

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 470

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

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

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 motor vehicle [~~other than special mobile~~  
14 ~~equipment~~] used on [~~public highways in commerce~~] a highway to  
15 transport passengers or property when the vehicle:

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

24 (2) is designed or used to transport more than  
25 eight passengers, including the driver, and is used to

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1 transport passengers for compensation;

2 (3) is designed or used to transport [~~sixteen~~  
3 ~~or~~] more than fifteen passengers, including the driver, and is  
4 not used to transport passengers for compensation; or

5 (4) is used [~~to transport hazardous materials~~  
6 ~~of the type or quantity requiring placarding under rules~~  
7 ~~prescribed by applicable federal or state law~~] in transporting  
8 material found by the United States secretary of transportation  
9 to be hazardous under 49 U.S.C. Section 5103 and transported in  
10 a quantity requiring placarding under regulations prescribed by  
11 the United States secretary of transportation under 49 C.F.R.  
12 Subtitle B, Chapter 1, Subchapter C;

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

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

22 M. "converter gear" means any assemblage of one or  
23 more axles with a fifth wheel mounted thereon, designed for use  
24 in a combination to support the front end of a semitrailer but  
25 not permanently attached thereto. A converter gear shall not

1 be considered a vehicle, as that term is defined in Section  
2 66-1-4.19 NMSA 1978, but weight attributable thereto shall be  
3 included in declared gross weight;

4 N. "conviction":

5 (1) means:

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

9 (b) a plea of guilty or nolo contendere  
10 accepted by the court;

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

14 (d) the promise to mail a payment on a  
15 penalty assessment; and

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

19 O. "crosswalk" means:

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

25 (2) any portion of a roadway at an

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1 intersection or elsewhere distinctly indicated for pedestrian  
2 crossing by lines or other markings on the surface; and

3 P. "curb cut" means a short ramp through a curb or  
4 built up to the curb."

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

7 "66-5-54. DEFINITIONS.--As used in the New Mexico  
8 Commercial Driver's License Act:

9 A. "commerce" means:

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

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

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

22 C. "commercial driver's license information system"  
23 means the information system created pursuant to the federal  
24 Commercial Motor Vehicle Safety Act of 1986 that contains  
25 information pertaining to operators of commercial motor

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1 vehicles;

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

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

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

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

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

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

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

20 (a) a court of original jurisdiction; or  
21 (b) an authorized administrative  
22 tribunal;

23 (2) an unvacated forfeiture of bail or  
24 collateral deposited to secure a person's appearance in court;

25 (3) a plea of guilty or nolo contendere

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1 accepted by the court;

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

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

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

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

10 [~~F.~~] E. "director" means the director of the motor  
11 vehicle division of the department;

12 [~~G.~~] F. "disqualification" means:

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

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

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

24 [~~H.~~] G. "division" means the motor vehicle division  
25 of the department;

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1           ~~[F.]~~ H. "driving a commercial motor vehicle while  
2 under the influence of alcohol" means:

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

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

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

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

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

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

24           ~~[M.]~~ L. "gross combination weight rating" means the  
25 value specified by the manufacturer as the loaded weight of a

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1 combination vehicle. In the absence of a value specified by  
2 the manufacturer, gross combination weight rating shall be  
3 determined by adding the gross vehicle weight rating of the  
4 power unit and the total weight of the towed unit or units and  
5 any load thereon;

6 [N-] M. "gross vehicle weight rating" means the  
7 value specified by the manufacturer as the loaded weight of a  
8 single vehicle;

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

15 [P-] O. "noncommercial motor vehicle" means a motor  
16 vehicle or combination of motor vehicles that is not a  
17 commercial motor vehicle;

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

22 [R-] Q. "out-of-service order" means a declaration  
23 by an authorized enforcement officer of a federal, state,  
24 Canadian, Mexican or local jurisdiction that a driver, a  
25 commercial motor vehicle or a motor carrier operation is

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1 temporarily prohibited from operating;

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

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

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

12                   (2) reckless driving as defined by Section  
13 66-8-113 NMSA 1978 or a municipal ordinance or the law of  
14 another state;

15                   (3) homicide by vehicle, as defined in Section  
16 ~~[66-8-101]~~ 66-14-14 NMSA 1978;

17                   (4) injury to pregnant ~~[women]~~ person by  
18 vehicle as defined in Section ~~[66-8-101.1]~~ 66-14-13 NMSA 1978  
19 or a municipal ordinance or the law of another state;

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

25                   (6) improper or erratic lane changes in

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1 violation of Section 66-7-317 NMSA 1978;

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

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

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

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

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

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

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

25 [~~U.~~] T. "state of domicile" means the state in

1 which a person has a true, fixed and permanent home and  
2 principal residence and to which the person has the intention  
3 of returning whenever the person has been absent from that  
4 state."

5 SECTION 4. Section 66-5-205.3 NMSA 1978 (being Laws 2003,  
6 Chapter 171, Section 1, as amended) is amended to read:

7 "66-5-205.3. MOTOR VEHICLE INSURANCE POLICY--  
8 PROCEDURES.--

9 A. A motor vehicle insurance policy shall:

10 (1) designate by explicit description or by  
11 appropriate reference all motor vehicles to which coverage is  
12 to be granted; and

13 (2) insure the person named in the policy and  
14 a person using any such motor vehicle with the express or  
15 implied permission of the named insured against loss from the  
16 liability imposed by law for damages arising out of the  
17 ownership, maintenance or use of the motor vehicle within a  
18 jurisdiction, subject to the requirement to provide evidence of  
19 financial responsibility pursuant to the Mandatory Financial  
20 Responsibility Act.

21 B. A motor vehicle insurance policy shall insure a  
22 person named as insured against loss from the liability imposed  
23 upon the person by law for damages arising out of the use, with  
24 the express or implied permission of the owner or person in  
25 lawful possession, of a motor vehicle that the insured person

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1 does not own. The policy shall insure the person within the  
2 same territorial limits and in compliance with the requirement  
3 of evidence of financial responsibility as set forth in the  
4 Mandatory Financial Responsibility Act with respect to a motor  
5 vehicle insurance policy. A motor vehicle liability policy in  
6 which the described vehicle is a private passenger car is not  
7 required to provide liability insurance coverage for a non-  
8 owned truck tractor designed to pull a trailer or semitrailer.

9 C. Permitted exceptions to coverage otherwise  
10 required by Subsections A and B of this section may include the  
11 following if excluded by the motor vehicle insurance policy:

- 12 (1) an automobile business exclusion;  
13 (2) a furnished for regular use exclusion;  
14 (3) a vehicle rented for business use  
15 exclusion if the exclusion is contained in the motor vehicle  
16 insurance policy and is enforceable;  
17 (4) an exclusion for any liability of the  
18 United States government or its agencies when the provisions of  
19 the Federal Tort Claims Act apply;  
20 (5) an exclusion for liability of the insured  
21 under any workers' compensation law;  
22 (6) an exclusion for damages to property owned  
23 by, rented to, in the charge of or transported by an insured;  
24 provided, however, that this exclusion shall not apply to  
25 damages to a residence or private garage rented by an insured;

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1 and

2 (7) an exclusion to apply when a vehicle is  
3 rented to others or used to carry persons for a charge,  
4 including when a vehicle is being used while logged on to a  
5 transportation network company's digital network or while a  
6 driver provides a prearranged ride; provided, however, that  
7 this exclusion shall not apply to use on a shared expense  
8 basis.

9 D. The motor vehicle insurance policy shall state  
10 the name and address of the insured, the coverage afforded by  
11 the policy, the premium charged, the policy period and the  
12 limits of liability. The policy shall also contain an  
13 agreement or endorsement that states that the insurance is:

14 (1) provided in accordance with the coverage  
15 defined in the Mandatory Financial Responsibility Act regarding  
16 bodily injury and death or property damage or both; and

17 (2) subject to all the provisions of that act.

18 E. Every motor vehicle insurance policy shall be  
19 subject to the following provisions, which may be contained in  
20 the policy:

21 (1) the policy may not be canceled or annulled  
22 as to the liability of the insurance carrier with respect to  
23 the insurance required by the Mandatory Financial  
24 Responsibility Act by an agreement between the insurance  
25 carrier and the insured after the occurrence of the injury or

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1 damage;

2 (2) the satisfaction by the insured of a  
3 judgment for injury or damage shall not be a condition  
4 precedent to the right or duty of the insurance carrier to pay  
5 on account of injury or damage;

6 (3) the insurance carrier has the right to  
7 settle a claim covered by the policy. If the settlement is  
8 made in good faith, the amount of the settlement is deductible  
9 from the limits of liability specified in the Mandatory  
10 Financial Responsibility Act; and

11 (4) the policy, the declarations page, the  
12 written application and a rider or an endorsement that does not  
13 conflict with the provisions of the Mandatory Financial  
14 Responsibility Act constitute the entire contract between the  
15 parties.

16 F. A binder issued pending the issuance of a motor  
17 vehicle insurance policy is deemed to fulfill the requirements  
18 for the policy.

19 G. The secretary shall require an insurance carrier  
20 duly authorized to do business in New Mexico to certify through  
21 a filing with the department of a certificate that a motor  
22 vehicle liability insurance policy for the benefit of a person  
23 is in effect that meets the requirements of the Mandatory  
24 Financial Responsibility Act for the three years following the  
25 date that person was convicted of driving under the influence

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1 of alcohol or drugs.

2 H. The secretary may by rule require an insurance  
3 carrier duly authorized to do business in New Mexico to certify  
4 through a filing with the department of a certificate that a  
5 motor vehicle liability insurance policy for the benefit of a  
6 person is in effect that meets the requirements of the  
7 Mandatory Financial Responsibility Act for all motorists or a  
8 class of motorists."

9 SECTION 5. A new Section 66-14-1 NMSA 1978 is enacted to  
10 read:

11 "66-14-1. [NEW MATERIAL] DWI ACT--SHORT TITLE.--Sections  
12 66-14-1 through 66-14-23 NMSA 1978 may be cited as the "DWI  
13 Act"."

14 SECTION 6. A new Section 66-14-2 NMSA 1978 is enacted to  
15 read:

16 "66-14-2. [NEW MATERIAL] DRIVING UNDER THE INFLUENCE OF  
17 INTOXICATING LIQUOR--AGGRAVATED DRIVING UNDER THE INFLUENCE OF  
18 INTOXICATING LIQUOR--UNLAWFUL ALCOHOL CONCENTRATIONS.--

19 A. Driving under the influence of intoxicating  
20 liquor consists of a person who is under the influence of  
21 intoxicating liquor driving a vehicle within this state.

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

23 (1) a vehicle in this state if the person has  
24 an alcohol concentration of eight one hundredths or more in the  
25 person's blood or breath within three hours of driving the

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1 vehicle and the alcohol concentration results from alcohol  
2 consumed before or while driving the vehicle; or

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

9 C. Aggravated driving under the influence of  
10 intoxicating liquor consists of a person:

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

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

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

24 SECTION 7. A new Section 66-14-3 NMSA 1978 is enacted to  
25 read:

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1 "66-14-3. [NEW MATERIAL] DRIVING UNDER THE INFLUENCE OF  
2 INTOXICATING DRUGS--AGGRAVATED DRIVING UNDER THE INFLUENCE OF  
3 INTOXICATING DRUGS.--

4 A. Driving under the influence of an intoxicating  
5 drug consists of a person:

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

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

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

17 SECTION 8. A new Section 66-14-4 NMSA 1978 is enacted to  
18 read:

19 "66-14-4. [NEW MATERIAL] FIRST CONVICTION FOR DRIVING  
20 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

21 A. A first conviction for driving under the  
22 influence of intoxicating liquor or drugs shall be punished,  
23 notwithstanding the provisions of Section 31-18-13 NMSA 1978,  
24 by imprisonment for not more than ninety days or by a fine of  
25 not more than five hundred dollars (\$500), or both; provided

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1 that if the sentence is suspended in whole or in part or  
2 deferred, the period of probation may extend beyond ninety days  
3 but shall not exceed one year.

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

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

10 D. Upon a first conviction pursuant to this  
11 section, an offender shall be ordered by the court to  
12 participate in and complete a screening program described in  
13 Section 66-14-15 NMSA 1978 and to attend a driver  
14 rehabilitation program for alcohol or drugs, also known as a  
15 "DWI school", approved by the bureau and also may be required  
16 to participate in other rehabilitative services as the court  
17 shall determine to be necessary.

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

22 F. If an offender fails to complete, within a time  
23 specified by the court, any community service, screening  
24 program, treatment program or DWI school ordered by the court  
25 or fails to comply with any other condition of probation, the

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1 offender shall be sentenced to not less than an additional  
2 forty-eight consecutive hours in jail.

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

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

14 SECTION 9. A new Section 66-14-5 NMSA 1978 is enacted to  
15 read:

16 "66-14-5. [NEW MATERIAL] SECOND CONVICTION FOR DRIVING  
17 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

18 A. A second 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 three hundred sixty-four days  
22 or by a fine of not more than one thousand dollars (\$1,000), or  
23 both; provided that if the sentence is suspended in whole or in  
24 part, the period of probation may extend beyond one year but  
25 shall not exceed five years.

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1           B. Notwithstanding any provision of law to the  
2 contrary for suspension or deferment of execution of a  
3 sentence, upon a second conviction:

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

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

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

17           C. A penalty imposed pursuant to Subsection B of  
18 this section shall not be suspended or deferred or taken under  
19 advisement.

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

24                   (1) not less than a twenty-eight-day  
25 inpatient, residential or in-custody substance abuse treatment

1 program approved by the court;

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

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

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

8 E. The requirements imposed pursuant to Subsection  
9 D of this section shall not be suspended, deferred or taken  
10 under advisement."

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

13 "66-14-6. [NEW MATERIAL] THIRD CONVICTION FOR DRIVING  
14 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

15 A. A third 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 third conviction:

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1 (1) an offender shall be sentenced to a jail  
2 term of not less than thirty consecutive days, not less than  
3 ninety-six hours of community service and a fine of seven  
4 hundred fifty dollars (\$750);

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 sixty consecutive days; 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 sixty  
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 third 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 11. A new Section 66-14-7 NMSA 1978 is enacted to  
9 read:

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

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

20 "66-14-8. [NEW MATERIAL] FIFTH CONVICTION FOR DRIVING  
21 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a  
22 fifth conviction for driving under the influence of  
23 intoxicating liquor or drugs, an offender is guilty of a fourth  
24 degree felony and, notwithstanding the provisions of Section  
25 31-18-15 NMSA 1978, shall be sentenced to a term of

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1 imprisonment of two years, one year of which shall not be  
2 suspended, deferred or taken under advisement."

3 SECTION 13. A new Section 66-14-9 NMSA 1978 is enacted to  
4 read:

5 "66-14-9. [NEW MATERIAL] SIXTH CONVICTION FOR DRIVING  
6 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a  
7 sixth conviction for driving under the influence of  
8 intoxicating liquor or drugs, an offender is guilty of a third  
9 degree felony and, notwithstanding the provisions of Section  
10 31-18-15 NMSA 1978, shall be sentenced to a term of  
11 imprisonment of thirty months, eighteen months of which shall  
12 not be suspended, deferred or taken under advisement."

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

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

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

25 "66-14-11. [NEW MATERIAL] EIGHTH OR SUBSEQUENT CONVICTION

1 FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR  
 2 DRUGS.--Upon an eighth or subsequent conviction for driving  
 3 under the influence of intoxicating liquor or drugs, an  
 4 offender is guilty of a second degree felony and,  
 5 notwithstanding the provisions of Section 31-18-15 NMSA 1978,  
 6 shall be sentenced to a term of imprisonment of twelve years,  
 7 ten of which shall not be suspended, deferred or taken under  
 8 advisement."

9 SECTION 16. Section 66-8-102.5 NMSA 1978 (being Laws  
 10 2019, Chapter 79, Section 1) is recompiled as Section 66-14-12  
 11 NMSA 1978 and is amended to read:

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

15 A. Driving while intoxicated with a minor in the  
 16 vehicle consists of a person committing a violation of Section  
 17 [~~66-8-102~~] 66-14-2 NMSA 1978 when a minor is in the vehicle and  
 18 when the minor does not suffer great bodily harm or death.  
 19 Whoever commits driving while intoxicated with a minor in the  
 20 vehicle is guilty of a misdemeanor and, if the minor is a child  
 21 of the motorist, shall participate in a parenting class.

22 B. Driving while intoxicated with a teenage minor  
 23 in the vehicle consists of a person committing a violation of  
 24 Section 66-14-2 NMSA 1978 when a teenage minor is in the  
 25 vehicle and when the teenage minor does not suffer great bodily

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1 harm or death. Whoever commits driving while intoxicated with  
2 a teenage minor in the vehicle shall pay a penalty assessment  
3 of three hundred dollars (\$300) and, if the teenage minor is a  
4 child of the motorist, participate in a parenting class.

5 [B-] C. A charge for a violation of Subsection A or  
6 B of this section shall be in addition to a charge for the  
7 violation of Section [~~66-8-102~~] 66-14-2 NMSA 1978 and shall be  
8 punished as a separate offense.

9 [E-] D. As used in this section:

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

12 (2) "teenage minor" means an individual who is  
13 thirteen years of age or older and younger than eighteen years  
14 of age."

15 SECTION 17. Section 66-8-101.1 NMSA 1978 (being Laws  
16 1985, Chapter 239, Section 2) is recompiled as Section 66-14-13  
17 NMSA 1978 and is amended to read:

18 "66-14-13. INJURY TO PREGNANT [~~WOMAN~~] PERSON BY  
19 VEHICLE.--

20 A. Injury to pregnant [~~woman~~] person by vehicle is  
21 injury to a pregnant [~~woman~~] person by a person other than the  
22 [~~woman~~] pregnant person in the unlawful operation of a motor  
23 vehicle causing [~~her~~] the pregnant person to suffer a  
24 miscarriage or stillbirth as a result of that injury.

25 B. As used in this section:

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1 (1) "miscarriage" means the interruption of  
2 the normal development of the fetus, other than by a live birth  
3 and which is not an induced abortion, resulting in the complete  
4 expulsion or extraction from a pregnant ~~woman~~ person of a  
5 product of human conception; and

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

14 C. Any person who commits injury to pregnant  
15 ~~woman~~ person by vehicle while under the influence of  
16 intoxicating liquor or while under the influence of any drug or  
17 while violating Section 66-8-113 NMSA 1978 is guilty of a third  
18 degree felony and shall be sentenced pursuant to the provisions  
19 of Section 31-18-15 NMSA 1978, provided that violation of  
20 speeding laws as set forth in the Motor Vehicle Code shall not  
21 per se be a basis for violation of Section 66-8-113 NMSA 1978."

22 **SECTION 18.** Section 66-8-101 NMSA 1978 (being Laws 1978,  
23 Chapter 35, Section 509, as amended) is recompiled as Section  
24 66-14-14 NMSA 1978 and is amended to read:

25 "66-14-14. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY

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1 VEHICLE.--

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

4 B. Great bodily harm by vehicle is the injuring of  
5 a human being, to the extent defined in Section 30-1-12 NMSA  
6 1978, in the unlawful operation of a motor vehicle.

7 C. A person who commits homicide by vehicle while  
8 under the influence of intoxicating liquor or while under the  
9 influence of any drug is guilty of a second degree felony and  
10 shall be sentenced pursuant to the provisions of Section  
11 31-18-15 NMSA 1978.

12 D. A person who commits homicide by vehicle while  
13 violating Section 66-8-113 NMSA 1978 is guilty of a third  
14 degree felony and shall be sentenced pursuant to the provisions  
15 of Section 31-18-15 NMSA 1978; provided that violation of  
16 speeding laws as set forth in the Motor Vehicle Code shall not  
17 per se be a basis for violation of Section 66-8-113 NMSA 1978.

18 E. A person who commits great bodily harm by  
19 vehicle while under the influence of intoxicating liquor, while  
20 under the influence of any drug or while violating Section  
21 66-8-113 NMSA 1978 is guilty of a third degree felony and shall  
22 be sentenced pursuant to the provisions of Section 31-18-15  
23 NMSA 1978; provided that violation of speeding laws as set  
24 forth in the Motor Vehicle Code shall not per se be a basis for  
25 violation of Section 66-8-113 NMSA 1978.

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1 F. A person who commits homicide by vehicle or  
2 great bodily harm by vehicle while under the influence of  
3 intoxicating liquor or while under the influence of any drug,  
4 as provided in Subsection C or E of this section, and who has  
5 incurred a prior DWI conviction within ten years of the  
6 occurrence for which the person is being sentenced under this  
7 section, shall have the person's basic sentence increased by  
8 four years for each prior DWI conviction.

9 G. For the purposes of this section, "prior DWI  
10 conviction" means:

11 (1) a prior conviction under Section  
12 [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978; or

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

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

23 SECTION 19. A new Section 66-14-15 NMSA 1978 is enacted  
24 to read:

25 "66-14-15. [NEW MATERIAL] ALCOHOL OR DRUG ABUSE SCREENING  
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underscored material = new  
[bracketed material] = delete

1 REQUIRED.--Upon a conviction for driving under the influence of  
2 intoxicating liquor or drugs, an offender shall be required to  
3 participate in and complete, within a time specified by the  
4 court, an alcohol or drug abuse screening program approved by  
5 the department of finance and administration and, if necessary,  
6 a treatment program approved by the court. The requirement  
7 imposed pursuant to this section shall not be suspended,  
8 deferred or taken under advisement."

9 SECTION 20. A new Section 66-14-16 NMSA 1978 is enacted  
10 to read:

11 "66-14-16. [NEW MATERIAL] SUBSTANCE ABUSE AND COUNSELING  
12 TO BE PROVIDED BY THE CORRECTIONS DEPARTMENT UPON A FELONY  
13 CONVICTION.--Upon a felony conviction for driving under the  
14 influence of intoxicating liquor or drugs, the corrections  
15 department shall provide substance abuse counseling and  
16 treatment to the offender in its custody. While the offender  
17 is on probation or parole under its supervision, the  
18 corrections department shall also provide substance abuse  
19 counseling and treatment to the offender or shall require the  
20 offender to obtain substance abuse counseling and treatment."

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

23 "66-14-17. [NEW MATERIAL] CONVICTIONS IN OTHER  
24 JURISDICTIONS.--A conviction pursuant to a municipal or county  
25 ordinance in New Mexico, or a law of any other jurisdiction,

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1 territory or possession of the United States or of an Indian  
2 nation, tribe or pueblo, when that ordinance or law is  
3 equivalent to New Mexico law for driving under the influence of  
4 intoxicating liquor or drugs and prescribes penalties for  
5 driving under the influence of intoxicating liquor or drugs,  
6 shall be deemed to be a conviction pursuant to this section for  
7 purposes of determining whether a conviction is a second or  
8 subsequent conviction."

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

11 "66-14-18. [NEW MATERIAL] COURT MAY IMPOSE ORIGINAL  
12 SENTENCE AND NOT GIVE CREDIT FOR TIME ON PROBATION.--With  
13 respect to the DWI Act and notwithstanding any provision of law  
14 to the contrary, if an offender's sentence was suspended or  
15 deferred in whole or in part and the offender violates any  
16 condition of probation, the court may impose any sentence that  
17 the court could have originally imposed and credit shall not be  
18 given for time served by the offender on probation."

19 SECTION 23. A new Section 66-14-19 NMSA 1978 is enacted  
20 to read:

21 "66-14-19. [NEW MATERIAL] MAGISTRATE COURT CONCURRENT  
22 JURISDICTION.--In the case of a first, second or third offense  
23 pursuant to the DWI Act, the magistrate court has concurrent  
24 jurisdiction with district courts to try the offender."

25 SECTION 24. Section 66-8-102.1 NMSA 1978 (being Laws

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1 1982, Chapter 102, Section 2, as amended by Laws 2003, Chapter  
2 51, Section 11 and by Laws 2003, Chapter 90, Section 4) is  
3 recompiled as Section 66-14-20 NMSA 1978 and is amended to  
4 read:

5 "66-14-20. GUILTY PLEAS--LIMITATIONS.--Where the  
6 complaint or information alleges a violation of Section  
7 [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978, any plea of guilty  
8 thereafter entered in satisfaction of the charges shall include  
9 at least a plea of guilty to the violation of [~~one of the~~  
10 ~~subsections of~~] Section [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA  
11 1978, and no other disposition by plea of guilty to any other  
12 charge in satisfaction of the charge shall be authorized if the  
13 results of a test performed pursuant to the Implied Consent Act  
14 disclose that the blood or breath of the person charged  
15 contains an alcohol concentration of:

- 16 A. eight one hundredths or more; or  
17 B. four one hundredths or more if the person  
18 charged is driving a commercial motor vehicle."

19 SECTION 25. Section 66-8-102.2 NMSA 1978 (being Laws  
20 1993, Chapter 66, Section 16) is recompiled as Section 66-14-21  
21 NMSA 1978 and is amended to read:

22 "66-14-21. MUNICIPAL AND COUNTY ORDINANCES--UNLAWFUL  
23 ALCOHOL CONCENTRATION LEVEL FOR DRIVING WHILE UNDER THE  
24 INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--No municipal or  
25 county ordinance prohibiting driving while under the influence

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1 of intoxicating liquor or drugs shall be enacted that provides  
2 for an unlawful alcohol concentration level that is different  
3 than the alcohol concentration levels provided in [~~Subsections~~  
4 ~~C and D of Section 66-8-102~~] Section 66-14-2 NMSA 1978."

5 SECTION 26. Section 66-8-102.4 NMSA 1978 (being Laws  
6 2005, Chapter 269, Section 8) is recompiled as Section 66-14-22  
7 NMSA 1978 and is amended to read:

8 "66-14-22. UNIFORM POLICE REPORTS AND PROCEDURES FOR DWI  
9 ARRESTS.--

10 A. The department of public safety, in  
11 collaboration with the [~~motor vehicle~~] division [~~of the~~  
12 ~~taxation and revenue department~~] and the [~~traffic safety~~]  
13 bureau [~~of the department of transportation~~], shall develop and  
14 periodically review and update standard arrest reports and  
15 procedures to be used by law enforcement officers when making  
16 an arrest for a violation of the [~~provisions of Section~~  
17 ~~66-8-102 NMSA 1978~~] DWI Act or similar municipal or county  
18 ordinances.

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

25 SECTION 27. A new Section 66-14-23 NMSA 1978 is enacted

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1 to read:

2 "66-14-23. [NEW MATERIAL] CHEMICAL BLOOD TESTS DIRECTED  
3 BY POLICE, JUDICIAL OR PROBATION OFFICER--PERSONS QUALIFIED TO  
4 PERFORM TESTS--RELIEF FROM CIVIL AND CRIMINAL LIABILITY--ARREST  
5 OR TEST ONLY IN PERFORMANCE OF OFFICIAL DUTIES AUTHORIZED BY  
6 LAW.--

7 A. Only a physician, licensed professional or  
8 practical nurse, emergency medical technician or certified  
9 phlebotomist, or a technologist employed by a hospital or  
10 physician, shall withdraw blood from a person in the  
11 performance of a chemical blood test. No such physician,  
12 nurse, technician, phlebotomist or technologist who withdraws  
13 blood from a person in the performance of a chemical blood test  
14 that has been directed by a police officer, or by a judicial or  
15 probation officer, shall be held liable in a civil or criminal  
16 action for assault, battery, false imprisonment or the conduct  
17 of a police officer, except for negligence, nor shall a person  
18 assisting in the performance of the test, or a hospital wherein  
19 blood is withdrawn in the performance of the test, be subject  
20 to civil or criminal liability for assault, battery, false  
21 imprisonment or the conduct of a police officer, except for  
22 negligence.

23 B. Nothing in this section is intended to authorize  
24 a police officer, or a judicial or probation officer, to make  
25 an arrest or to direct the performance of a chemical blood

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1 test, except in the performance of that person's official  
2 duties and as otherwise authorized by law."

3 SECTION 28. Section 66-8-105 NMSA 1978 (being Laws 1978,  
4 Chapter 35, Section 513) is recompiled as Section 66-14-31 NMSA  
5 1978 and is amended to read:

6 "66-14-31. IMPLIED CONSENT ACT--SHORT TITLE.--Sections  
7 [~~64-8-105 through 64-8-112 NMSA 1953~~] 66-14-31 through 66-14-38  
8 NMSA 1978 may be cited as the "Implied Consent Act"."

9 SECTION 29. Section 66-8-107 NMSA 1978 (being Laws 1978,  
10 Chapter 35, Section 515, as amended) is recompiled as Section  
11 66-14-32 NMSA 1978 and is amended to read:

12 "66-14-32. IMPLIED CONSENT TO SUBMIT TO CHEMICAL TEST.--

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

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

21 (2) for the purpose of determining the drug or  
22 alcohol content of [~~his~~] the person's blood if the person is  
23 arrested for any offense arising out of the acts alleged to  
24 have been committed while the person was driving a motor  
25 vehicle while under the influence of an intoxicating liquor or

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1 drug.

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

9 SECTION 30. Section 66-8-108 NMSA 1978 (being Laws 1978,  
10 Chapter 35, Section 516) is recompiled as Section 66-14-33 NMSA  
11 1978 and is amended to read:

12 "66-14-33. CONSENT OF PERSON INCAPABLE OF REFUSAL NOT  
13 WITHDRAWN.--Any person who is dead, unconscious or otherwise in  
14 a condition rendering ~~[him]~~ the person incapable of refusal  
15 shall be deemed not to have withdrawn the consent provided by  
16 Section ~~[64-8-107 NMSA 1953]~~ 66-14-32 NMSA 1978, and the test  
17 or tests designated by the law enforcement officer may be  
18 administered."

19 SECTION 31. Section 66-8-109 NMSA 1978 (being Laws 1978,  
20 Chapter 35, Section 517, as amended) is recompiled as Section  
21 66-14-34 NMSA 1978 and is amended to read:

22 "66-14-34. ADMINISTRATION OF CHEMICAL TEST--PAYMENT OF  
23 COSTS--ADDITIONAL TESTS.--

24 A. Only the persons authorized by Section  
25 ~~[66-8-103]~~ 66-14-23 NMSA 1978 shall withdraw blood from any

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1 person for the purpose of determining its alcohol or drug  
2 content. This limitation does not apply to the taking of  
3 samples of breath.

4 B. The person tested shall be advised by the law  
5 enforcement officer of the person's right to be given an  
6 opportunity to arrange for a physician, licensed professional  
7 or practical nurse, [~~or laboratory technician or~~] emergency  
8 medical technician or certified phlebotomist or a technologist  
9 who is employed by a hospital or physician of [~~his~~] the  
10 person's own choosing to perform a chemical test in addition to  
11 any test performed at the direction of a law enforcement  
12 officer.

13 C. Upon the request of the person tested, full  
14 information concerning the test performed at the direction of  
15 the law enforcement officer shall be made available to [~~him~~]  
16 the person as soon as it is available from the person  
17 performing the test.

18 D. The law enforcement agency represented by the  
19 law enforcement officer at whose direction the chemical test is  
20 performed shall pay for the chemical test.

21 E. If a person exercises [~~his~~] the person's right  
22 under Subsection B of this section to have a chemical test  
23 performed [~~upon him~~] on the person by a person of [~~his~~] the  
24 person's own choosing, the cost of that test shall be paid by  
25 the law enforcement agency represented by the law enforcement

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1 officer at whose direction a chemical test was administered  
2 under Section [~~66-8-107~~] 66-14-32 NMSA 1978."

3 SECTION 32. Section 66-8-110 NMSA 1978 (being Laws 1978,  
4 Chapter 35, Section 518, as amended) is recompiled as Section  
5 66-14-35 NMSA 1978 and is amended to read:

6 "66-14-35. USE OF TESTS IN CRIMINAL ACTIONS OR CIVIL  
7 ACTIONS--LEVELS OF INTOXICATION--MANDATORY CHARGING.--

8 A. The results of a test performed pursuant to the  
9 Implied Consent Act may be introduced into evidence in any  
10 civil action or criminal action arising out of the acts alleged  
11 to have been committed by the person tested for driving a motor  
12 vehicle while under the influence of intoxicating liquor or  
13 drugs.

14 B. When the blood or breath of the person tested  
15 contains:

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

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

21 (a) no presumption shall be made that  
22 the person either was or was not under the influence of  
23 intoxicating liquor, unless the person is driving a commercial  
24 motor vehicle; and

25 (b) the amount of alcohol in the

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1 person's blood or breath may be considered with other competent  
2 evidence in determining whether the person was under the  
3 influence of intoxicating liquor; or

4 (3) an alcohol concentration of four one  
5 hundredths or more and the person is driving a commercial  
6 vehicle, it shall be presumed that the person is under the  
7 influence of intoxicating liquor.

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

12 (1) eight one hundredths or more; or

13 (2) four one hundredths or more if the person  
14 is driving a commercial motor vehicle.

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

20 E. If the test performed pursuant to the Implied  
21 Consent Act is administered more than three hours after the  
22 person was driving a vehicle, the test result may be introduced  
23 as evidence of the alcohol concentration in the person's blood  
24 or breath at the time of the test and the trier of fact shall  
25 determine what weight to give the test result for the purpose

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1 of determining a violation of Section [~~66-8-102~~] 66-14-2 NMSA  
2 1978.

3 F. The determination of alcohol concentration shall  
4 be based on the grams of alcohol in one hundred milliliters of  
5 blood or the grams of alcohol in two hundred ten liters of  
6 breath.

7 G. The presumptions in Subsection B of this section  
8 do not limit the introduction of other competent evidence  
9 concerning whether the person was under the influence of  
10 intoxicating liquor.

11 H. If a person is convicted of driving a motor  
12 vehicle while under the influence of intoxicating liquor, the  
13 trial judge shall [~~inquire into~~] review the past driving record  
14 of the person before sentence is entered in the matter."

15 SECTION 33. Section 66-8-111 NMSA 1978 (being Laws 1978,  
16 Chapter 35, Section 519, as amended) is recompiled as Section  
17 66-14-36 NMSA 1978 and is amended to read:

18 "66-14-36. REFUSAL TO SUBMIT TO CHEMICAL TESTS--TESTING--  
19 GROUNDS FOR REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE.--

20 A. If a person under arrest for violation of an  
21 offense enumerated in the Motor Vehicle Code refuses upon  
22 request of a law enforcement officer to submit to chemical  
23 tests designated by the law enforcement agency as provided in  
24 Section [~~66-8-107~~] 66-14-32 NMSA 1978, none shall be  
25 administered except when a [~~municipal judge~~] magistrate or

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1 district judge issues a search warrant authorizing chemical  
2 tests as provided in Section [~~66-8-107~~] 66-14-32 NMSA 1978 upon  
3 finding in a law enforcement officer's written affidavit that  
4 there is probable cause to believe that the person has driven a  
5 motor vehicle while under the influence of alcohol or a  
6 controlled substance, thereby causing the death or great bodily  
7 injury of another person, or there is probable cause to believe  
8 that the person has committed a felony while under the  
9 influence of alcohol or a controlled substance and that  
10 chemical tests as provided in Section [~~66-8-107~~] 66-14-32 NMSA  
11 1978 will produce material evidence in a felony prosecution.

12 B. If a person under arrest for a violation of  
13 driving under the influence of intoxicating liquor or driving  
14 under the influence of an intoxicating drug submits to a  
15 chemical breath test upon request of a law enforcement officer  
16 as provided in Section 66-14-32 NMSA 1978, but thereafter  
17 refuses upon request of a law enforcement officer to submit to  
18 a chemical blood test, no chemical blood test shall be  
19 administered except when a magistrate or district judge issues  
20 a search warrant authorizing chemical tests as provided in  
21 Section 66-14-32 NMSA 1978 upon finding in a law enforcement  
22 officer's written affidavit that there is probable cause to  
23 believe that the person has committed driving under the  
24 influence of an intoxicating drug and that chemical tests as  
25 provided in Section 66-14-32 NMSA 1978 will produce material

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1 evidence in a misdemeanor prosecution; provided that:

2 (1) the chemical breath test to which the  
3 person submitted resulted in an alcohol concentration of less  
4 than four hundredths in the person's breath;

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

7 (3) the law enforcement officer's written  
8 affidavit establishes probable cause to believe that the  
9 impairment observed by the law enforcement officer is  
10 inconsistent with the result of the chemical breath test and  
11 indicates the presence of intoxicating drugs.

12 ~~[B.]~~ C. The department, upon receipt of a statement  
13 signed under penalty of perjury from a law enforcement officer  
14 stating the officer's reasonable grounds to believe the  
15 arrested person had been driving a motor vehicle within this  
16 state while under the influence of intoxicating liquor or drugs  
17 and that, upon request, the person refused to submit to a  
18 chemical test after being advised that failure to submit could  
19 result in revocation of the person's privilege to drive, shall  
20 revoke the person's New Mexico driver's license or any  
21 nonresident operating privilege for a period of one year or  
22 until all conditions for license reinstatement are met,  
23 whichever is later.

24 ~~[C.]~~ D. 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 and that  
4 the person submitted to chemical testing pursuant to Section  
5 ~~[66-8-107]~~ 66-14-32 NMSA 1978 and the test results indicated an  
6 alcohol concentration in the person's blood or breath of eight  
7 one hundredths or more if the person is twenty-one years of age  
8 or older, four one hundredths or more if the person is driving  
9 a commercial motor vehicle or two one hundredths or more if the  
10 person is less than twenty-one years of age, shall revoke the  
11 person's license or permit to drive or ~~[his]~~ the person's  
12 nonresident operating privilege for a period of:

13 (1) six months or until all conditions for  
14 license reinstatement are met, whichever is later, if the  
15 person is twenty-one years of age or older;

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

21 (3) one year or until all conditions for  
22 license reinstatement are met, whichever is later, if the  
23 ~~[person has previously had his]~~ person's license had been  
24 revoked previously pursuant to the provisions of this section,  
25 notwithstanding the provisions of Paragraph (1) of this

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1 subsection.

2           ~~[D-]~~ E. The determination of alcohol concentration  
3 shall be based on the grams of alcohol in one hundred  
4 milliliters of blood or the grams of alcohol in two hundred ten  
5 liters of breath.

6           ~~[E-]~~ F. If the person subject to the revocation  
7 provisions of this section is a resident or will become a  
8 resident within one year and is without a license to operate a  
9 motor vehicle in this state, the department shall deny the  
10 issuance of a license to ~~[him]~~ the person for the appropriate  
11 period of time as provided in Subsections ~~[B-and-C]~~ C and D of  
12 this section.

13           ~~[F-]~~ G. A statement signed by a law enforcement  
14 officer, pursuant to the provisions of Subsection ~~[B-or-G]~~ C or  
15 D of this section, shall be sworn to by the officer or shall  
16 contain a declaration substantially to the effect: "I hereby  
17 declare under penalty of perjury that the information given in  
18 this statement is true and correct to the best of my  
19 knowledge.". The statement may be signed and submitted  
20 electronically in a manner and form approved by the department.  
21 A law enforcement officer who signs a statement knowing that  
22 the statement is untrue in any material issue or matter is  
23 guilty of perjury as provided in Section 66-5-38 NMSA 1978."

24           **SECTION 34.** Section 66-8-111.1 NMSA 1978 (being Laws  
25 1984, Chapter 72, Section 7, as amended) is recompiled as  
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underscoring material = new  
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1 Section 66-14-37 NMSA 1978 and is amended to read:

2 "66-14-37. LAW ENFORCEMENT OFFICER AGENT FOR DEPARTMENT--  
3 WRITTEN NOTICE OF REVOCATION AND RIGHT TO HEARING.--

4 A. On behalf of the department, a law enforcement  
5 officer requesting a chemical test or directing the  
6 administration of a chemical test pursuant to Section  
7 ~~[66-8-107]~~ 66-14-32 NMSA 1978 shall serve immediate written  
8 notice of revocation and of right to a hearing before the  
9 administrative hearings office pursuant to the Implied Consent  
10 Act on a person who:

11 (1) refuses to permit chemical testing; or  
12 (2) submits to a chemical test the results of  
13 which indicate an alcohol concentration in the person's blood  
14 or breath of:

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

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

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

21 B. The written notice of revocation and of a right  
22 to a hearing served on the driver shall be a temporary license  
23 valid for twenty days or, if the driver requests a hearing  
24 pursuant to Section ~~[66-8-112]~~ 66-14-38 NMSA 1978, valid until  
25 the date the administrative hearings office issues the order

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1 following that hearing; provided that a written notice of  
2 revocation and right to a hearing shall not be a temporary  
3 license for a driver without any otherwise valid driving  
4 privileges in this state.

5 C. The law enforcement officer shall send to the  
6 department the signed statement required pursuant to Section  
7 ~~[66-8-111]~~ 66-14-36 NMSA 1978."

8 SECTION 35. Section 66-8-112 NMSA 1978 (being Laws 1978,  
9 Chapter 35, Section 520, as amended) is recompiled as Section  
10 66-14-38 NMSA 1978 and is amended to read:

11 "66-14-38. REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE--  
12 NOTICE--EFFECTIVE DATE--HEARING--HEARING COSTS--REVIEW.--

13 A. The effective date of revocation pursuant to  
14 Section ~~[66-8-111]~~ 66-14-36 NMSA 1978 is twenty days after  
15 notice of revocation or, if the person whose driver's license  
16 or privilege to drive is being revoked or denied requests a  
17 hearing pursuant to the Administrative Hearings Office Act, the  
18 date that the administrative hearings office issues the order  
19 following that hearing. The date of notice of revocation is:

20 (1) the date the law enforcement officer  
21 serves written notice of revocation and of right to a hearing  
22 pursuant to Section ~~[66-8-111.1]~~ 66-14-37 NMSA 1978; or

23 (2) in the event the results of a chemical  
24 test cannot be obtained immediately, the date notice of  
25 revocation is served by mail by the department. This notice of

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1 revocation and of right to a hearing shall be sent by certified  
2 mail and shall be deemed to have been served on the date borne  
3 by the return receipt showing delivery, refusal of the  
4 addressee to accept delivery or attempted delivery of the  
5 notice at the address obtained by the arresting law enforcement  
6 officer or on file with the department.

7 B. Within ten days after receipt of notice of  
8 revocation pursuant to Subsection A of this section, a person  
9 whose license or privilege to drive is revoked or denied or the  
10 person's agent may request a hearing. The hearing request  
11 shall be made in writing and shall be accompanied by a payment  
12 of twenty-five dollars (\$25.00) or a sworn statement of  
13 indigency on a form provided by the department. A standard for  
14 indigency shall be established pursuant to rules adopted by the  
15 department. Failure to request a hearing within ten days shall  
16 result in forfeiture of the person's right to a hearing. Any  
17 person less than eighteen years of age who fails to request a  
18 hearing within ten days shall have notice of revocation sent to  
19 the person's parent, guardian or custodian by the department.  
20 A date for the hearing shall be set by the administrative  
21 hearings office, if practical, within thirty days after receipt  
22 of notice of revocation. The hearing shall be held in the  
23 county in which the offense for which the person was arrested  
24 took place.

25 C. The administrative hearings office may postpone

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1 or continue any hearing on its own motion or upon application  
2 from the person and for good cause shown for a period not to  
3 exceed ninety days from the date of notice of revocation and,  
4 provided that, upon a continuance, the department shall extend  
5 the validity of the temporary license for the period of the  
6 postponement or continuation.

7 D. At the hearing, the administrative hearings  
8 office may administer oaths and may issue subpoenas for the  
9 attendance of witnesses and the production of relevant books  
10 and papers.

11 E. The hearing shall be limited to the following  
12 issues:

13 (1) whether the law enforcement officer had  
14 reasonable grounds to believe that the person had been driving  
15 a motor vehicle within this state while under the influence of  
16 intoxicating liquor or drugs;

17 (2) whether the person was arrested;

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

20 (4) whether:

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

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

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1 (5) whether:

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

4 (b) the test results indicated an  
5 alcohol concentration in the person's blood or breath of eight  
6 one hundredths or more if the person is twenty-one years of age  
7 or older, four one hundredths or more if the person is driving  
8 a commercial motor vehicle or two one hundredths or more if the  
9 person is less than twenty-one years of age.

10 F. The administrative hearings office shall enter  
11 an order sustaining the revocation or denial of the person's  
12 license or privilege to drive if the hearing officer from the  
13 administrative hearings office finds that:

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

17 (2) the person was arrested;

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

20 (4) either:

21 (a) the person refused to submit to the  
22 test upon request of the law enforcement officer after the law  
23 enforcement officer advised the person that the person's  
24 failure to submit to the test could result in the revocation of  
25 the person's privilege to drive; or

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1 (b) that a chemical test was  
2 administered pursuant to the provisions of the Implied Consent  
3 Act and the test results indicated an alcohol concentration in  
4 the person's blood or breath of eight one hundredths or more if  
5 the person is twenty-one years of age or older, four one  
6 hundredths or more if the person is driving a commercial motor  
7 vehicle or two one hundredths or more if the person is less  
8 than twenty-one years of age.

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

13 H. A person adversely affected by an order of the  
14 administrative hearings office may seek review within thirty  
15 days in the district court in the county in which the offense  
16 for which the person was arrested took place. The district  
17 court, upon thirty days' written notice to the department,  
18 shall hear the case. On review, it is for the court to  
19 determine only whether reasonable grounds exist for revocation  
20 or denial of the person's license or privilege to drive based  
21 on the record of the administrative proceeding.

22 I. Any person less than eighteen years of age shall  
23 have results of the person's hearing forwarded by the  
24 administrative hearings office to the person's parent, guardian  
25 or custodian."

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1           SECTION 36. Section 66-5-501 NMSA 1978 (being Laws 2003,  
2 Chapter 239, Section 1) is recompiled as Section 66-14-41 NMSA  
3 1978 and is amended to read:

4           "66-14-41. IGNITION INTERLOCK LICENSING ACT--SHORT  
5 TITLE.--Sections [~~1 through 4 of this act~~] 66-14-41 through  
6 66-14-46 NMSA 1978 may be cited as the "Ignition Interlock  
7 Licensing Act".

8           SECTION 37. Section 66-5-502 NMSA 1978 (being Laws 2003,  
9 Chapter 239, Section 2, as amended) is recompiled as Section  
10 66-14-42 NMSA 1978 and is amended to read:

11           "66-14-42. DEFINITIONS.--As used in the Ignition  
12 Interlock Licensing Act:

13           A. "denied" means the division has refused to issue  
14 an instruction permit, driver's license or provisional license  
15 pursuant to the provisions of Subsection D or E of Section  
16 66-5-5 NMSA 1978;

17           B. "ignition interlock device" means a device,  
18 approved by the [~~traffic safety~~] bureau, that prevents the  
19 operation of a motor vehicle by an intoxicated or impaired  
20 person;

21           C. "ignition interlock license" means a driver's  
22 license issued to a person by the division that allows that  
23 person to operate a motor vehicle with an ignition interlock  
24 device after that person's driving privilege or driver's  
25 license has been revoked or denied. The division shall clearly

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1 mark an ignition interlock license to distinguish it from other  
2 driver's licenses; and

3 D. "revoked" means the division, pursuant to the  
4 provisions of Section 66-5-29 or [~~66-8-111~~] 66-14-36 NMSA 1978,  
5 has terminated a person's driving privilege or driver's license  
6 for:

7 (1) driving while under the influence of  
8 intoxicating liquor or drugs; or

9 (2) a conviction of homicide by vehicle or  
10 great bodily harm by vehicle while under the influence of  
11 intoxicating liquor or drugs."

12 SECTION 38. A new Section 66-14-43 NMSA 1978 is enacted  
13 to read:

14 "66-14-43. [NEW MATERIAL] IGNITION INTERLOCK  
15 REQUIREMENT.--

16 A. Upon a conviction for driving under the  
17 influence of intoxicating liquor or drugs, an offender shall be  
18 required to obtain an ignition interlock license and have an  
19 ignition interlock device installed and operating on all motor  
20 vehicles driven by the offender, pursuant to rules adopted by  
21 the bureau. Unless determined by the bureau to be indigent,  
22 the offender shall pay all costs associated with having an  
23 ignition interlock device installed on the appropriate motor  
24 vehicles. The offender shall operate only those vehicles  
25 equipped with ignition interlock devices for:

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

2 (2) a period of two years for a second

3 conviction pursuant to the DWI Act;

4 (3) a period of three years for a third

5 conviction pursuant to the DWI Act; or

6 (4) the remainder of the offender's life for a

7 fourth or subsequent conviction pursuant to the DWI Act.

8 B. Five years from the date of conviction and every

9 five years thereafter, a fourth or subsequent offender may

10 apply to a district court for removal of the ignition interlock

11 device requirement provided in this section and for restoration

12 of a driver's license. A district court may, for good cause

13 shown, remove the ignition interlock device requirement and

14 order restoration of the license; provided that the offender

15 has not been subsequently convicted of driving a motor vehicle

16 under the influence of intoxicating liquor or drugs. Good

17 cause may include an alcohol screening and proof from the

18 interlock vendor that the person has not had violations of the

19 interlock device.

20 C. An offender who obtains an ignition interlock

21 license and installs an ignition interlock device prior to

22 conviction shall be given credit at sentencing for the time

23 period the ignition interlock device has been in use."

24 SECTION 39. Section 66-5-503 NMSA 1978 (being Laws 2003,

25 Chapter 239, Section 3, as amended) is recompiled as Section

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1 66-14-44 NMSA 1978 and is amended to read:

2 "66-14-44. IGNITION INTERLOCK LICENSE--REQUIREMENTS.--

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

9 B. An applicant for an ignition interlock license  
10 shall:

11 (1) provide proof of installation of the  
12 ignition interlock device by [~~a traffic safety bureau-approved~~]  
13 an ignition interlock installer approved by the bureau on any  
14 vehicle the applicant drives; and

15 (2) sign an affidavit acknowledging that:

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

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

25 (c) the applicant shall maintain the

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1 ignition interlock device and keep up-to-date records in the  
2 motor vehicle showing required service and calibrations and be  
3 able to provide the records upon request.

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

11 SECTION 40. Section 66-5-504 NMSA 1978 (being Laws 2003,  
12 Chapter 239, Section 4, as amended) is recompiled as Section  
13 66-14-45 NMSA 1978 and is amended to read:

14 "66-14-45. PENALTIES.--

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

21 B. A person who is issued an ignition interlock  
22 license and who knowingly and deliberately tampers or  
23 interferes with or causes another to tamper or interfere with  
24 the proper and intended operation of an ignition interlock  
25 device may be subject to the penalties for driving with a

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1 license that was revoked for driving under the influence of  
2 intoxicating liquor or drugs or a violation of the Implied  
3 Consent Act as provided in Section 66-5-39 NMSA 1978."

4 SECTION 41. Section 66-8-102.3 NMSA 1978 (being Laws  
5 2002, Chapter 82, Section 2, as amended) is recompiled as  
6 Section 66-14-46 NMSA 1978 and is amended to read:

7 "66-14-46. IMPOSING A FEE--INTERLOCK DEVICE FUND  
8 CREATED.--

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

23 B. The "interlock device fund" is created in the  
24 state treasury. The fee imposed pursuant to Subsection A of  
25 this section shall be collected by the [~~motor vehicle division~~

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1 ~~of the taxation and revenue~~ department and deposited in the  
2 interlock device fund.

3 C. All money in the interlock device fund is  
4 appropriated to the [~~traffic safety~~] bureau [~~of the department~~  
5 ~~of transportation~~] to cover part of the costs of installing,  
6 removing and leasing ignition interlock devices for indigent  
7 people who are required, pursuant to convictions [~~under Section~~  
8 ~~66-8-102 NMSA 1978~~] for violations of the DWI Act or  
9 adjudications on the basis of Subparagraph (a) of Paragraph (1)  
10 of Subsection A of Section 32A-2-3 NMSA 1978 or driver's  
11 license revocations pursuant to the provisions of the Implied  
12 Consent Act or as a condition of parole, to install those  
13 devices in their vehicles. Provided that money is available in  
14 the interlock device fund, the [~~traffic safety~~] bureau shall  
15 pay, for one vehicle per offender, up to fifty dollars (\$50.00)  
16 for the cost of installation, up to fifty dollars (\$50.00) for  
17 the cost of removal and up to thirty dollars (\$30.00) monthly  
18 for verified active usage of the interlock device. The  
19 [~~traffic safety~~] bureau shall not pay any amount above what an  
20 offender would be required to pay for the installation, removal  
21 or usage of an interlock device.

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

- 25 (1) temporary assistance for needy families;

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- 1 (2) general assistance;
- 2 (3) the supplemental nutritional assistance
- 3 program, also known as "food stamps";
- 4 (4) supplemental security income;
- 5 (5) the federal food distribution program on
- 6 Indian reservations; or
- 7 (6) other criteria approved by the [~~traffic~~
- 8 ~~safety~~] bureau.

9 E. Any balance remaining in the interlock device  
10 fund shall not revert to the general fund at the end of any  
11 fiscal year.

12 F. The interlock device fund shall be administered  
13 by the [~~traffic safety~~] bureau [~~of the department of~~  
14 ~~transportation~~]. No more than ten percent of the money in the  
15 interlock device fund in any fiscal year shall be expended by  
16 the [~~traffic safety~~] bureau [~~of the department of~~  
17 ~~transportation~~] for the purpose of administering the fund."

18 SECTION 42. TEMPORARY PROVISION.--The New Mexico  
19 compilation commission shall name Chapter 66, Article 14 NMSA  
20 1978 "Intoxication and Impairment".

21 SECTION 43. REPEAL.--Sections 66-8-102, 66-8-103 and  
22 66-8-104 NMSA 1978 (being Laws 1953, Chapter 139, Section 54,  
23 Laws 1967, Chapter 160, Section 1 and Laws 1978, Chapter 35,  
24 Section 512, as amended) are repealed.

25 SECTION 44. EFFECTIVE DATE.--The effective date of the  
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1 provisions of this act is January 1, 2024.

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