] C. A charge for a violation of Subsection A or  
25 B of this section shall be in addition to a charge for the

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1 violation of Section [~~66-8-102~~] 66-14-2 NMSA 1978 and shall be  
2 punished as a separate offense.

3 [~~G.~~] D. As used in this section:

4 (1) "minor" means an individual who is younger  
5 than thirteen years of age; and

6 (2) "teenage minor" means an individual who is  
7 thirteen years of age or older and younger than eighteen years  
8 of age."

9 SECTION 16. Section 66-8-101 NMSA 1978 (being Laws 1978,  
10 Chapter 35, Section 509, as amended) is recompiled as Section  
11 66-14-13 NMSA 1978 and is amended to read:

12 "66-14-13. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY  
13 VEHICLE.--

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

16 B. Great bodily harm by vehicle is the injuring of  
17 a human being, to the extent defined in Section 30-1-12 NMSA  
18 1978, in the unlawful operation of a motor vehicle.

19 C. A person who commits homicide by vehicle while  
20 under the influence of intoxicating liquor or while under the  
21 influence of any drug is guilty of a second degree felony and  
22 shall be sentenced pursuant to the provisions of Section  
23 31-18-15 NMSA 1978.

24 D. A person who commits homicide by vehicle while  
25 violating Section 66-8-113 NMSA 1978 is guilty of a third

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1 degree felony and shall be sentenced pursuant to the provisions  
2 of Section 31-18-15 NMSA 1978; provided that violation of  
3 speeding laws as set forth in the Motor Vehicle Code shall not  
4 per se be a basis for violation of Section 66-8-113 NMSA 1978.

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

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

21 G. For the purposes of this section, "prior DWI  
22 conviction" means:

23 (1) a prior conviction under Section  
24 ~~[66-8-102]~~ 66-14-2 or 66-14-3 NMSA 1978; or

25 (2) a prior conviction in New Mexico or any

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1 other jurisdiction, territory or possession of the United  
2 States, including a tribal jurisdiction, when the criminal act  
3 is driving under the influence of alcohol or drugs.

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

10 SECTION 17. A new Section 66-14-14 NMSA 1978 is enacted  
11 to read:

12 "66-14-14. [NEW MATERIAL] ALCOHOL OR DRUG ABUSE SCREENING  
13 REQUIRED.--Upon a conviction for driving under the influence of  
14 intoxicating liquor or drugs, an offender shall be required to  
15 participate in and complete, within a time specified by the  
16 court, an alcohol or drug abuse screening program approved by  
17 the department of finance and administration and, if necessary,  
18 a treatment program approved by the court. The requirement  
19 imposed pursuant to this section shall not be suspended,  
20 deferred or taken under advisement."

21 SECTION 18. A new Section 66-14-15 NMSA 1978 is enacted  
22 to read:

23 "66-14-15. [NEW MATERIAL] SUBSTANCE ABUSE AND COUNSELING  
24 TO BE PROVIDED BY THE CORRECTIONS DEPARTMENT UPON A FELONY  
25 CONVICTION.--Upon a felony conviction for driving under the

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1 influence of intoxicating liquor or drugs, the corrections  
2 department shall provide substance abuse counseling and  
3 treatment to the offender in its custody. While the offender  
4 is on probation or parole under its supervision, the  
5 corrections department shall also provide substance abuse  
6 counseling and treatment to the offender or shall require the  
7 offender to obtain substance abuse counseling and treatment."

8 SECTION 19. A new Section 66-14-16 NMSA 1978 is enacted  
9 to read:

10 "66-14-16. [NEW MATERIAL] CONVICTIONS IN OTHER  
11 JURISDICTIONS.--A conviction pursuant to a municipal or county  
12 ordinance in New Mexico, or a law of any other jurisdiction,  
13 territory or possession of the United States or of an Indian  
14 nation, tribe or pueblo, when that ordinance or law is  
15 equivalent to New Mexico law for driving under the influence of  
16 intoxicating liquor or drugs and prescribes penalties for  
17 driving under the influence of intoxicating liquor or drugs,  
18 shall be deemed to be a conviction pursuant to this section for  
19 purposes of determining whether a conviction is a second or  
20 subsequent conviction."

21 SECTION 20. A new Section 66-14-17 NMSA 1978 is enacted  
22 to read:

23 "66-14-17. [NEW MATERIAL] COURT MAY IMPOSE ORIGINAL  
24 SENTENCE AND NOT GIVE CREDIT FOR TIME ON PROBATION.--With  
25 respect to the DWI Act and notwithstanding any provision of law

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1 to the contrary, if an offender's sentence was suspended or  
2 deferred in whole or in part and the offender violates any  
3 condition of probation, the court may impose any sentence that  
4 the court could have originally imposed and credit shall not be  
5 given for time served by the offender on probation."

6 SECTION 21. A new Section 66-14-18 NMSA 1978 is enacted  
7 to read:

8 "66-14-18. [NEW MATERIAL] MAGISTRATE COURT CONCURRENT  
9 JURISDICTION.--In the case of a first, second or third offense  
10 pursuant to the DWI Act, the magistrate court has concurrent  
11 jurisdiction with district courts to try the offender."

12 SECTION 22. Section 66-8-102.1 NMSA 1978 (being Laws  
13 1982, Chapter 102, Section 2, as amended by Laws 2003, Chapter  
14 51, Section 11 and by Laws 2003, Chapter 90, Section 4) is  
15 recompiled as Section 66-14-19 NMSA 1978 and is amended to  
16 read:

17 "66-14-19. GUILTY PLEAS--LIMITATIONS.--Where the  
18 complaint or information alleges a violation of Section  
19 [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978, any plea of guilty  
20 thereafter entered in satisfaction of the charges shall include  
21 at least a plea of guilty to the violation of [~~one of the~~  
22 ~~subsections of~~] Section [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA  
23 1978, and no other disposition by plea of guilty to any other  
24 charge in satisfaction of the charge shall be authorized if the  
25 results of a test performed pursuant to the Implied Consent Act  
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1 disclose that the blood or breath of the person charged  
2 contains an alcohol concentration of:

3 A. eight one hundredths or more; or

4 B. four one hundredths or more if the person  
5 charged is driving a commercial motor vehicle."

6 SECTION 23. Section 66-8-102.2 NMSA 1978 (being Laws  
7 1993, Chapter 66, Section 16) is recompiled as Section 66-14-20  
8 NMSA 1978 and is amended to read:

9 "66-14-20. MUNICIPAL AND COUNTY ORDINANCES--UNLAWFUL  
10 ALCOHOL CONCENTRATION LEVEL FOR DRIVING WHILE UNDER THE  
11 INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--No municipal or  
12 county ordinance prohibiting driving while under the influence  
13 of intoxicating liquor or drugs shall be enacted that provides  
14 for an unlawful alcohol concentration level that is different  
15 than the alcohol concentration levels provided in [~~Subsections~~  
16 ~~C and D of Section 66-8-102~~] Section 66-14-2 NMSA 1978."

17 SECTION 24. Section 66-8-102.4 NMSA 1978 (being Laws  
18 2005, Chapter 269, Section 8) is recompiled as Section 66-14-21  
19 NMSA 1978 and is amended to read:

20 "66-14-21. UNIFORM POLICE REPORTS AND PROCEDURES FOR DWI  
21 ARRESTS.--

22 A. The department of public safety, in  
23 collaboration with the [~~motor vehicle~~] division [~~of the~~  
24 ~~taxation and revenue department~~] and the [~~traffic safety~~]  
25 bureau [~~of the department of transportation~~], shall develop and  
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1 periodically review and update standard arrest reports and  
2 procedures to be used by law enforcement officers when making  
3 an arrest for a violation of the [~~provisions of Section~~  
4 ~~66-8-102 NMSA 1978~~] DWI Act or similar municipal or county  
5 ordinances.

6 B. A law enforcement officer making an arrest for a  
7 violation of the [~~provisions of Section 66-8-102 NMSA 1978~~] DWI  
8 Act or of similar municipal or county ordinances shall use the  
9 standard arrest reports and procedures developed and approved  
10 by the department of public safety in accordance with the  
11 provisions of Subsection A of this section."

12 SECTION 25. A new Section 66-14-22 NMSA 1978 is enacted  
13 to read:

14 "66-14-22. [NEW MATERIAL] CHEMICAL BLOOD TESTS DIRECTED  
15 BY POLICE, JUDICIAL OR PROBATION OFFICER--PERSONS QUALIFIED TO  
16 PERFORM TESTS--RELIEF FROM CIVIL AND CRIMINAL LIABILITY--ARREST  
17 OR TEST ONLY IN PERFORMANCE OF OFFICIAL DUTIES AUTHORIZED BY  
18 LAW.--

19 A. Only a physician, licensed professional or  
20 practical nurse, emergency medical technician or certified  
21 phlebotomist, or a technologist employed by a hospital or  
22 physician, shall withdraw blood from a person in the  
23 performance of a chemical blood test. No such physician,  
24 nurse, technician, phlebotomist or technologist who withdraws  
25 blood from a person in the performance of a chemical blood test

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1 that has been directed by a police officer, or by a judicial or  
2 probation officer, shall be held liable in a civil or criminal  
3 action for assault, battery, false imprisonment or the conduct  
4 of a police officer, except for negligence, nor shall a person  
5 assisting in the performance of the test, or a hospital wherein  
6 blood is withdrawn in the performance of the test, be subject  
7 to civil or criminal liability for assault, battery, false  
8 imprisonment or the conduct of a police officer, except for  
9 negligence.

10 B. Nothing in this section is intended to authorize  
11 a police officer, or a judicial or probation officer, to make  
12 an arrest or to direct the performance of a chemical blood  
13 test, except in the performance of that person's official  
14 duties and as otherwise authorized by law."

15 SECTION 26. Section 66-8-105 NMSA 1978 (being Laws 1978,  
16 Chapter 35, Section 513) is recompiled as Section 66-14-23 NMSA  
17 1978 and is amended to read:

18 "66-14-23. IMPLIED CONSENT ACT--SHORT TITLE.--Sections  
19 [~~64-8-105 through 64-8-112 NMSA 1953~~] 66-14-23 through 66-14-30  
20 NMSA 1978 may be cited as the "Implied Consent Act"."

21 SECTION 27. Section 66-8-107 NMSA 1978 (being Laws 1978,  
22 Chapter 35, Section 515, as amended) is recompiled as Section  
23 66-14-24 NMSA 1978 and is amended to read:

24 "66-14-24. IMPLIED CONSENT TO SUBMIT TO CHEMICAL TEST.--

25 A. Any person who operates a motor vehicle within  
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1 this state shall be deemed to have given consent, subject to  
2 the provisions of the Implied Consent Act:

3 (1) to chemical tests of ~~[his]~~ that person's  
4 breath or blood or both that are approved by the scientific  
5 laboratory division of the department of health pursuant to the  
6 provisions of Section 24-1-22 NMSA 1978 as determined by a law  
7 enforcement officer; or

8 (2) for the purpose of determining the drug or  
9 alcohol content of ~~[his]~~ the person's blood if the person is  
10 arrested for any offense arising out of the acts alleged to  
11 have been committed while the person was driving a motor  
12 vehicle while under the influence of an intoxicating liquor or  
13 drug.

14 B. A test of blood or breath or both, approved by  
15 the scientific laboratory division of the department of health  
16 pursuant to the provisions of Section 24-1-22 NMSA 1978, shall  
17 be administered at the direction of a law enforcement officer  
18 having reasonable grounds to believe the person to have been  
19 driving a motor vehicle within this state while under the  
20 influence of intoxicating liquor or ~~[drug]~~ drugs."

21 SECTION 28. Section 66-8-108 NMSA 1978 (being Laws 1978,  
22 Chapter 35, Section 516) is recompiled as Section 66-14-25 NMSA  
23 1978 and is amended to read:

24 "66-14-25. CONSENT OF PERSON INCAPABLE OF REFUSAL NOT  
25 WITHDRAWN.--Any person who is dead, unconscious or otherwise in  
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1 a condition rendering [~~him~~] the person incapable of refusal  
2 shall be deemed not to have withdrawn the consent provided by  
3 Section [~~64-8-107 NMSA 1953~~] 66-14-24 NMSA 1978, and the test  
4 or tests designated by the law enforcement officer may be  
5 administered."

6 SECTION 29. Section 66-8-109 NMSA 1978 (being Laws 1978,  
7 Chapter 35, Section 517, as amended) is recompiled as Section  
8 66-14-26 NMSA 1978 and is amended to read:

9 "66-14-26. ADMINISTRATION OF CHEMICAL TEST--PAYMENT OF  
10 COSTS--ADDITIONAL TESTS.--

11 A. Only the persons authorized by Section  
12 [~~66-8-103~~] 66-14-22 NMSA 1978 shall withdraw blood from any  
13 person for the purpose of determining its alcohol or drug  
14 content. This limitation does not apply to the taking of  
15 samples of breath.

16 B. The person tested shall be advised by the law  
17 enforcement officer of the person's right to be given an  
18 opportunity to arrange for a physician, licensed professional  
19 or practical nurse, [~~or laboratory technician or~~] emergency  
20 medical technician or certified phlebotomist or a technologist  
21 who is employed by a hospital or physician of [~~his~~] the  
22 person's own choosing to perform a chemical test in addition to  
23 any test performed at the direction of a law enforcement  
24 officer.

25 C. Upon the request of the person tested, full

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1 information concerning the test performed at the direction of  
2 the law enforcement officer shall be made available to ~~[him]~~  
3 the person as soon as it is available from the person  
4 performing the test.

5 D. The law enforcement agency represented by the  
6 law enforcement officer at whose direction the chemical test is  
7 performed shall pay for the chemical test.

8 E. If a person exercises ~~[his]~~ the person's right  
9 under Subsection B of this section to have a chemical test  
10 performed ~~[upon him]~~ on the person by a person of ~~[his]~~ the  
11 person's own choosing, the cost of that test shall be paid by  
12 the law enforcement agency represented by the law enforcement  
13 officer at whose direction a chemical test was administered  
14 under Section ~~[66-8-107]~~ 66-14-24 NMSA 1978."

15 SECTION 30. Section 66-8-110 NMSA 1978 (being Laws 1978,  
16 Chapter 35, Section 518, as amended) is recompiled as Section  
17 66-14-27 NMSA 1978 and is amended to read:

18 "66-14-27. USE OF TESTS IN CRIMINAL ACTIONS OR CIVIL  
19 ACTIONS--LEVELS OF INTOXICATION--MANDATORY CHARGING.--

20 A. The results of a test performed pursuant to the  
21 Implied Consent Act may be introduced into evidence in any  
22 civil action or criminal action arising out of the acts alleged  
23 to have been committed by the person tested for driving a motor  
24 vehicle while under the influence of intoxicating liquor or  
25 drugs.

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1           B. When the blood or breath of the person tested  
2 contains:

3                   (1) an alcohol concentration of less than four  
4 one hundredths, it shall be presumed that the person was not  
5 under the influence of intoxicating liquor;

6                   (2) an alcohol concentration of at least four  
7 one hundredths but less than eight one hundredths:

8                           (a) no presumption shall be made that  
9 the person either was or was not under the influence of  
10 intoxicating liquor, unless the person is driving a commercial  
11 motor vehicle; and

12                           (b) the amount of alcohol in the  
13 person's blood or breath may be considered with other competent  
14 evidence in determining whether the person was under the  
15 influence of intoxicating liquor; or

16                   (3) an alcohol concentration of four one  
17 hundredths or more and the person is driving a commercial  
18 vehicle, it shall be presumed that the person is under the  
19 influence of intoxicating liquor.

20           C. The arresting officer shall charge the person  
21 tested with a violation of Section [~~66-8-102~~] 66-14-2 NMSA 1978  
22 when the blood or breath of the person contains an alcohol  
23 concentration of:

24                   (1) eight one hundredths or more; or

25                   (2) four one hundredths or more if the person

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1 is driving a commercial motor vehicle.

2 D. When a person is less than twenty-one years of  
3 age and the blood or breath of the person contains an alcohol  
4 concentration of two one hundredths or more, the person's  
5 driving privileges shall be revoked pursuant to the provisions  
6 of the Implied Consent Act.

7 E. If the test performed pursuant to the Implied  
8 Consent Act is administered more than three hours after the  
9 person was driving a vehicle, the test result may be introduced  
10 as evidence of the alcohol concentration in the person's blood  
11 or breath at the time of the test and the trier of fact shall  
12 determine what weight to give the test result for the purpose  
13 of determining a violation of Section ~~[66-8-102]~~ 66-14-2 NMSA  
14 1978.

15 F. The determination of alcohol concentration shall  
16 be based on the grams of alcohol in one hundred milliliters of  
17 blood or the grams of alcohol in two hundred ten liters of  
18 breath.

19 G. The presumptions in Subsection B of this section  
20 do not limit the introduction of other competent evidence  
21 concerning whether the person was under the influence of  
22 intoxicating liquor.

23 H. If a person is convicted of driving a motor  
24 vehicle while under the influence of intoxicating liquor, the  
25 trial judge shall ~~[inquire into]~~ review the past driving record

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1 of the person before sentence is entered in the matter."

2 SECTION 31. Section 66-8-111 NMSA 1978 (being Laws 1978,  
3 Chapter 35, Section 519, as amended) is recompiled as Section  
4 66-14-28 NMSA 1978 and is amended to read:

5 "66-14-28. REFUSAL TO SUBMIT TO CHEMICAL TESTS--TESTING--  
6 GROUNDS FOR REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE.--

7 A. If a person under arrest for violation of an  
8 offense enumerated in the Motor Vehicle Code refuses upon  
9 request of a law enforcement officer to submit to chemical  
10 tests designated by the law enforcement agency as provided in  
11 Section [~~66-8-107~~] 66-14-24 NMSA 1978, none shall be  
12 administered except when a [~~municipal judge~~] magistrate or  
13 district judge issues a search warrant authorizing chemical  
14 tests as provided in Section [~~66-8-107~~] 66-14-24 NMSA 1978 upon  
15 finding in a law enforcement officer's written affidavit that  
16 there is probable cause to believe that the person has driven a  
17 motor vehicle while under the influence of alcohol or a  
18 controlled substance, thereby causing the death or great bodily  
19 injury of another person, or there is probable cause to believe  
20 that the person has committed a felony while under the  
21 influence of alcohol or a controlled substance and that  
22 chemical tests as provided in Section [~~66-8-107~~] 66-14-24 NMSA  
23 1978 will produce material evidence in a felony prosecution.

24 B. If a person under arrest for a violation of  
25 driving under the influence of intoxicating liquor or driving

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1 under the influence of an intoxicating drug submits to a  
2 chemical breath test upon request of a law enforcement officer  
3 as provided in Section 66-14-24 NMSA 1978, but thereafter  
4 refuses upon request of a law enforcement officer to submit to  
5 a chemical blood test, no chemical blood test shall be  
6 administered except when a magistrate or district judge issues  
7 a search warrant authorizing chemical tests as provided in  
8 Section 66-14-24 NMSA 1978 upon finding in a law enforcement  
9 officer's written affidavit that there is probable cause to  
10 believe that the person has committed driving under the  
11 influence of an intoxicating drug and that chemical tests as  
12 provided in Section 66-14-24 NMSA 1978 will produce material  
13 evidence in a misdemeanor prosecution; provided that:

14 (1) the chemical breath test to which the  
15 person submitted resulted in an alcohol concentration of four  
16 one hundredths or less in the person's breath;

17 (2) the person subsequently refused a chemical  
18 blood test upon the request of a law enforcement officer; and

19 (3) the law enforcement officer's written  
20 affidavit establishes probable cause to believe that the  
21 impairment observed by the law enforcement officer is  
22 inconsistent with the result of the chemical breath test and  
23 indicates the presence of intoxicating drugs.

24 [B.] C. The department, upon receipt of a statement  
25 signed under penalty of perjury from a law enforcement officer

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1 stating the officer's reasonable grounds to believe the  
2 arrested person had been driving a motor vehicle within this  
3 state while under the influence of intoxicating liquor or drugs  
4 and that, upon request, the person refused to submit to a  
5 chemical test after being advised that failure to submit could  
6 result in revocation of the person's privilege to drive, shall  
7 revoke the person's New Mexico driver's license or any  
8 nonresident operating privilege for a period of one year or  
9 until all conditions for license reinstatement are met,  
10 whichever is later.

11 [G.] D. The department, upon receipt of a statement  
12 signed under penalty of perjury from a law enforcement officer  
13 stating the officer's reasonable grounds to believe the  
14 arrested person had been driving a motor vehicle within this  
15 state while under the influence of intoxicating liquor and that  
16 the person submitted to chemical testing pursuant to Section  
17 [~~66-8-107~~] 66-14-24 NMSA 1978 and the test results indicated an  
18 alcohol concentration in the person's blood or breath of eight  
19 one hundredths or more if the person is twenty-one years of age  
20 or older, four one hundredths or more if the person is driving  
21 a commercial motor vehicle or two one hundredths or more if the  
22 person is less than twenty-one years of age, shall revoke the  
23 person's license or permit to drive or [~~his~~] the person's  
24 nonresident operating privilege for a period of:

25 (1) six months or until all conditions for

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1 license reinstatement are met, whichever is later, if the  
2 person is twenty-one years of age or older;

3 (2) one year or until all conditions for  
4 license reinstatement are met, whichever is later, if the  
5 person was less than twenty-one years of age at the time of the  
6 arrest, notwithstanding any provision of the Children's Code;  
7 or

8 (3) one year or until all conditions for  
9 license reinstatement are met, whichever is later, if the  
10 [~~person has previously had his~~] person's license had been  
11 revoked previously pursuant to the provisions of this section,  
12 notwithstanding the provisions of Paragraph (1) of this  
13 subsection.

14 [~~D.~~] E. The determination of alcohol concentration  
15 shall be based on the grams of alcohol in one hundred  
16 milliliters of blood or the grams of alcohol in two hundred ten  
17 liters of breath.

18 [~~E.~~] F. If the person subject to the revocation  
19 provisions of this section is a resident or will become a  
20 resident within one year and is without a license to operate a  
21 motor vehicle in this state, the department shall deny the  
22 issuance of a license to [~~him~~] the person for the appropriate  
23 period of time as provided in Subsections [~~B and C~~] C and D of  
24 this section.

25 [~~F.~~] G. A statement signed by a law enforcement

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1 officer, pursuant to the provisions of Subsection [~~B or C~~] C or  
2 D of this section, shall be sworn to by the officer or shall  
3 contain a declaration substantially to the effect: "I hereby  
4 declare under penalty of perjury that the information given in  
5 this statement is true and correct to the best of my  
6 knowledge.". The statement may be signed and submitted  
7 electronically in a manner and form approved by the department.  
8 A law enforcement officer who signs a statement knowing that  
9 the statement is untrue in any material issue or matter is  
10 guilty of perjury as provided in Section 66-5-38 NMSA 1978."

11 SECTION 32. Section 66-8-111.1 NMSA 1978 (being Laws  
12 1984, Chapter 72, Section 7, as amended) is recompiled as  
13 Section 66-14-29 NMSA 1978 and is amended to read:

14 "66-14-29. LAW ENFORCEMENT OFFICER AGENT FOR DEPARTMENT--  
15 WRITTEN NOTICE OF REVOCATION AND RIGHT TO HEARING.--

16 A. On behalf of the department, a law enforcement  
17 officer requesting a chemical test or directing the  
18 administration of a chemical test pursuant to Section  
19 [~~66-8-107~~] 66-14-24 NMSA 1978 shall serve immediate written  
20 notice of revocation and of right to a hearing before the  
21 administrative hearings office pursuant to the Implied Consent  
22 Act on a person who:

- 23 (1) refuses to permit chemical testing; or  
24 (2) submits to a chemical test the results of  
25 which indicate an alcohol concentration in the person's blood

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1 or breath of:

2 (a) eight one hundredths or more if the  
3 person is twenty-one years of age or older;

4 (b) four one hundredths or more if the  
5 person is driving a commercial motor vehicle; or

6 (c) two one hundredths or more if the  
7 person is less than twenty-one years of age.

8 B. The written notice of revocation and of a right  
9 to a hearing served on the driver shall be a temporary license  
10 valid for twenty days or, if the driver requests a hearing  
11 pursuant to Section [~~66-8-112~~] 66-14-30 NMSA 1978, valid until  
12 the date the administrative hearings office issues the order  
13 following that hearing; provided that a written notice of  
14 revocation and right to a hearing shall not be a temporary  
15 license for a driver without any otherwise valid driving  
16 privileges in this state.

17 C. The law enforcement officer shall send to the  
18 department the signed statement required pursuant to Section  
19 [~~66-8-111~~] 66-14-28 NMSA 1978."

20 SECTION 33. Section 66-8-112 NMSA 1978 (being Laws 1978,  
21 Chapter 35, Section 520, as amended) is recompiled as Section  
22 66-14-30 NMSA 1978 and is amended to read:

23 "66-14-30. REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE--  
24 NOTICE--EFFECTIVE DATE--HEARING--HEARING COSTS--REVIEW.--

25 A. The effective date of revocation pursuant to  
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1 Section ~~[66-8-111]~~ 66-14-28 NMSA 1978 is twenty days after  
2 notice of revocation or, if the person whose driver's license  
3 or privilege to drive is being revoked or denied requests a  
4 hearing pursuant to the Administrative Hearings Office Act, the  
5 date that the administrative hearings office issues the order  
6 following that hearing. The date of notice of revocation is:

7 (1) the date the law enforcement officer  
8 serves written notice of revocation and of right to a hearing  
9 pursuant to Section ~~[66-8-111.1]~~ 66-14-29 NMSA 1978; or

10 (2) in the event the results of a chemical  
11 test cannot be obtained immediately, the date notice of  
12 revocation is served by mail by the department. This notice of  
13 revocation and of right to a hearing shall be sent by certified  
14 mail and shall be deemed to have been served on the date borne  
15 by the return receipt showing delivery, refusal of the  
16 addressee to accept delivery or attempted delivery of the  
17 notice at the address obtained by the arresting law enforcement  
18 officer or on file with the department.

19 B. Within ten days after receipt of notice of  
20 revocation pursuant to Subsection A of this section, a person  
21 whose license or privilege to drive is revoked or denied or the  
22 person's agent may request a hearing. The hearing request  
23 shall be made in writing and shall be accompanied by a payment  
24 of twenty-five dollars (\$25.00) or a sworn statement of  
25 indigency on a form provided by the department. A standard for

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1 indigency shall be established pursuant to rules adopted by the  
2 department. Failure to request a hearing within ten days shall  
3 result in forfeiture of the person's right to a hearing. Any  
4 person less than eighteen years of age who fails to request a  
5 hearing within ten days shall have notice of revocation sent to  
6 the person's parent, guardian or custodian by the department.  
7 A date for the hearing shall be set by the administrative  
8 hearings office, if practical, within thirty days after receipt  
9 of notice of revocation. The hearing shall be held in the  
10 county in which the offense for which the person was arrested  
11 took place.

12 C. The administrative hearings office may postpone  
13 or continue any hearing on its own motion or upon application  
14 from the person and for good cause shown for a period not to  
15 exceed ninety days from the date of notice of revocation and,  
16 provided that, upon a continuance, the department shall extend  
17 the validity of the temporary license for the period of the  
18 postponement or continuation.

19 D. At the hearing, the administrative hearings  
20 office may administer oaths and may issue subpoenas for the  
21 attendance of witnesses and the production of relevant books  
22 and papers.

23 E. The hearing shall be limited to the following  
24 issues:

- 25 (1) whether the law enforcement officer had

1 reasonable grounds to believe that the person had been driving  
2 a motor vehicle within this state while under the influence of  
3 intoxicating liquor or drugs;

4 (2) whether the person was arrested;

5 (3) whether this hearing is held no later than  
6 ninety days after notice of revocation; and ~~[either]~~

7 (4) whether:

8 (a) the person refused to submit to a  
9 test upon request of the law enforcement officer; and

10 (b) the law enforcement officer advised  
11 that the failure to submit to a test could result in revocation  
12 of the person's privilege to drive; or

13 (5) whether:

14 (a) the chemical test was administered  
15 pursuant to the provisions of the Implied Consent Act; and

16 (b) the test results indicated an  
17 alcohol concentration in the person's blood or breath of eight  
18 one hundredths or more if the person is twenty-one years of age  
19 or older, four one hundredths or more if the person is driving  
20 a commercial motor vehicle or two one hundredths or more if the  
21 person is less than twenty-one years of age.

22 F. The administrative hearings office shall enter  
23 an order sustaining the revocation or denial of the person's  
24 license or privilege to drive if the hearing officer from the  
25 administrative hearings office finds that:

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1 (1) the law enforcement officer had reasonable  
2 grounds to believe the driver was driving a motor vehicle while  
3 under the influence of intoxicating liquor or drugs;

4 (2) the person was arrested;

5 (3) [~~this~~] the hearing is held no later than  
6 ninety days after notice of revocation; and

7 (4) either:

8 (a) the person refused to submit to the  
9 test upon request of the law enforcement officer after the law  
10 enforcement officer advised the person that the person's  
11 failure to submit to the test could result in the revocation of  
12 the person's privilege to drive; or

13 (b) that a chemical test was  
14 administered pursuant to the provisions of the Implied Consent  
15 Act and the test results indicated an alcohol concentration in  
16 the person's blood or breath of eight one hundredths or more if  
17 the person is twenty-one years of age or older, four one  
18 hundredths or more if the person is driving a commercial motor  
19 vehicle or two one hundredths or more if the person is less  
20 than twenty-one years of age.

21 G. If one or more of the elements set forth in  
22 Paragraphs (1) through (4) of Subsection F of this section are  
23 not found by the hearing officer, the person's license shall  
24 not be revoked.

25 H. A person adversely affected by an order of the

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1 administrative hearings office may seek review within thirty  
2 days in the district court in the county in which the offense  
3 for which the person was arrested took place. The district  
4 court, upon thirty days' written notice to the department,  
5 shall hear the case. On review, it is for the court to  
6 determine only whether reasonable grounds exist for revocation  
7 or denial of the person's license or privilege to drive based  
8 on the record of the administrative proceeding.

9 I. Any person less than eighteen years of age shall  
10 have results of the person's hearing forwarded by the  
11 administrative hearings office to the person's parent, guardian  
12 or custodian."

13 SECTION 34. Section 66-5-501 NMSA 1978 (being Laws 2003,  
14 Chapter 239, Section 1) is recompiled as Section 66-14-31 NMSA  
15 1978 and is amended to read:

16 "66-14-31. IGNITION INTERLOCK LICENSING ACT--SHORT  
17 TITLE.--Sections [1 through 4 of this act] 66-14-31 through  
18 66-14-36 NMSA 1978 may be cited as the "Ignition Interlock  
19 Licensing Act".

20 SECTION 35. Section 66-5-502 NMSA 1978 (being Laws 2003,  
21 Chapter 239, Section 2, as amended) is recompiled as Section  
22 66-14-32 NMSA 1978 and is amended to read:

23 "66-14-32. DEFINITIONS.--As used in the Ignition  
24 Interlock Licensing Act:

25 A. "denied" means the division has refused to issue  
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1 an instruction permit, driver's license or provisional license  
2 pursuant to the provisions of Subsection D or E of Section  
3 66-5-5 NMSA 1978;

4 B. "ignition interlock device" means a device,  
5 approved by the [~~traffic safety~~] bureau, that prevents the  
6 operation of a motor vehicle by an intoxicated or impaired  
7 person;

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

15 D. "revoked" means the division, pursuant to the  
16 provisions of Section 66-5-29 or [~~66-8-111~~] 66-14-28 NMSA 1978,  
17 has terminated a person's driving privilege or driver's license  
18 for:

19 (1) driving while under the influence of  
20 intoxicating liquor or drugs; or

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

24 SECTION 36. A new Section 66-14-33 NMSA 1978 is enacted  
25 to read:

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1 "66-14-33. [NEW MATERIAL] IGNITION INTERLOCK

2 REQUIREMENT.--

3 A. Upon a conviction for driving under the  
4 influence of intoxicating liquor or drugs, an offender shall be  
5 required to obtain an ignition interlock license and have an  
6 ignition interlock device installed and operating on all motor  
7 vehicles driven by the offender, pursuant to rules adopted by  
8 the bureau. Unless determined by the bureau to be indigent,  
9 the offender shall pay all costs associated with having an  
10 ignition interlock device installed on the appropriate motor  
11 vehicles. The offender shall operate only those vehicles  
12 equipped with ignition interlock devices for:

13 (1) a period of one year for a first offender;

14 (2) a period of two years for a second  
15 conviction pursuant to the DWI Act;

16 (3) a period of three years for a third  
17 conviction pursuant to the DWI Act; or

18 (4) the remainder of the offender's life for a  
19 fourth or subsequent conviction pursuant to the DWI Act.

20 B. Five years from the date of conviction and every  
21 five years thereafter, a fourth or subsequent offender may  
22 apply to a district court for removal of the ignition interlock  
23 device requirement provided in this section and for restoration  
24 of a driver's license. A district court may, for good cause  
25 shown, remove the ignition interlock device requirement and

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1 order restoration of the license; provided that the offender  
2 has not been subsequently convicted of driving a motor vehicle  
3 under the influence of intoxicating liquor or drugs. Good  
4 cause may include an alcohol screening and proof from the  
5 interlock vendor that the person has not had violations of the  
6 interlock device.

7 C. An offender who obtains an ignition interlock  
8 license and installs an ignition interlock device prior to  
9 conviction shall be given credit at sentencing for the time  
10 period the ignition interlock device has been in use."

11 SECTION 37. Section 66-5-503 NMSA 1978 (being Laws 2003,  
12 Chapter 239, Section 3, as amended) is recompiled as Section  
13 66-14-34 NMSA 1978 and is amended to read:

14 "66-14-34. IGNITION INTERLOCK LICENSE--REQUIREMENTS.--

15 A. A person whose driving privilege or driver's  
16 license has been revoked or denied or who has not met the  
17 ignition interlock license requirement as a condition of  
18 reinstatement pursuant to Section 66-5-33.1 NMSA 1978 may apply  
19 for an ignition interlock license from the ~~[division]~~  
20 department.

21 B. An applicant for an ignition interlock license  
22 shall:

23 (1) provide proof of installation of the  
24 ignition interlock device by ~~[a traffic safety bureau-approved]~~  
25 an ignition interlock installer approved by the bureau on any

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1 vehicle the applicant drives; and

2 (2) sign an affidavit acknowledging that:

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

6 (b) tampering or interfering with the  
7 proper and intended operation of an ignition interlock device  
8 may subject the applicant to penalties for driving with a  
9 license that was revoked for driving under the influence of  
10 intoxicating liquor or drugs or a violation of the Implied  
11 Consent Act; and

12 (c) the applicant shall maintain the  
13 ignition interlock device and keep up-to-date records in the  
14 motor vehicle showing required service and calibrations and be  
15 able to provide the records upon request.

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

23 SECTION 38. Section 66-5-504 NMSA 1978 (being Laws 2003,  
24 Chapter 239, Section 4, as amended) is recompiled as Section  
25 66-14-35 NMSA 1978 and is amended to read:

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1 "66-14-35. PENALTIES.--

2 A. A person who is issued an ignition interlock  
3 license and operates a vehicle that is not equipped with an  
4 ignition interlock device is driving with a license that was  
5 revoked for driving under the influence of intoxicating liquor  
6 or drugs or a violation of the Implied Consent Act and may be  
7 subject to the penalties provided in Section 66-5-39 NMSA 1978.

8 B. A person who is issued an ignition interlock  
9 license and who knowingly and deliberately tampers or  
10 interferes with or causes another to tamper or interfere with  
11 the proper and intended operation of an ignition interlock  
12 device may be subject to the penalties for driving with a  
13 license that was revoked for driving under the influence of  
14 intoxicating liquor or drugs or a violation of the Implied  
15 Consent Act as provided in Section 66-5-39 NMSA 1978."

16 SECTION 39. Section 66-8-102.3 NMSA 1978 (being Laws  
17 2002, Chapter 82, Section 2, as amended) is recompiled as  
18 Section 66-14-36 NMSA 1978 and is amended to read:

19 "66-14-36. IMPOSING A FEE--INTERLOCK DEVICE FUND  
20 CREATED.--

21 A. A fee is imposed on a person convicted of  
22 driving under the influence of intoxicating liquor or drugs in  
23 violation of [~~Section 66-8-102 NMSA 1978~~] the DWI Act or  
24 adjudicated as a delinquent on the basis of Subparagraph (a) of  
25 Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978 or a  
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1 person whose driver's license is revoked pursuant to the  
2 provisions of the Implied Consent Act, in an amount determined  
3 by rule of the [~~traffic safety~~] bureau [~~of the department of~~  
4 ~~transportation~~] not to exceed one hundred dollars (\$100) but  
5 not less than fifty dollars (\$50.00) for each year the person  
6 is required to operate only vehicles equipped with an ignition  
7 interlock device in order to ensure the solvency of the  
8 interlock device fund. The fee shall not be imposed on an  
9 indigent person.

10 B. The "interlock device fund" is created in the  
11 state treasury. The fee imposed pursuant to Subsection A of  
12 this section shall be collected by the [~~motor vehicle division~~  
13 ~~of the taxation and revenue~~] department and deposited in the  
14 interlock device fund.

15 C. All money in the interlock device fund is  
16 appropriated to the [~~traffic safety~~] bureau [~~of the department~~  
17 ~~of transportation~~] to cover part of the costs of installing,  
18 removing and leasing ignition interlock devices for indigent  
19 people who are required, pursuant to convictions [~~under Section~~  
20 ~~66-8-102 NMSA 1978~~] for violations of the DWI Act or  
21 adjudications on the basis of Subparagraph (a) of Paragraph (1)  
22 of Subsection A of Section 32A-2-3 NMSA 1978 or driver's  
23 license revocations pursuant to the provisions of the Implied  
24 Consent Act or as a condition of parole, to install those  
25 devices in their vehicles. Provided that money is available in

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1 the interlock device fund, the [~~traffic safety~~] bureau shall  
2 pay, for one vehicle per offender, up to fifty dollars (\$50.00)  
3 for the cost of installation, up to fifty dollars (\$50.00) for  
4 the cost of removal and up to thirty dollars (\$30.00) monthly  
5 for verified active usage of the interlock device. The  
6 [~~traffic safety~~] bureau shall not pay any amount above what an  
7 offender would be required to pay for the installation, removal  
8 or usage of an interlock device.

9 D. Indigency shall be determined by the [~~traffic~~  
10 ~~safety~~] bureau based on proof of enrollment in one or more of  
11 the following types of public assistance:

- 12 (1) temporary assistance for needy families;  
13 (2) general assistance;  
14 (3) the supplemental nutritional assistance  
15 program, also known as "food stamps";  
16 (4) supplemental security income;  
17 (5) the federal food distribution program on  
18 Indian reservations; or  
19 (6) other criteria approved by the [~~traffic~~  
20 ~~safety~~] bureau.

21 E. Any balance remaining in the interlock device  
22 fund shall not revert to the general fund at the end of any  
23 fiscal year.

24 F. The interlock device fund shall be administered  
25 by the [~~traffic safety~~] bureau [~~of the department of~~

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1 ~~transportation]~~. No more than ten percent of the money in the  
2 interlock device fund in any fiscal year shall be expended by  
3 the ~~[traffic safety]~~ bureau ~~[of the department of~~  
4 ~~transportation]~~ for the purpose of administering the fund."

5 SECTION 40. TEMPORARY PROVISION.--The New Mexico  
6 compilation commission shall name Chapter 66, Article 14 NMSA  
7 1978 "Intoxication and Impairment".

8 SECTION 41. REPEAL.--Sections 66-8-102, 66-8-103 and  
9 66-8-104 NMSA 1978 (being Laws 1953, Chapter 139, Section 54,  
10 Laws 1967, Chapter 160, Section 1 and Laws 1978, Chapter 35,  
11 Section 512, as amended) are repealed.

12 SECTION 42. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2023.