

1 SENATE BILL 190

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

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5 and Andrea Reeb and William "Bill" R. Rehm  
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10 AN ACT

11 RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING  
12 LIQUOR OR DRUGS; CREATING THE DWI ACT; AMENDING, REPEALING,  
13 ENACTING AND RECOMPILING SECTIONS OF THE MOTOR VEHICLE CODE.  
14

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

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

18 "66-1-1. SHORT TITLE.--~~[Articles 1 through 8 of Chapter~~  
19 ~~64 NMSA 1953]~~ Chapter 66 NMSA 1978 may be cited as the "Motor  
20 Vehicle Code"."

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

23 "66-1-4.3. DEFINITIONS.--As used in the Motor Vehicle  
24 Code:

25 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 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

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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

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 66-1-4.11 NMSA 1978 (being Laws 1990,  
6 Chapter 120, Section 12, as amended) is amended to read:

7 "66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle  
8 Code:

9 A. "mail" means any item properly addressed with  
10 postage prepaid delivered by the United States postal service  
11 or any other public or private enterprise primarily engaged in  
12 the transport and delivery of letters, packages and other  
13 parcels;

14 B. "manufactured home" means a movable or portable  
15 housing structure that exceeds either a width of eight feet or  
16 a length of forty feet, constructed to be towed on its own  
17 chassis and designed to be installed with or without a  
18 permanent foundation for human occupancy;

19 C. "manufacturer" means every person engaged in the  
20 business of constructing or assembling vehicles of a type  
21 required to be registered under the Motor Vehicle Code;

22 D. "manufacturer's certificate of origin" means a  
23 certification, on a form supplied by or approved by the  
24 department, signed by the manufacturer that the new vehicle or  
25 boat described in the certificate has been transferred to the

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1 New Mexico dealer or distributor named in the certificate or to  
2 a dealer duly licensed or recognized as such in another state,  
3 territory or possession of the United States and that such  
4 transfer is the first transfer of the vehicle or boat in  
5 ordinary trade and commerce;

6 E. "moped" means a two-wheeled or three-wheeled  
7 vehicle with an automatic transmission and a motor having a  
8 piston displacement of less than fifty cubic centimeters, that  
9 is capable of propelling the vehicle at a maximum speed of not  
10 more than thirty miles an hour on level ground, at sea level;

11 F. "motorboat" means any boat, personal watercraft  
12 or other type of vessel propelled by machinery, whether or not  
13 machinery is the principal source of propulsion. "Motorboat"  
14 includes a vessel propelled or designed to be propelled by a  
15 sail, but does not include a sailboard or a windsurf board.  
16 "Motorboat" does not include a houseboat or any other vessel  
17 that is moored on the water, but not moving on the water;

18 [~~F.~~] G. "motorcycle" means every motor vehicle  
19 having a seat or saddle for the use of the rider and designed  
20 to travel on not more than three wheels in contact with the  
21 ground, including autocycles and excluding a tractor;

22 [~~G.~~] H. "motor home" means a camping body built on  
23 a self-propelled motor vehicle chassis so designed that seating  
24 for driver and passengers is within the body itself;

25 [~~H.~~] I. "motor vehicle" means every vehicle that is

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1 self-propelled and every vehicle that is propelled by electric  
2 power obtained from batteries or from overhead trolley wires,  
3 but not operated upon rails, including an electric mobility  
4 device, but does not include an electric-assisted bicycle; for  
5 the purposes of the Mandatory Financial Responsibility Act,  
6 "motor vehicle" does not include "special mobile equipment";  
7 and

8 ~~[F.]~~ J. "motor vehicle insurance policy" means a  
9 policy of vehicle insurance that covers self-propelled vehicles  
10 of a kind required to be registered pursuant to New Mexico law  
11 for use on the public streets and highways. A "motor vehicle  
12 insurance policy":

13 (1) shall include:

14 (a) motor vehicle bodily injury and  
15 property damage liability coverages in compliance with the  
16 Mandatory Financial Responsibility Act; and

17 (b) uninsured motorist coverage, subject  
18 to the provisions of Section 66-5-301 NMSA 1978 permitting the  
19 insured to reject such coverage; and

20 (2) may include:

21 (a) physical damage coverage;  
22 (b) medical payments coverage; and  
23 (c) other coverages that the insured and  
24 the insurer agree to include within the policy."

25 SECTION 4. Section 66-3-1010.3 NMSA 1978 (being Laws

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1 2005, Chapter 325, Section 11, as amended) is amended to read:

2 "66-3-1010.3. OPERATION AND EQUIPMENT--SAFETY  
3 REQUIREMENTS.--

4 A. A person shall not operate an off-highway motor  
5 vehicle:

6 (1) in a careless, reckless or negligent  
7 manner so as to endanger the person or property of another;

8 (2) while under the influence of intoxicating  
9 liquor or drugs as provided by Section [~~66-8-102~~] 66-14-2 or  
10 66-14-3 NMSA 1978;

11 (3) while in pursuit of and with intent to  
12 hunt or take a species of animal or bird protected by law  
13 unless otherwise authorized by the state game commission;

14 (4) in pursuit of or harassment of livestock  
15 in any manner that negatively affects the livestock's  
16 condition;

17 (5) on or within an earthen tank or other  
18 structure meant to water livestock or wildlife, unless the  
19 off-highway motor vehicle is on a route designated by the  
20 landowner or land management agency as an off-highway motor  
21 vehicle route;

22 (6) in a manner that has a direct negative  
23 effect on or interferes with persons engaged in agricultural  
24 practices;

25 (7) in excess of ten miles per hour within two

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1 hundred feet of a business, animal shelter, horseback rider,  
2 bicyclist, pedestrian, livestock or occupied dwelling, unless  
3 the person operates the vehicle on a closed course or track or  
4 a public roadway;

5 (8) unless in possession of the person's  
6 registration certificate or nonresident permit;

7 (9) unless the vehicle is equipped with a  
8 spark arrester approved by the United States forest service;  
9 provided that a snowmobile is exempt from this provision;

10 (10) when conditions such as darkness limit  
11 visibility to five hundred feet or less, unless the vehicle is  
12 equipped with:

13 (a) one or more headlights of sufficient  
14 candlepower to light objects at a distance of one hundred fifty  
15 feet; and

16 (b) at least one taillight of sufficient  
17 intensity to exhibit a red or amber light at a distance of two  
18 hundred feet under normal atmospheric conditions;

19 (11) that produces noise that exceeds ninety-  
20 six decibels when measured using test procedures established by  
21 the society of automotive engineers pursuant to standard  
22 J-1287; or

23 (12) where off-highway motor vehicle traffic  
24 is prohibited under local, state or federal rules or  
25 regulations.

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1           B. A person under the age of eighteen shall not  
2 operate an off-highway motor vehicle:

3                   (1) or ride upon an off-highway motor vehicle  
4 without wearing eye protection and a safety helmet that is  
5 securely fastened in a normal manner as headgear and that meets  
6 the standards established by the department;

7                   (2) without an off-highway motor vehicle  
8 safety permit; or

9                   (3) while carrying a passenger.

10           C. A person under the age of eighteen but at least  
11 ten years of age shall not operate an off-highway motor vehicle  
12 unless the person is visually supervised at all times by a  
13 parent, legal guardian or a person over the age of eighteen who  
14 has a valid driver's license. This subsection shall not apply  
15 to a person who is at least:

16                   (1) thirteen years of age and has a valid  
17 motorcycle license and off-highway motor vehicle safety permit;  
18 or

19                   (2) fifteen years of age and has a valid  
20 driver's license, instructional permit or provisional license  
21 and off-highway motor vehicle safety permit.

22           D. A person under the age of ten shall not operate  
23 an off-highway motor vehicle unless:

24                   (1) the all-terrain vehicle or recreational  
25 off-highway vehicle is an age-appropriate size-fit vehicle

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1 established by rule of the department; and

2 (2) the person is visually supervised at all  
3 times by a parent, legal guardian or instructor of a safety  
4 training course certified by the department.

5 E. An off-highway motor vehicle shall not be sold  
6 or offered for sale if the vehicle produces noise that exceeds  
7 ninety-six decibels when measured using test procedures  
8 established by the society of automotive engineers pursuant to  
9 standard J-1287. This subsection shall not apply to an off-  
10 highway motor vehicle that is sold or offered for sale only for  
11 organized competition."

12 SECTION 5. Section 66-5-1.1 NMSA 1978 (being Laws 1999,  
13 Chapter 175, Section 1, as amended) is amended to read:

14 "66-5-1.1. DEFINITION.--As used in Sections 66-5-8 and  
15 66-5-9 NMSA 1978, "traffic violation" means:

16 A. failure to obey traffic-control devices, as  
17 provided in Section 66-7-104 NMSA 1978;

18 B. failure to obey traffic-control signals, as  
19 provided in Section 66-7-105 NMSA 1978;

20 C. speeding, as provided in Section 66-7-301 NMSA  
21 1978;

22 D. failure to yield, as provided in Sections  
23 66-7-328 through 66-7-332.1 NMSA 1978;

24 E. child not in restraint device or seat belt, as  
25 provided in Section 66-7-369 NMSA 1978;

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1 F. failure to properly fasten safety belt, as  
2 provided in Section 66-7-372 NMSA 1978;

3 G. homicide by vehicle, as provided in Section  
4 ~~[66-8-101]~~ 66-14-15 NMSA 1978;

5 H. injury to pregnant ~~[woman]~~ person by vehicle, as  
6 provided in Section ~~[66-8-101.1]~~ 66-14-14 NMSA 1978;

7 I. driving while under the influence of  
8 intoxicating liquor or drugs, as provided in Section ~~[66-8-102]~~  
9 66-14-2 or 66-14-3 NMSA 1978;

10 J. refusal to submit to chemical tests, as provided  
11 in Section ~~[66-8-111]~~ 66-14-47 NMSA 1978;

12 K. reckless driving, as provided in Section  
13 66-8-113 NMSA 1978;

14 L. careless driving, as provided in Section  
15 66-8-114 NMSA 1978;

16 M. racing on highways, as provided in Section  
17 66-8-115 NMSA 1978;

18 N. using a mobile communication device while  
19 driving a motor vehicle, unless the driver holds a valid  
20 amateur radio operator license issued by the federal  
21 communications commission and is operating an amateur radio.

22 As used in this subsection:

23 (1) "driving" means being in actual physical  
24 control of a motor vehicle on a highway or street, except that  
25 "driving" does not include being lawfully parked; and

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1 (2) "mobile communication device" means a  
2 wireless communication device that is designed to receive and  
3 transmit voice, text or image communication; or

4 0. buying, attempting to buy, receiving, possessing  
5 or permitting oneself to be served alcoholic beverages, as  
6 provided in Subsection C of Section 60-7B-1 NMSA 1978."

7 SECTION 6. Section 66-5-1.2 NMSA 1978 (being Laws 2003,  
8 Chapter 164, Section 4) is amended to read:

9 "66-5-1.2. DEFINITION--TRIBE.--As used in Sections  
10 66-5-25, 66-5-26 and 66-5-30 [~~and 66-8-102~~] NMSA 1978, "tribe"  
11 or "tribal" means an Indian nation, tribe or pueblo that is  
12 located wholly or partially in New Mexico and that has executed  
13 an intergovernmental agreement with the state pursuant to  
14 Section 66-5-27.1 NMSA 1978."

15 SECTION 7. Section 66-5-29 NMSA 1978 (being Laws 1978,  
16 Chapter 35, Section 251, as amended) is amended to read:

17 "66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION.--

18 A. The division shall immediately revoke the  
19 driving privilege or driver's license of a driver upon  
20 receiving a record of the driver's adjudication as a delinquent  
21 for or conviction of any of the following offenses, whether the  
22 offense is under any state law or local ordinance, when the  
23 conviction or adjudication has become final:

24 (1) manslaughter or negligent homicide  
25 resulting from the operation of a motor vehicle;

1 (2) any offense rendering a person a "first  
2 offender" as defined in the Motor Vehicle Code;

3 (3) any offense rendering a person a  
4 "subsequent offender" as defined in the Motor Vehicle Code;

5 (4) any felony in the commission of which a  
6 motor vehicle is used;

7 (5) failure to stop and render aid as required  
8 under the laws of this state in the event of a motor vehicle  
9 accident resulting in the death or personal injury of another;

10 (6) perjury or the making of a false affidavit  
11 or statement under oath to the division under the Motor Vehicle  
12 Code or under any other law relating to the ownership or  
13 operation of motor vehicles; or

14 (7) conviction or forfeiture of bail not  
15 vacated upon three charges of reckless driving committed within  
16 a period of twelve months.

17 B. Except as provided in the Ignition Interlock  
18 Licensing Act and in Subsection C, D, E or F of this section, a  
19 person whose driving privilege or driver's license has been  
20 revoked under this section shall not be entitled to apply for  
21 or receive a new license until one year from the date that the  
22 conviction is final and all rights to an appeal have been  
23 exhausted.

24 C. A person who upon adjudication as a delinquent  
25 for driving while under the influence of intoxicating liquor or

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1 drugs or a conviction pursuant to Section ~~[66-8-102]~~ 66-14-2 or  
2 66-14-3 NMSA 1978 is subject to revocation of the driving  
3 privilege or driver's license under this section for an offense  
4 pursuant to which the person was also subject to revocation of  
5 the driving privilege or driver's license pursuant to Section  
6 ~~[66-8-111]~~ 66-14-47 NMSA 1978 shall have the person's driving  
7 privilege or driver's license revoked for that offense for a  
8 combined period of time equal to:

9 (1) one year for a first offender; or

10 (2) for a subsequent offender:

11 (a) two years for a second conviction;

12 (b) three years for a third conviction;

13 or

14 (c) the remainder of the offender's life  
15 for a fourth or subsequent conviction, subject to a five-year  
16 review, as provided in Sections 66-5-5 and ~~[66-8-102]~~ 66-14-50  
17 NMSA 1978.

18 D. The division shall apply the license revocation  
19 provisions of Subsection C of this section and the provisions  
20 of Subsection D of Section 66-5-5 NMSA 1978 to a person who was  
21 three or more times convicted of driving a motor vehicle under  
22 the influence of intoxicating liquor or drugs and who has a  
23 driver's license revocation pursuant to the law in effect prior  
24 to June 17, 2005, upon the request of the person and if the  
25 person has had an ignition interlock license for three years or

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1 more and has proof from the ignition interlock vendor of no  
2 violations of the ignition interlock device in the previous six  
3 months.

4 E. Upon receipt of an order from a court pursuant  
5 to Section 32A-2-19 NMSA 1978 or Subsection G of Section  
6 32A-2-22 NMSA 1978, the division shall revoke the driver's  
7 license or driving privileges for a period of time in  
8 accordance with these provisions.

9 F. Upon receipt from a district court of a record  
10 of conviction for the offense of shooting at or from a motor  
11 vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978 or  
12 of a conviction for a conspiracy or an attempt to commit that  
13 offense, the division shall revoke the driver's license or  
14 driving privileges of the convicted person. A person whose  
15 driver's license or driving privilege has been revoked pursuant  
16 to the provisions of this subsection shall not be entitled to  
17 apply for or receive any new driver's license or driving  
18 privilege until one year from the date that the conviction is  
19 final and all rights to an appeal have been exhausted."

20 SECTION 8. Section 66-5-33.1 NMSA 1978 (being Laws 1985,  
21 Chapter 47, Section 1, as amended) is amended to read:

22 "66-5-33.1. REINSTATEMENT OF DRIVER'S LICENSE OR  
23 REGISTRATION--IGNITION INTERLOCK [FEE].--

24 A. Whenever a driver's license or registration is  
25 suspended or revoked and an application has been made for its

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1 reinstatement, compliance with all appropriate provisions of  
2 the Motor Vehicle Code and [~~the payment of a fee of twenty five~~  
3 ~~dollars (\$25.00)~~] is a prerequisite to the reinstatement of any  
4 license or registration.

5 B. If a driver's license was revoked for driving  
6 while under the influence of intoxicating liquor or drugs  
7 pursuant to Section 66-14-2 or 66-14-3 NMSA 1978, for  
8 aggravated driving while under the influence of intoxicating  
9 liquor or drugs pursuant to Section 66-14-2 or 66-14-3 NMSA  
10 1978 or pursuant to the Implied Consent Act, the following are  
11 required to reinstate the driver's license:

12 [~~(1)~~] ~~an additional fee of seventy five dollars~~  
13 ~~(\$75.00);~~

14 [~~(2)~~] (1) completion of the license revocation  
15 period;

16 [~~(3)~~] (2) satisfaction of any court-ordered  
17 ignition interlock requirements;

18 [~~(4)~~] (3) a minimum of six months of driving  
19 with an ignition interlock license with no attempts to  
20 circumvent, remove or tamper with the ignition interlock  
21 device;

22 [~~(5)~~] (4) evidence that the ignition interlock  
23 device has not recorded two vehicle lockouts; and

24 [~~(6)~~] (5) evidence of verified active usage as  
25 that phrase is defined by the bureau.

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1 C. A person whose driver's license reinstatement is  
2 denied may file an appeal pursuant to the provisions of Section  
3 39-3-1.1 NMSA 1978.

4 D. The department may reinstate the driving  
5 privileges of an out-of-state resident without the requirement  
6 that the person obtain an ignition interlock license for a  
7 minimum of six months, if the following conditions are met:

8 (1) the license revocation period is  
9 completed; and

10 (2) satisfactory proof is presented to the  
11 department that the person is no longer a resident of New  
12 Mexico. [and

13 ~~(3) the license reinstatement fee is paid.~~

14 ~~E. Fees collected pursuant to Subsection B of this~~  
15 ~~section are appropriated to the local governments road fund.~~  
16 ~~The department shall maintain an accounting of the fees~~  
17 ~~collected and shall report that amount upon request to the~~  
18 ~~legislature.~~

19 ~~F.]~~ E. For the purposes of this section, "vehicle  
20 lockout" means a driver has failed:

21 (1) a breath test six times within a period of  
22 three hours; or

23 (2) initial breath tests or random breath re-  
24 tests ten times within a period of thirty days."

25 SECTION 9. Section 66-5-35 NMSA 1978 (being Laws 1978,

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1 Chapter 35, Section 257, as amended) is amended to read:

2 "66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR  
3 REVOCATION.--

4 A. Upon suspension or revocation of a person's  
5 driving privilege or driver's license following conviction or  
6 adjudication as a delinquent under any law, ordinance or rule  
7 relating to motor vehicles, the person may apply to the  
8 department for a driver's license, provisional license or  
9 instruction permit to drive, limited to use allowing the person  
10 to engage in gainful employment, to attend school or to attend  
11 a court-ordered treatment program, except that the person shall  
12 not be eligible to apply:

13 (1) for a limited commercial driver's license  
14 or an ignition interlock license in lieu of a revoked or  
15 suspended commercial driver's license;

16 (2) for a limited license when the person's  
17 driver's license was revoked pursuant to the provisions of the  
18 Implied Consent Act, except as provided in the Ignition  
19 Interlock Licensing Act;

20 (3) for a limited license when the person's  
21 driver's license was revoked pursuant to the provisions of  
22 Section [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978, except as  
23 provided in the Ignition Interlock Licensing Act;

24 (4) for a limited license when the person's  
25 driver's license is denied pursuant to the provisions of

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1 Subsection D of Section 66-5-5 NMSA 1978, except as provided in  
2 the Ignition Interlock Licensing Act; or

3 (5) for a limited license when the person's  
4 driver's license was revoked pursuant to a conviction for  
5 committing homicide by vehicle, great bodily harm by vehicle or  
6 homicide by vehicle or great bodily harm by vehicle while under  
7 the influence of intoxicating liquor or drugs, as provided in  
8 Section ~~[66-8-101]~~ 66-14-15 NMSA 1978, except as provided in  
9 the Ignition Interlock Licensing Act.

10 B. Upon receipt of a fully completed application  
11 that complies with statutes and rules for a limited license or  
12 an ignition interlock license and payment of the fee specified  
13 in this subsection, the department shall issue a limited  
14 license, ignition interlock license or permit to the applicant  
15 showing the limitations specified in the approved application.  
16 For each limited license, ignition interlock license or permit  
17 to drive, the applicant shall pay to the department a fee of  
18 forty-five dollars (\$45.00), which shall be transferred to the  
19 department of transportation. All money collected under this  
20 subsection shall be used for DWI prevention and education  
21 programs for elementary and secondary school students. The  
22 department of transportation shall coordinate with the  
23 department of health to ensure that there is no program  
24 duplication. The limited license or permit to drive may be  
25 suspended as provided in Section 66-5-30 NMSA 1978."

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1           SECTION 10. Section 66-5-54 NMSA 1978 (being Laws 1989,  
2 Chapter 14, Section 3, as amended) is amended to read:

3           "66-5-54. DEFINITIONS.--As used in the New Mexico  
4 Commercial Driver's License Act:

5           A. "commerce" means:

6                   (1) trade, traffic or transportation within  
7 the jurisdiction of the United States between a place in New  
8 Mexico and a place outside of New Mexico, including a place  
9 outside of the United States; and

10                   (2) trade, traffic or transportation in the  
11 United States that affects any trade, traffic or transportation  
12 described in Paragraph (1) of this subsection;

13           B. "commercial driver's license holder" means an  
14 individual to whom a license has been issued by a state or  
15 other jurisdiction, in accordance with the standards found in  
16 49 CFR Part 383, as amended or renumbered, that authorizes the  
17 individual to operate a commercial motor vehicle;

18           C. "commercial driver's license information system"  
19 means the information system created pursuant to the federal  
20 Commercial Motor Vehicle Safety Act of 1986 that contains  
21 information pertaining to operators of commercial motor  
22 vehicles;

23           ~~D. "commercial motor vehicle" means a motor~~  
24 ~~vehicle or combination of motor vehicles used in commerce to~~  
25 ~~transport passengers or property if the motor vehicle:~~

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1                   ~~(1) has a gross combination weight rating of~~  
2 ~~more than twenty six thousand pounds inclusive of a towed unit~~  
3 ~~with a gross vehicle weight rating of more than ten thousand~~  
4 ~~pounds;~~

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

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

9                   ~~(4) is of any size and is used in the~~  
10 ~~transportation of hazardous materials, as provided in 49 CFR~~  
11 ~~Part 383.5;~~

12           E.] D. "conviction" means:

13                   (1) an unvacated adjudication of guilt or a  
14 determination that a person has violated or failed to comply  
15 with the law by:

16                                   (a) a court of original jurisdiction; or

17                                   (b) an authorized administrative  
18 tribunal;

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

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

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

24                   (5) a violation of a condition of release  
25 without bail, regardless of whether the payment is rebated,

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1 suspended or probated;

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

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

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

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

9 (1) a suspension, revocation or cancellation  
10 of a commercial driver's license by the state or jurisdiction  
11 that issued the commercial driver's license;

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

17 (3) a determination by the federal motor  
18 carrier safety administration that a person is not qualified to  
19 operate a motor vehicle;

20 [~~H.~~] G. "division" means the motor vehicle division  
21 of the department;

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

24 (1) driving a commercial motor vehicle while  
25 the driver has an alcohol concentration in the driver's blood



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1 or breath of four one hundredths or more;

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

4 (3) refusal to submit to chemical tests  
5 administered pursuant to Section ~~[66-8-107]~~ 66-14-42 NMSA 1978;

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

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

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

20 ~~[M.]~~ L. "gross combination weight rating" means the  
21 value specified by the manufacturer as the loaded weight of a  
22 combination vehicle. In the absence of a value specified by  
23 the manufacturer, gross combination weight rating shall be  
24 determined by adding the gross vehicle weight rating of the  
25 power unit and the total weight of the towed unit or units and

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1 any load thereon;

2 [N-] M. "gross vehicle weight rating" means the  
3 value specified by the manufacturer as the loaded weight of a  
4 single vehicle;

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

11 [P-] O. "noncommercial motor vehicle" means a motor  
12 vehicle or combination of motor vehicles that is not a  
13 commercial motor vehicle;

14 [Q-] P. "nonresident commercial driver's license"  
15 means a commercial driver's license issued by another state to  
16 a person domiciled in that state or by a foreign country to a  
17 person domiciled in that country;

18 [R-] Q. "out-of-service order" means a declaration  
19 by an authorized enforcement officer of a federal, state,  
20 Canadian, Mexican or local jurisdiction that a driver, a  
21 commercial motor vehicle or a motor carrier operation is  
22 temporarily prohibited from operating;

23 [S-] R. "railroad-highway grade crossing violation"  
24 means a violation of a provision of Section 66-7-341 or  
25 66-7-343 NMSA 1978 or a violation of federal or local law,

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1 ordinance or rule pertaining to stopping at or crossing a  
2 railroad-highway grade crossing;

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

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

8 (2) reckless driving as defined by Section  
9 66-8-113 NMSA 1978 or a municipal ordinance or the law of  
10 another state;

11 (3) homicide by vehicle, as defined in Section  
12 ~~[66-8-101]~~ 66-14-15 NMSA 1978;

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

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

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

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

25 (8) texting while driving in violation of

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1 Section 66-7-374 NMSA 1978 or a municipal ordinance;

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

6 (10) directly or indirectly causing death or  
7 great bodily injury to a human being in the unlawful operation  
8 of a motor vehicle in violation of Section ~~[66-8-101]~~ 66-14-15  
9 NMSA 1978;

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

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

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

21 ~~[U.]~~ T. "state of domicile" means the state in  
22 which a person has a true, fixed and permanent home and  
23 principal residence and to which the person has the intention  
24 of returning whenever the person has been absent from that  
25 state."

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1           SECTION 11. Section 66-5-68 NMSA 1978 (being Laws 1989,  
2 Chapter 14, Section 17, as amended) is amended to read:

3           "66-5-68. DISQUALIFICATION.--

4           A. The department shall disqualify a person from  
5 driving a commercial motor vehicle for at least thirty days if  
6 the federal motor carrier safety administration reports to the  
7 division that the person poses an imminent hazard.

8           B. The department shall disqualify a person who  
9 holds a commercial driver's license or who is required to hold  
10 a commercial driver's license or commercial driver's  
11 instruction permit from driving a commercial motor vehicle for  
12 a period of not less than one year, which shall run  
13 concurrently with any revocation or suspension action for the  
14 same offense, if the person:

15                   (1) refuses to submit to a chemical test when  
16 requested pursuant to the provisions of the Implied Consent  
17 Act;

18                   (2) is twenty-one years of age or more and  
19 submits to chemical testing pursuant to the Implied Consent Act  
20 and the test results indicate an alcohol concentration of eight  
21 one hundredths or more;

22                   (3) submits to chemical testing pursuant to  
23 the Implied Consent Act and the test results indicate an  
24 alcohol concentration of four one hundredths or more if the  
25 person is driving a commercial motor vehicle;

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1 (4) is less than twenty-one years of age and  
2 submits to chemical testing pursuant to the Implied Consent Act  
3 and the test results indicate an alcohol concentration of two  
4 one hundredths or more; or

5 (5) is convicted of a violation of:

6 (a) driving a motor vehicle while under  
7 the influence of intoxicating liquor or drugs in violation of  
8 Section [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978, an ordinance  
9 of a municipality of this state or the law of another state;

10 (b) leaving the scene of an accident  
11 involving a commercial motor vehicle driven by the person in  
12 violation of Section 66-7-201 NMSA 1978 or an ordinance of a  
13 municipality of this state or the law of another state;

14 (c) using a motor vehicle in the  
15 commission of a felony;

16 (d) driving a commercial motor vehicle  
17 after the driver's commercial driver's license, non-domiciled  
18 commercial driver's license, commercial driver's instruction  
19 permit or non-domiciled commercial driver's instruction permit  
20 is revoked, suspended, disqualified or canceled for violations  
21 while operating a commercial motor vehicle; or

22 (e) causing a fatality in the unlawful  
23 operation of a motor vehicle pursuant to Section [~~66-8-101~~]  
24 66-14-15 NMSA 1978.

25 C. The department shall disqualify a person from

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1 driving a commercial motor vehicle for a period of not less  
2 than three years if any of the violations specified in  
3 Subsection B of this section occur while transporting a  
4 hazardous material required to be placarded.

5 D. The department shall disqualify a person from  
6 driving a commercial motor vehicle for life if convicted of two  
7 or more violations of any of the offenses specified in  
8 Subsection B of this section, or any combination of those  
9 offenses, arising from two or more separate incidents, but the  
10 secretary may issue rules establishing guidelines, including  
11 conditions, under which a disqualification for life under this  
12 subsection may be reduced to a period of not less than ten  
13 years. This subsection applies only to those offenses  
14 committed after July 1, 1989.

15 E. The department shall disqualify a person from  
16 driving a commercial motor vehicle for life if the person is  
17 convicted of using a motor vehicle in the commission of any  
18 felony involving the manufacture, distribution or dispensing of  
19 a controlled substance or involving an act or practice of  
20 severe forms of trafficking in persons, as defined in federal  
21 law.

22 F. The department shall disqualify a person from  
23 driving a commercial motor vehicle for a period of not less  
24 than sixty days if convicted of two serious traffic violations  
25 or one hundred twenty days if convicted of three serious

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1 traffic violations, if the violations were committed while  
2 driving a commercial motor vehicle, arising from separate  
3 incidents occurring within a three-year period.

4 G. The department shall disqualify a person from  
5 driving a commercial motor vehicle for a period of:

6 (1) not less than one hundred eighty days nor  
7 more than two years if the person is convicted of a first  
8 violation of an out-of-service order while transporting  
9 hazardous materials required to be placarded pursuant to the  
10 federal Hazardous Materials Transportation Act or while  
11 operating a motor vehicle designed to transport more than  
12 fifteen passengers, including the driver;

13 (2) not more than one year if the person is  
14 convicted of a first violation of an out-of-service order; or

15 (3) not less than three years nor more than  
16 five years if, during any ten-year period, the person is  
17 convicted of any subsequent violations of out-of-service  
18 orders, in separate incidents, while transporting hazardous  
19 materials required to be placarded pursuant to that act or  
20 while operating a motor vehicle designed to transport more than  
21 fifteen passengers, including the driver.

22 H. The department shall disqualify a person from  
23 driving a commercial motor vehicle for sixty days if:

24 (1) the person has been convicted of two  
25 serious traffic violations in separate incidents within a

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1 three-year period; and

2 (2) the second conviction results in  
3 revocation, cancellation or suspension of the person's  
4 commercial driver's license, non-domiciled commercial driver's  
5 license, commercial driver's instruction permit or non-  
6 domiciled commercial driver's instruction permit or  
7 noncommercial motor vehicle driving privileges for sixty days.

8 I. The department shall disqualify a person from  
9 driving a commercial motor vehicle for one hundred twenty days,  
10 in addition to any other period of disqualification, if:

11 (1) the person has been convicted of more than  
12 two serious traffic violations within a three-year period; and

13 (2) the third or a subsequent conviction  
14 results in the revocation, cancellation or suspension of the  
15 person's commercial driver's license, non-domiciled commercial  
16 driver's license, commercial driver's instruction permit or  
17 non-domiciled commercial driver's instruction permit or  
18 noncommercial motor vehicle driving privileges.

19 J. When a person is disqualified from driving a  
20 commercial motor vehicle, any commercial driver's license held  
21 by that person is invalidated without a separate proceeding of  
22 any kind and the driver is not eligible to apply for a  
23 commercial driver's license until the period of time for which  
24 the driver was disqualified has elapsed.

25 K. The department shall disqualify a person from

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1 driving a commercial motor vehicle for not less than:

2 (1) sixty days if the person is convicted of a  
3 first violation of a railroad-highway grade crossing violation;

4 (2) one hundred twenty days if, during any  
5 three-year period, the person is convicted of a second  
6 railroad-highway grade crossing violation in a separate  
7 incident; and

8 (3) one year if, during any three-year period,  
9 the person is convicted of a third or subsequent railroad-  
10 highway grade crossing violation in a separate incident.

11 L. After disqualifying, suspending, revoking or  
12 canceling a commercial driver's license, the department shall,  
13 within ten days, update its records to reflect that action.  
14 After disqualifying, suspending, revoking or canceling a non-  
15 domiciled commercial driver's privileges, the department shall,  
16 within ten days, notify the licensing authority of the state  
17 that issued the commercial driver's license.

18 M. When disqualifying, suspending, revoking or  
19 canceling a commercial driver's license, the department shall  
20 treat a conviction received in another state in the same manner  
21 as if it was received in this state.

22 N. The department shall post and enforce any  
23 disqualification sent by the federal motor carrier safety  
24 administration to the department that indicates that a  
25 commercial motor vehicle driver poses an imminent hazard.

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1           O. The federal transportation security  
2 administration of the department of homeland security shall  
3 provide for an appeal of a disqualification for a commercial  
4 driver's license hazardous materials endorsement on the basis  
5 of a background check, and the department shall provide to a  
6 hazardous materials applicant a copy of the procedures  
7 established by the transportation security administration, on  
8 request, at the time of application.

9           P. New Mexico shall conform to the federal  
10 transportation security administration of the department of  
11 homeland security rules and shall "look back" or review a  
12 maximum of seven years for a background check."

13           SECTION 12. Section 66-5-205.1 NMSA 1978 (being Laws  
14 1989, Chapter 214, Section 1, as amended) is amended to read:

15           "66-5-205.1. UNINSURED MOTORIST CITATION--REQUIREMENTS TO  
16 BE FOLLOWED AT TIME OF ACCIDENT--SUBSEQUENT PROCEDURES--INSURER  
17 NOTIFICATION REQUIREMENTS--SUSPENSION PROCEDURES.--

18           A. When a law enforcement officer issues a driver  
19 who is involved in an accident a citation for failure to comply  
20 with the provisions of the Mandatory Financial Responsibility  
21 Act, the law enforcement officer shall at the same time:

22                   (1) issue to the driver cited a temporary  
23 operation sticker, valid for thirty days after the date the  
24 sticker is issued, and forward by mail or delivery to the  
25 department a duplicate of the issued sticker; and

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1                   (2) remove the license plate from the vehicle  
2 and send it with the duplicate of the sticker to the department  
3 or, if it cannot be removed, permanently deface the plate.

4                   B. The department shall return or replace, in its  
5 discretion, a license plate removed under the provisions of  
6 Paragraph (2) of Subsection A of this section or replace a  
7 license plate defaced under that paragraph when the person  
8 cited for failure to comply with the provisions of the  
9 Mandatory Financial Responsibility Act furnishes proof of  
10 compliance to the department and pays to the division a  
11 reinstatement fee of twenty-five dollars (\$25.00). If a person  
12 to whom the temporary operation sticker is issued furnishes to  
13 the department, within fifteen days after the issuance of the  
14 sticker, evidence of financial responsibility in compliance  
15 with the Mandatory Financial Responsibility Act and in effect  
16 on the date and at the time of the issuance of the sticker, the  
17 department shall replace or return the license plate and waive  
18 the twenty-five dollar (\$25.00) reinstatement fee.

19                   C. The secretary shall adopt and promulgate rules  
20 prescribing the form and use of the sticker required to be  
21 issued under Subsection A of this section.

22                   ~~D. The secretary shall adopt and promulgate rules~~  
23 ~~requiring insurance carriers to report canceled, terminated and~~  
24 ~~newly issued motor vehicle insurance policies each month to the~~  
25 ~~department. Information pertaining to each motor vehicle shall~~

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1 ~~be made a part of that vehicle file for one year.~~

2 ~~E. Within ten days of notification by the insurance~~  
3 ~~carrier of a termination or cancellation of a motor vehicle~~  
4 ~~insurance policy, the department shall demand satisfactory~~  
5 ~~evidence from the owner of the motor vehicle that he meets the~~  
6 ~~requirements of the Mandatory Financial Responsibility Act.~~  
7 ~~Failure to provide evidence of financial responsibility within~~  
8 ~~twenty days after the department has mailed its demand for~~  
9 ~~proof:~~

10 ~~(1) constitutes reasonable grounds to believe~~  
11 ~~that a person is operating a motor vehicle in violation of the~~  
12 ~~provisions of Section 66-5-205 NMSA 1978; and~~

13 ~~(2) requires the department to suspend the~~  
14 ~~person's registration as provided in Section 66-5-236 NMSA~~  
15 ~~1978.~~

16 ~~F. The department shall notify the superintendent of~~  
17 ~~insurance if an insurance carrier fails to provide monthly~~  
18 ~~reports to the department regarding motor vehicle insurance~~  
19 ~~policy information as required by Subsection D of this~~  
20 ~~section.]"~~

21 SECTION 13. Section 66-5-206 NMSA 1978 (being Laws 1983,  
22 Chapter 318, Section 7, as amended) is amended to read:

23 "66-5-206. REGISTRATION WITHOUT INSURANCE OR EVIDENCE OF  
24 FINANCIAL RESPONSIBILITY PROHIBITED--SUSPENSION REQUIRED.--

25 A. The department shall not issue or renew the

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1 registration for any motor vehicle not covered by a motor  
2 vehicle insurance policy or by evidence of financial  
3 responsibility currently valid meeting the requirements of the  
4 laws of New Mexico and of the secretary, unless specifically  
5 exempted from the Mandatory Financial Responsibility Act.

6 B. Upon a showing by its records or other sufficient  
7 evidence that the required insurance or evidence of financial  
8 responsibility has not been provided or maintained for a motor  
9 vehicle, the department shall suspend its registration of the  
10 motor vehicle.

11 C. The secretary shall adopt and promulgate rules  
12 requiring insurance carriers to report canceled, terminated and  
13 newly issued motor vehicle insurance policies each month to the  
14 department. Information pertaining to each motor vehicle shall  
15 be made a part of that vehicle file for one year.

16 D. Within ten days of notification by the insurance  
17 carrier of a termination or cancellation of a motor vehicle  
18 insurance policy, the department shall demand satisfactory  
19 evidence from the owner of the motor vehicle that the owner  
20 meets the requirements of the Mandatory Financial  
21 Responsibility Act. Failure to provide evidence of financial  
22 responsibility within twenty days after the department has  
23 mailed its demand for proof:

24 (1) constitutes reasonable grounds to believe  
25 that a person is operating a motor vehicle in violation of the

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1 provisions of Section 66-5-205 NMSA 1978; and

2 (2) requires the department to suspend the  
3 person's registration as provided in Section 66-5-236 NMSA  
4 1978.

5 E. The department shall notify the superintendent of  
6 insurance if an insurance carrier fails to provide monthly  
7 reports to the department regarding motor vehicle insurance  
8 policy information as required by Subsection C of this  
9 section."

10 SECTION 14. Section 66-7-2 NMSA 1978 (being Laws 1978,  
11 Chapter 35, Section 372, as amended) is amended to read:

12 "66-7-2. REFERENCE TO VEHICLES UPON THE HIGHWAYS--  
13 EXCEPTIONS.--

14 A. The provisions of Chapter 66, Article 7 NMSA 1978  
15 relating to the operation of vehicles refer exclusively to the  
16 operation of vehicles upon highways, except where a different  
17 place is specifically referred to in a given section.

18 B. The provisions of Sections 66-7-201 through  
19 66-7-215, 66-7-352.5, [~~66-8-102~~ and] 66-8-113, 66-14-2 and  
20 66-14-3 NMSA 1978 apply upon highways and elsewhere throughout  
21 the state."

22 SECTION 15. A new Section 66-14-1 NMSA 1978 is enacted to  
23 read:

24 "66-14-1. [NEW MATERIAL] DWI ACT--SHORT TITLE.--Sections  
25 66-14-1 through 66-14-22 NMSA 1978 may be cited as the "DWI  
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underscoring material = new  
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1 Act"."

2 SECTION 16. A new Section 66-14-2 NMSA 1978 is enacted to  
3 read:

4 "66-14-2. [NEW MATERIAL] DRIVING UNDER THE INFLUENCE OF  
5 INTOXICATING LIQUOR--AGGRAVATED DRIVING UNDER THE INFLUENCE OF  
6 INTOXICATING LIQUOR--UNLAWFUL ALCOHOL CONCENTRATIONS.--

7 A. Driving under the influence of intoxicating liquor  
8 consists of a person who is under the influence of intoxicating  
9 liquor driving a vehicle within this state.

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

11 (1) a vehicle in this state if the person has an  
12 alcohol concentration of eight one hundredths or more in the  
13 person'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; or

16 (2) a commercial motor vehicle in this state if  
17 the person has an alcohol concentration of four one hundredths  
18 or more in the person's blood or breath within three hours of  
19 driving the commercial motor vehicle and the alcohol  
20 concentration results from alcohol consumed before or while  
21 driving the vehicle.

22 C. Aggravated driving under the influence of  
23 intoxicating liquor consists of a person:

24 (1) driving a vehicle in this state with an  
25 alcohol concentration of sixteen one hundredths or more in the

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underscoring material = new  
[bracketed material] = delete

1 driver's blood or breath within three hours of driving the  
2 vehicle and the alcohol concentration results from alcohol  
3 consumed before or while driving the vehicle;

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

7 (3) refusing to submit to chemical testing, as  
8 provided for in the Implied Consent Act, and in the judgment of  
9 the court, based upon evidence of intoxication presented to the  
10 court, the driver was under the influence of intoxicating  
11 liquor."

12 SECTION 17. A new Section 66-14-3 NMSA 1978 is enacted to  
13 read:

14 "66-14-3. [NEW MATERIAL] DRIVING UNDER THE INFLUENCE OF  
15 AN INTOXICATING DRUG--AGGRAVATED DRIVING UNDER THE INFLUENCE OF  
16 AN INTOXICATING DRUG.--

17 A. Driving under the influence of an intoxicating  
18 drug consists of a person:

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

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

25 B. Aggravated driving under the influence of an

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1 intoxicating drug consists of a person causing bodily injury to  
2 a human being as a result of unlawful operation of a motor  
3 vehicle while driving under the influence of an intoxicating  
4 drug."

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

7 "66-14-4. [NEW MATERIAL] DRIVING A VEHICLE--COMMUNITY  
8 CARETAKING--RELIEF FROM CIVIL AND CRIMINAL LIABILITY.--

9 A. As used in Sections 66-14-2 and 66-14-3 NMSA 1978,  
10 "driving a vehicle" means:

11 (1) the motorist is observed in control of a  
12 vehicle that is in motion by a named witness, either law  
13 enforcement or civilian;

14 (2) the motorist is observed in control of a  
15 vehicle that is in a lane of traffic on a roadway by a named  
16 witness, either law enforcement or civilian;

17 (3) the motorist is observed blocking other  
18 vehicles on private property in an area designated for vehicle  
19 travel by a named witness, either law enforcement or civilian;  
20 or

21 (4) following an investigation, a law  
22 enforcement officer ascertains that that motorist was in  
23 control of a vehicle that was involved in an accident.

24 B. There shall be no claims for damages or relief  
25 based upon the exercise of community caretaking when a motorist

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1 is not driving a vehicle as defined in Subsection A of this  
2 section."

3 SECTION 19. A new Section 66-14-5 NMSA 1978 is enacted to  
4 read:

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

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

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

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

21 D. Upon a first conviction pursuant to this  
22 section, an offender shall be ordered by the court to  
23 participate in and complete a screening program described in  
24 Section 66-14-16 NMSA 1978 and to attend a driver  
25 rehabilitation program for alcohol or drugs, also known as a

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1 "DWI school", approved by the bureau and also may be required  
2 to participate in other rehabilitative services as the court  
3 shall determine to be necessary.

4 E. When an offender commits aggravated driving under  
5 the influence of intoxicating liquor or drugs, the offender  
6 shall be sentenced to not less than forty-eight consecutive  
7 hours in jail.

8 F. If an offender fails to complete, within a time  
9 specified by the court, any community service, screening  
10 program, treatment program or DWI school ordered by the court  
11 or fails to comply with any other condition of probation, the  
12 offender shall be sentenced to not less than an additional  
13 forty-eight consecutive hours in jail.

14 G. A jail sentence imposed pursuant to Subsection F  
15 of this section or for aggravated driving under the influence  
16 of intoxicating liquor or drugs shall not be suspended,  
17 deferred or taken under advisement.

18 H. On a first conviction for driving under the  
19 influence of intoxicating liquor or drugs, time spent in jail  
20 for the offense prior to the conviction for that offense shall  
21 be credited to a term of imprisonment fixed by the court. A  
22 deferred sentence pursuant to this subsection shall be  
23 considered a first conviction for the purpose of determining  
24 subsequent convictions."

25 SECTION 20. A new Section 66-14-6 NMSA 1978 is enacted to

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1 read:

2 "66-14-6. [NEW MATERIAL] SECOND CONVICTION FOR DRIVING  
3 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

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

12 B. Notwithstanding any provision of law to the  
13 contrary for suspension or deferment of execution of a  
14 sentence, upon a second conviction:

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

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

23 (3) if an offender fails to complete, within a  
24 time specified by the court, any community service, screening  
25 program or treatment program ordered by the court, the offender

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1 shall be sentenced to not less than an additional seven  
2 consecutive days in jail.

3 C. A penalty imposed pursuant to Subsection B of this  
4 section shall not be suspended or deferred or taken under  
5 advisement.

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

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

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

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

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

19 E. The requirements imposed pursuant to Subsection D  
20 of this section shall not be suspended, deferred or taken under  
21 advisement."

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

24 "66-14-7. [NEW MATERIAL] THIRD CONVICTION FOR DRIVING  
25 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

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

9           B. Notwithstanding any provision of law to the  
10 contrary for suspension or deferment of execution of a  
11 sentence, upon a third conviction:

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

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

20                   (3) if an offender fails to complete, within a  
21 time specified by the court, any community service, screening  
22 program or treatment program ordered by the court, the offender  
23 shall be sentenced to not less than an additional sixty  
24 consecutive days in jail.

25           C. A penalty imposed pursuant to Subsection B of this  
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1 section shall not be suspended or deferred or taken under  
2 advisement.

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

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

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

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

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

16 E. The requirements imposed pursuant to Subsection D  
17 of this section shall not be suspended, deferred or taken under  
18 advisement."

19 SECTION 22. A new Section 66-14-8 NMSA 1978 is enacted to  
20 read:

21 "66-14-8. [NEW MATERIAL] FOURTH CONVICTION FOR DRIVING  
22 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a  
23 fourth conviction for driving under the influence of  
24 intoxicating liquor or drugs, an offender is guilty of a fourth  
25 degree felony and, notwithstanding the provisions of Section  
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1 31-18-15 NMSA 1978, shall be sentenced to a term of  
2 imprisonment of eighteen months, six months of which shall not  
3 be suspended, deferred or taken under advisement."

4 SECTION 23. A new Section 66-14-9 NMSA 1978 is enacted to  
5 read:

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

14 SECTION 24. A new Section 66-14-10 NMSA 1978 is enacted  
15 to read:

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

24 SECTION 25. A new Section 66-14-11 NMSA 1978 is enacted  
25 to read:

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1 "66-14-11. [NEW MATERIAL] SEVENTH CONVICTION FOR DRIVING  
2 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a  
3 seventh conviction for driving under the influence of  
4 intoxicating liquor or drugs, an offender is guilty of a third  
5 degree felony and, notwithstanding the provisions of Section  
6 31-18-15 NMSA 1978, shall be sentenced to a term of  
7 imprisonment of three years, two years of which shall not be  
8 suspended, deferred or taken under advisement."

9 SECTION 26. A new Section 66-14-12 NMSA 1978 is enacted  
10 to read:

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

20 SECTION 27. Section 66-8-102.5 NMSA 1978 (being Laws  
21 2019, Chapter 79, Section 1) is recompiled as Section 66-14-13  
22 NMSA 1978 and is amended to read:

23 "66-14-13. DRIVING WHILE INTOXICATED WITH A MINOR IN THE  
24 VEHICLE--DRIVING WHILE INTOXICATED WITH A TEENAGE MINOR IN THE  
25 VEHICLE--PENALTY.--

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1           A. Driving while intoxicated with a minor in the  
2 vehicle consists of a person committing a violation of Section  
3 [~~66-8-102~~] 66-14-2 NMSA 1978 when a minor is in the vehicle and  
4 when the minor does not suffer great bodily harm or death.  
5 Whoever commits driving while intoxicated with a minor in the  
6 vehicle is guilty of a misdemeanor and, if the minor is a child  
7 of the motorist, shall participate in a parenting class.

8           B. Driving while intoxicated with a teenage minor in  
9 the vehicle consists of a person committing a violation of  
10 Section 66-14-2 NMSA 1978 when a teenage minor is in the  
11 vehicle and when the teenage minor does not suffer great bodily  
12 harm or death. Whoever commits driving while intoxicated with  
13 a teenage minor in the vehicle shall pay a penalty assessment  
14 of three hundred dollars (\$300) and, if the teenage minor is a  
15 child of the motorist, participate in a parenting class.

16           [~~B.~~] C. A charge for a violation of Subsection A or B  
17 of this section shall be in addition to a charge for the  
18 violation of Section [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978  
19 and shall be punished as a separate offense.

20           [~~C.~~] D. As used in this section:

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

23                 (2) "teenage minor" means an individual who is  
24 thirteen years of age or older and younger than eighteen years  
25 of age."

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1           SECTION 28. Section 66-8-101.1 NMSA 1978 (being Laws  
2 1985, Chapter 239, Section 2) is recompiled as Section 66-14-14  
3 NMSA 1978 and is amended to read:

4           "66-14-14. INJURY TO PREGNANT ~~[WOMAN]~~ PERSON BY  
5 VEHICLE.--

6           A. Injury to pregnant ~~[woman]~~ person by vehicle is  
7 injury to a pregnant ~~[woman]~~ person by a person other than the  
8 ~~[woman]~~ pregnant person in the unlawful operation of a motor  
9 vehicle causing ~~[her]~~ the pregnant person to suffer a  
10 miscarriage or stillbirth as a result of that injury.

11           B. As used in this section:

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

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

25           C. Any person who commits injury to pregnant ~~[woman]~~

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1 person by vehicle while under the influence of intoxicating  
2 liquor or while under the influence of any drug or while  
3 violating Section 66-8-113 NMSA 1978 is guilty of a third  
4 degree felony and shall be sentenced pursuant to the provisions  
5 of Section 31-18-15 NMSA 1978; provided that violation of  
6 speeding laws as set forth in the Motor Vehicle Code shall not  
7 per se be a basis for violation of Section 66-8-113 NMSA 1978."

8 SECTION 29. Section 66-8-101 NMSA 1978 (being Laws 1978,  
9 Chapter 35, Section 509, as amended) is recompiled as Section  
10 66-14-15 NMSA 1978 and is amended to read:

11 "66-14-15. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY  
12 VEHICLE.--

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

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

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

23 D. A person who commits homicide by vehicle while  
24 violating Section 66-8-113 NMSA 1978 is guilty of a third  
25 degree felony and shall be sentenced pursuant to the provisions

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

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

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

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

22 (1) a prior conviction under Section 66-8-102,  
23 66-14-2 or 66-14-3 NMSA 1978; or

24 (2) a prior conviction in New Mexico or any  
25 other jurisdiction, territory or possession of the United

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

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

9 SECTION 30. A new Section 66-14-16 NMSA 1978 is enacted  
10 to read:

11 "66-14-16. [NEW MATERIAL] ALCOHOL OR DRUG ABUSE SCREENING  
12 REQUIRED.--Upon a conviction for driving under the influence of  
13 intoxicating liquor or drugs, an offender shall be required to  
14 participate in and complete, within a time specified by the  
15 court, an alcohol or drug abuse screening program approved by  
16 the department of finance and administration and, if necessary,  
17 a treatment program approved by the court. The requirement  
18 imposed pursuant to this section shall not be suspended,  
19 deferred or taken under advisement."

20 SECTION 31. A new Section 66-14-17 NMSA 1978 is enacted  
21 to read:

22 "66-14-17. [NEW MATERIAL] SUBSTANCE ABUSE COUNSELING AND  
23 TREATMENT TO BE PROVIDED BY THE CORRECTIONS DEPARTMENT UPON A  
24 FELONY CONVICTION.--Upon a felony conviction for driving under  
25 the influence of intoxicating liquor or drugs, the corrections

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

7 SECTION 32. A new Section 66-14-18 NMSA 1978 is enacted  
8 to read:

9 "66-14-18. [NEW MATERIAL] CONVICTIONS IN OTHER  
10 JURISDICTIONS.--A conviction pursuant to a municipal or county  
11 ordinance in New Mexico, or a law of any other jurisdiction,  
12 territory or possession of the United States or of an Indian  
13 nation, tribe or pueblo, when that ordinance or law is  
14 equivalent to New Mexico law for driving under the influence of  
15 intoxicating liquor or drugs and prescribes penalties for  
16 driving under the influence of intoxicating liquor or drugs,  
17 shall be deemed to be a conviction pursuant to this section for  
18 purposes of determining whether a conviction is a second or  
19 subsequent conviction."

20 SECTION 33. A new Section 66-14-19 NMSA 1978 is enacted  
21 to read:

22 "66-14-19. [NEW MATERIAL] MAGISTRATE COURT CONCURRENT  
23 JURISDICTION.--In the case of a first, second or third offense  
24 pursuant to the DWI Act, when a charge is brought pursuant to  
25 Section 66-14-2 NMSA 1978, the magistrate court has concurrent

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1 jurisdiction with district courts to try the offender. In the  
2 case of a first, second or third offense of the DWI Act, when a  
3 charge is brought pursuant to Section 66-14-3 NMSA 1978, in any  
4 county with greater than two hundred thousand residents  
5 pursuant to the most recent federal decennial census, the  
6 magistrate court has concurrent jurisdiction with the district  
7 court to try the offender, and in all other counties, the  
8 district court has exclusive jurisdiction to try the offender."

9 SECTION 34. Section 66-8-102.1 NMSA 1978 (being Laws  
10 1982, Chapter 102, Section 2, as amended by Laws 2003, Chapter  
11 51, Section 11 and by Laws 2003, Chapter 90, Section 4) is  
12 recompiled as Section 66-14-20 NMSA 1978 and is amended to  
13 read:

14 "66-14-20. GUILTY PLEAS--LIMITATIONS.--Where the  
15 complaint or information alleges a violation of Section  
16 [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978, any plea of guilty  
17 thereafter entered in satisfaction of the charges shall include  
18 at least a plea of guilty to the violation of [~~one of the~~  
19 ~~subsections of~~] Section [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA  
20 1978, and no other disposition by plea of guilty to any other  
21 charge in satisfaction of the charge shall be authorized if the  
22 results of a test performed pursuant to the Implied Consent Act  
23 disclose that the blood or breath of the person charged  
24 contains an alcohol concentration of:

25 A. eight one hundredths or more; or

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

3           SECTION 35. Section 66-8-102.2 NMSA 1978 (being Laws  
4 1993, Chapter 66, Section 16) is recompiled as Section 66-14-21  
5 NMSA 1978 and is amended to read:

6           "66-14-21. MUNICIPAL AND COUNTY ORDINANCES--UNLAWFUL  
7 ALCOHOL CONCENTRATION LEVEL FOR DRIVING WHILE UNDER THE  
8 INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--No municipal or  
9 county ordinance prohibiting driving while under the influence  
10 of intoxicating liquor or drugs shall be enacted that provides  
11 for an unlawful alcohol concentration level that is different  
12 than the alcohol concentration levels provided in [~~Subsections~~  
13 ~~C and D of Section 66-8-102~~] Section 66-14-2 NMSA 1978."

14           SECTION 36. Section 66-8-102.4 NMSA 1978 (being Laws  
15 2005, Chapter 269, Section 8) is recompiled as Section 66-14-22  
16 NMSA 1978 and is amended to read:

17           "66-14-22. UNIFORM POLICE REPORTS AND PROCEDURES FOR DWI  
18 ARRESTS.--

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

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1 similar municipal or county ordinances.

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

8 SECTION 37. A new Section 66-14-31 NMSA 1978 is enacted  
9 to read:

10 "66-14-31. [NEW MATERIAL] SHORT TITLE.--Sections 66-14-31  
11 though 66-14-38 NMSA 1978 may be cited as the "Boating While  
12 Intoxicated Act"."

13 SECTION 38. A new Section 66-14-32 NMSA 1978 is enacted  
14 to read:

15 "66-14-32. [NEW MATERIAL] OPERATING A MOTORBOAT WHILE  
16 UNDER THE INFLUENCE OF INTOXICATING LIQUOR.--

17 A. It is unlawful for a person who is under the  
18 influence of intoxicating liquor to operate a motorboat.

19 B. It is unlawful for a person who has an alcohol  
20 concentration of eight one hundredths or more in the person's  
21 blood or breath to operate a motorboat.

22 C. Aggravated boating while under the influence of  
23 intoxicating liquor or drugs consists of a person who:

24 (1) has an alcohol concentration of sixteen one  
25 hundredths or more in the person's blood or breath while

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1 operating a motorboat;

2 (2) has caused bodily injury to a human being as  
3 a result of the unlawful operation of a motorboat while under  
4 the influence of intoxicating liquor; or

5 (3) refused to submit to chemical testing, as  
6 provided for in the Boating While Intoxicated Act, and in the  
7 judgment of the court, based upon evidence of intoxication  
8 presented to the court, was under the influence of intoxicating  
9 liquor."

10 SECTION 39. A new Section 66-14-33 NMSA 1978 is enacted  
11 to read:

12 "66-14-33. [NEW MATERIAL] OPERATING A MOTORBOAT WHILE  
13 UNDER THE INFLUENCE OF INTOXICATING DRUG.--

14 A. It is unlawful for a person who is under the  
15 influence of any drug to a degree that renders the person  
16 incapable of safely operating a motorboat to operate a  
17 motorboat.

18 B. It is unlawful for a person who is under the  
19 influence of a combination of liquor and any drug to a degree  
20 that renders the person incapable of safely operating a  
21 motorboat to operate a motorboat.

22 C. Aggravated boating while under the influence of  
23 intoxicating liquor or drugs consists of a person who has  
24 caused bodily injury to a human being as a result of the  
25 unlawful operation of a motorboat while under the influence of

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1 intoxicating liquor or drugs."

2 SECTION 40. A new Section 66-14-34 NMSA 1978 is enacted  
3 to read:

4 "66-14-34. [NEW MATERIAL] PENALTIES.--Every person under  
5 first conviction pursuant to the Boating While Intoxicated Act  
6 shall be punished, notwithstanding the provisions of Section  
7 31-18-13 NMSA 1978, by imprisonment for not more than ninety  
8 days or by a fine of not more than five hundred dollars (\$500),  
9 or both; provided that if the sentence is suspended in whole or  
10 in part or deferred, the period of probation may extend beyond  
11 ninety days but shall not exceed one year. The offender shall  
12 be ordered by the court to attend a boating safety course  
13 approved by the national association of state boating law  
14 administrators. An offender ordered by the court to attend a  
15 boating safety course shall provide the court with proof that  
16 the offender successfully completed the course within seven  
17 months of the person's conviction or prior to completion of the  
18 person's probation, whichever period of time is less. In  
19 addition to those penalties, when an offender commits  
20 aggravated boating while under the influence of intoxicating  
21 liquor or drugs, the offender shall be sentenced to not less  
22 than forty-eight consecutive hours in jail and may be fined not  
23 more than seven hundred fifty dollars (\$750). On a first  
24 conviction under this section, any time spent in jail for the  
25 offense prior to the conviction for that offense shall be

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1 credited to any term of imprisonment fixed by the court. A  
2 deferred sentence pursuant to this subsection shall be  
3 considered a first conviction for the purpose of determining  
4 subsequent convictions."

5 SECTION 41. A new Section 66-14-35 NMSA 1978 is enacted  
6 to read:

7 "66-14-35. [NEW MATERIAL] SUBSEQUENT CONVICTIONS.--A  
8 second or subsequent conviction pursuant to the Boating While  
9 Intoxicated Act shall be punished, notwithstanding the  
10 provisions of Section 31-18-13 NMSA 1978, by imprisonment for  
11 not more than three hundred sixty-four days or by a fine of not  
12 more than seven hundred fifty dollars (\$750), or both; provided  
13 that if the sentence is suspended in whole or in part, the  
14 period of probation shall not exceed one year. In addition to  
15 those penalties, when an offender commits aggravated boating  
16 while 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 and may be fined not more than one  
19 thousand dollars (\$1,000)."

20 SECTION 42. A new Section 66-14-36 NMSA 1978 is enacted  
21 to read:

22 "66-14-36. [NEW MATERIAL] GUILTY PLEAS--LIMITATIONS.--  
23 When a complaint or information alleges a violation of Section  
24 66-14-33 NMSA 1978, any plea of guilty thereafter entered in  
25 satisfaction of the charges shall include at least a plea of

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1 guilty to the violation of Section 66-14-33 NMSA 1978, and no  
2 other disposition by plea of guilty to any other charge in  
3 satisfaction of the charge shall be authorized if the results  
4 of a test performed pursuant to that act disclose that the  
5 blood or breath of the person charged contains an alcohol  
6 concentration of eight one hundredths or more."

7 SECTION 43. A new Section 66-14-37 NMSA 1978 is enacted  
8 to read:

9 "66-14-37. [NEW MATERIAL] MUNICIPAL AND COUNTY  
10 ORDINANCES--UNLAWFUL ALCOHOL CONCENTRATION LEVEL FOR BOATING  
11 WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUORS OR DRUGS.--No  
12 municipal or county ordinance prohibiting the operation of a  
13 motorboat while under the influence of intoxicating liquor or  
14 drugs shall be enacted that provides for an unlawful alcohol  
15 concentration level that is different than the alcohol  
16 concentration levels provided in Section 66-14-33 NMSA 1978."

17 SECTION 44. A new Section 66-14-38 NMSA 1978 is enacted  
18 to read:

19 "66-14-38. [NEW MATERIAL] EDUCATIONAL PROGRAM.--The state  
20 parks division of the energy, minerals and natural resources  
21 department shall develop and implement a program to advertise  
22 and further educate the boating public about the dangers of  
23 boating while under the influence of alcohol or drugs and the  
24 penalties associated with a conviction pursuant to the  
25 provisions of the Boating While Intoxicated Act."

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1           SECTION 45. Section 66-8-105 NMSA 1978 (being Laws 1978,  
2 Chapter 35, Section 513) is recompiled as Section 66-14-41 NMSA  
3 1978 and is amended to read:

4           "66-14-41. IMPLIED CONSENT ACT--SHORT TITLE.--Sections  
5 [~~64-8-105 through 64-8-112 NMSA 1953~~] 66-14-41 through 66-14-50  
6 NMSA 1978 may be cited as the "Implied Consent Act"."

7           SECTION 46. Section 66-8-107 NMSA 1978 (being Laws 1978,  
8 Chapter 35, Section 515, as amended) is recompiled as Section  
9 66-14-42 NMSA 1978 and is amended to read:

10          "66-14-42. IMPLIED CONSENT TO SUBMIT TO CHEMICAL TEST.--

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

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

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

25           B. A test of blood or breath or both, approved by the

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

7 SECTION 47. Section 66-8-108 NMSA 1978 (being Laws 1978,  
8 Chapter 35, Section 516) is recompiled as Section 66-14-43 NMSA  
9 1978 and is amended to read:

10 "66-14-43. CONSENT OF PERSON INCAPABLE OF REFUSAL NOT  
11 WITHDRAWN.--Any person who is dead, unconscious or otherwise in  
12 a condition rendering ~~[him]~~ the person incapable of refusal  
13 shall be deemed not to have withdrawn the consent provided by  
14 Section ~~[64-8-107 NMSA 1953]~~ 66-14-42 NMSA 1978, and the test  
15 or tests designated by the law enforcement officer may be  
16 administered."

17 SECTION 48. Section 66-8-109 NMSA 1978 (being Laws 1978,  
18 Chapter 35, Section 517, as amended) is recompiled as Section  
19 66-14-44 NMSA 1978 and is amended to read:

20 "66-14-44. ADMINISTRATION OF CHEMICAL TEST--PAYMENT OF  
21 COSTS--ADDITIONAL TESTS.--

22 A. Only the persons authorized by Section  
23 ~~[66-8-103]~~ 66-14-45 NMSA 1978 shall withdraw blood from any  
24 person for the purpose of determining its alcohol or drug  
25 content. This limitation does not apply to the taking of

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1 samples of breath.

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

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

15 D. The law enforcement agency represented by the law  
16 enforcement officer at whose direction the chemical test is  
17 performed shall pay for the chemical test.

18 E. If a person exercises [~~his~~] the person's right  
19 under Subsection B of this section to have [~~a chemical test~~] an  
20 independent blood draw performed [~~upon him~~] on the person by a  
21 person of [~~his~~] the person's own choosing, the cost of that  
22 test shall be paid by the law enforcement agency represented by  
23 the law enforcement officer at whose direction a [~~chemical~~]  
24 breath test or blood draw was administered under Section  
25 [~~66-8-107~~] 66-14-42 NMSA 1978."

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1           SECTION 49. A new Section 66-14-45 NMSA 1978 is enacted  
2 to read:

3           "66-14-45. [NEW MATERIAL] CHEMICAL BLOOD TESTS DIRECTED  
4 BY POLICE, JUDICIAL OR PROBATION OFFICER--PERSONS QUALIFIED TO  
5 PERFORM TESTS--RELIEF FROM CIVIL AND CRIMINAL LIABILITY--ARREST  
6 OR TEST ONLY IN PERFORMANCE OF OFFICIAL DUTIES AUTHORIZED BY  
7 LAW.--

8           A. Any person authorized by law to draw blood may  
9 withdraw blood from another person for the performance of a  
10 chemical blood test approved by the scientific laboratory  
11 division of the department of health. When withdrawing blood  
12 for the performance of a chemical blood test, the person shall  
13 withdraw a sufficient sample to permit an independent chemical  
14 analysis to be conducted. The additional sample shall be sent  
15 to the scientific laboratory division of the department of  
16 health for chain of custody and storage.

17           B. A driver or operator of a motorboat whose blood  
18 was drawn pursuant to Subsection A of this section may request  
19 a sample of the blood for the purpose of conducting an  
20 independent analysis. The request may be made by the driver or  
21 operator of a motorboat or through the person's legal counsel,  
22 and may be filed directly with the scientific laboratory  
23 division of the department of health or through any court  
24 conducting a proceeding in which the blood sample will be at  
25 issue. The scientific laboratory division shall issue rules to  
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1 permit the delivery of the sample to another laboratory in  
2 accordance with appropriate practices to ensure preservation of  
3 the sample for testing. No fee shall be charged for storage or  
4 delivery of the sample.

5 C. A person authorized by law to draw blood who  
6 withdraws blood from a person for the performance of a chemical  
7 blood test that has been directed by a police officer, or by a  
8 judicial or probation officer, shall not be held liable in a  
9 civil or criminal action for assault, battery, false  
10 imprisonment or the conduct of a police officer, except for  
11 negligence, nor shall a person assisting in the withdrawal of  
12 blood, or a hospital wherein blood is withdrawn in the  
13 performance of the test, be subject to civil or criminal  
14 liability for assault, battery, false imprisonment or the  
15 conduct of a police officer, except for negligence.

16 D. Nothing in this section is intended to authorize a  
17 police officer, or a judicial or probation officer, to make an  
18 arrest or to direct the performance of a chemical blood test,  
19 except in the performance of that person's official duties and  
20 as otherwise authorized by law."

21 SECTION 50. Section 66-8-110 NMSA 1978 (being Laws 1978,  
22 Chapter 35, Section 518, as amended) is recompiled as Section  
23 66-14-46 NMSA 1978 and is amended to read:

24 "66-14-46. USE OF TESTS IN CRIMINAL ACTIONS OR CIVIL  
25 ACTIONS--LEVELS OF INTOXICATION--MANDATORY CHARGING.--

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1           A. The results of a test performed pursuant to the  
2 Implied Consent Act may be introduced into evidence in any  
3 civil action or criminal action arising out of the acts alleged  
4 to have been committed by the person tested for driving a motor  
5 vehicle or operating a motorboat while under the influence of  
6 intoxicating liquor or drugs.

7           B. When the blood or breath of the person tested  
8 contains:

9                   (1) an alcohol concentration of less than [~~four~~]  
10 five one hundredths, it shall be presumed that the person was  
11 not under the influence of intoxicating liquor;

12                   (2) an alcohol concentration of at least [~~four~~]  
13 five one hundredths but less than eight one hundredths:

14                           (a) no presumption shall be made that the  
15 person either was or was not under the influence of  
16 intoxicating liquor, unless the person is driving a commercial  
17 motor vehicle; and

18                           (b) the amount of alcohol in the person's  
19 blood or breath may be considered with other competent evidence  
20 in determining whether the person was under the influence of  
21 intoxicating liquor; or

22                   (3) an alcohol concentration of four one  
23 hundredths or more and the person is driving a commercial  
24 vehicle, it shall be presumed that the person is under the  
25 influence of intoxicating liquor.

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1 C. The arresting officer shall charge the person  
2 tested with a violation of Section [~~66-8-102~~] 66-14-2 or  
3 66-14-42 NMSA 1978 when the blood or breath of the person  
4 contains an alcohol concentration of:

5 (1) eight one hundredths or more; or

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

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

13 E. If the test performed pursuant to the Implied  
14 Consent Act is administered more than three hours after the  
15 person was driving a vehicle, the test result may be introduced  
16 as evidence of the alcohol concentration in the person's blood  
17 or breath at the time of the test and the trier of fact shall  
18 determine what weight to give the test result for the purpose  
19 of determining a violation of Section [~~66-8-102~~] 66-14-2 or  
20 66-14-42 NMSA 1978.

21 F. The determination of alcohol concentration shall  
22 be based on the grams of alcohol in one hundred milliliters of  
23 blood or the grams of alcohol in two hundred ten liters of  
24 breath.

25 G. The presumptions in Subsection B of this section

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1 do not limit the introduction of other competent evidence  
2 concerning whether the person was under the influence of  
3 intoxicating liquor.

4 H. If a person is convicted of driving a motor  
5 vehicle or operating a motorboat while under the influence of  
6 intoxicating liquor, the trial judge shall [~~inquire into~~]  
7 review the past driving record of the person before sentence is  
8 entered in the matter."

9 SECTION 51. Section 66-8-111 NMSA 1978 (being Laws 1978,  
10 Chapter 35, Section 519, as amended) is recompiled as Section  
11 66-14-47 NMSA 1978 and is amended to read:

12 "66-14-47. REFUSAL TO SUBMIT TO CHEMICAL TESTS--TESTING--  
13 GROUNDS FOR REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE.--

14 A. If a person under arrest for violation of an  
15 offense enumerated in the Motor Vehicle Code refuses upon  
16 request of a law enforcement officer to submit to chemical  
17 tests designated by the law enforcement agency as provided in  
18 Section [~~66-8-107~~] 66-14-42 NMSA 1978, none shall be  
19 administered except when a [~~municipal judge~~] magistrate or  
20 district judge issues a search warrant authorizing chemical  
21 tests as provided in Section [~~66-8-107~~] 66-14-42 NMSA 1978 upon  
22 finding in a law enforcement officer's written affidavit that  
23 there is probable cause to believe that the person has  
24 controlled a motorboat or has driven a motor vehicle while  
25 under the influence of alcohol or a controlled substance,

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1 thereby causing the death or great bodily injury of another  
2 person, or there is probable cause to believe that the person  
3 has committed a felony while under the influence of alcohol or  
4 a controlled substance and that chemical tests as provided in  
5 Section [~~66-8-107~~] 66-14-42 NMSA 1978 will produce material  
6 evidence in a felony prosecution.

7 B. If a person under arrest for a violation of  
8 driving under the influence of intoxicating liquor, driving  
9 under the influence of an intoxicating drug or boating while  
10 intoxicated submits to a chemical breath test upon request of a  
11 law enforcement officer as provided in Section 66-14-42 NMSA  
12 1978, but thereafter refuses upon request of a law enforcement  
13 officer to submit to a chemical blood test, no chemical blood  
14 test shall be administered except when a magistrate or district  
15 judge issues a search warrant authorizing chemical tests as  
16 provided in Section 66-14-42 NMSA 1978 upon finding in a law  
17 enforcement officer's written affidavit that there is probable  
18 cause to believe that the person has committed driving under  
19 the influence of an intoxicating drug and that chemical tests  
20 as provided in Section 66-14-42 NMSA 1978 will produce material  
21 evidence in a prosecution; provided that:

22 (1) the chemical breath test to which the person  
23 submitted resulted in an alcohol concentration in which the  
24 person is presumed not to be under the influence of  
25 intoxicating liquor pursuant to Paragraph (1) of Subsection B

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1 of Section 66-14-46 NMSA 1978;

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

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

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

21 ~~[C.]~~ D. The department, upon receipt of a statement  
22 signed under penalty of perjury from a law enforcement officer  
23 stating the officer's reasonable grounds to believe the  
24 arrested person had been driving a motor vehicle within this  
25 state while under the influence of intoxicating liquor and that

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1 the person submitted to chemical testing pursuant to Section  
2 [~~66-8-107~~] 66-14-42 NMSA 1978 and the test results indicated an  
3 alcohol concentration in the person's blood or breath of eight  
4 one hundredths or more if the person is twenty-one years of age  
5 or older, four one hundredths or more if the person is driving  
6 a commercial motor vehicle or two one hundredths or more if the  
7 person is less than twenty-one years of age, shall revoke the  
8 person's license or permit to drive or [~~his~~] the person's  
9 nonresident operating privilege for a period of:

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

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

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

23 [~~D.~~] E. The determination of alcohol concentration  
24 shall be based on the grams of alcohol in one hundred  
25 milliliters of blood or the grams of alcohol in two hundred ten  
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1       liters of breath.

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

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

20               SECTION 52. A new Section 66-14-48 NMSA 1978 is enacted  
21 to read:

22               "66-14-48. [NEW MATERIAL] LABORATORY TECHNICIAN--VIDEO  
23 TESTIMONY.--

24               A. Upon motion of a party, a laboratory technician  
25 who has conducted an analysis of blood pursuant to the Implied

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1 Consent Act may be permitted to testify at a hearing or trial  
2 by means of interactive video; provided that:

3 (1) the laboratory where the analysis was  
4 conducted is not located in the same county nor in an adjoining  
5 county as the county in which the proceeding is taking place;

6 (2) that testimony is provided by each  
7 laboratory technician who conducted analysis on the blood  
8 sample at issue in the proceeding; and

9 (3) the court determines that permitting the  
10 video testimony of the laboratory technicians does not abrogate  
11 the defendant's rights in the proceeding.

12 B. Any interactive video appearance allowed pursuant  
13 to this subsection shall provide a full and meaningful  
14 opportunity to question and cross-examine the laboratory  
15 technician in plain sight and clear hearing of the trier of  
16 fact, all parties, counsel and the presiding officer, with the  
17 laboratory technician able to clearly see and hear the  
18 proceeding while testifying."

19 SECTION 53. Section 66-8-111.1 NMSA 1978 (being Laws  
20 1984, Chapter 72, Section 7, as amended) is recompiled as  
21 Section 66-14-49 NMSA 1978 and is amended to read:

22 "66-14-49. LAW ENFORCEMENT OFFICER AGENT FOR DEPARTMENT--  
23 WRITTEN NOTICE OF REVOCATION AND RIGHT TO HEARING.--

24 A. On behalf of the department, a law enforcement  
25 officer requesting a chemical test or directing the

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1 administration of a chemical test pursuant to Section  
2 [~~66-8-107~~] 66-14-42 NMSA 1978 shall serve immediate written  
3 notice of revocation and of right to a hearing before the  
4 administrative hearings office pursuant to the Implied Consent  
5 Act on a person who:

- 6 (1) refuses to permit chemical testing; or  
7 (2) submits to a chemical test the results of  
8 which indicate an alcohol concentration in the person's blood  
9 or breath of:  
10 (a) eight one hundredths or more if the  
11 person is twenty-one years of age or older;  
12 (b) four one hundredths or more if the  
13 person is driving a commercial motor vehicle; or  
14 (c) two one hundredths or more if the person  
15 is less than twenty-one years of age.

16 B. The written notice of revocation and of a right to  
17 a hearing served on the driver shall be a temporary license  
18 valid for twenty days or, if the driver requests a hearing  
19 pursuant to Section [~~66-8-112~~] 66-14-49 NMSA 1978, valid until  
20 the date the administrative hearings office issues the order  
21 following that hearing; provided that a written notice of  
22 revocation and right to a hearing shall not be a temporary  
23 license for a driver without any otherwise valid driving  
24 privileges in this state.

25 C. The law enforcement officer shall send to the

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1 department the signed statement required pursuant to Section  
2 [~~66-8-111~~] 66-14-47 NMSA 1978."

3 SECTION 54. Section 66-8-112 NMSA 1978 (being Laws 1978,  
4 Chapter 35, Section 520, as amended) is repealed and a new  
5 Section 66-14-50 NMSA 1978 is enacted to read:

6 "66-14-50. [NEW MATERIAL] REVOCATION OF LICENSE OR  
7 PRIVILEGE TO DRIVE--NOTICE--EFFECTIVE DATE--HEARING--HEARING  
8 COSTS--REVIEW.--

9 A. The effective date of revocation pursuant to  
10 Section 66-14-47 NMSA 1978 is twenty days after notice of  
11 revocation or, if the person whose driver's license or  
12 privilege to drive is being revoked or denied requests a  
13 hearing pursuant to the Administrative Hearings Office Act, the  
14 date that the administrative hearings office issues the order  
15 following that hearing. The date of notice of revocation is:

16 (1) the date the law enforcement officer serves  
17 written notice of revocation and of right to a hearing pursuant  
18 to Section 66-14-49 NMSA 1978; or

19 (2) in the event the results of a chemical test  
20 cannot be obtained immediately, the date notice of revocation  
21 is served by mail by the department. This notice of revocation  
22 and of right to a hearing shall be sent by certified mail and  
23 shall be deemed to have been served on the date borne by the  
24 return receipt showing delivery, refusal of the addressee to  
25 accept delivery or attempted delivery of the notice at the

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1 address obtained by the arresting law enforcement officer or on  
2 file with the department.

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

21 C. The administrative hearings office may postpone or  
22 continue any hearing on its own motion or upon application from  
23 the person and for good cause shown for a period not to exceed  
24 ninety days from the date of notice of revocation and, provided  
25 that, upon a continuance, the department shall extend the

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1 validity of the temporary license for the period of the  
2 postponement or continuation.

3 D. At the hearing, the administrative hearings office  
4 may administer oaths and may issue subpoenas for the attendance  
5 of witnesses and the production of relevant books and papers.

6 E. The hearing shall be limited to the following  
7 issues:

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

12 (2) whether the person was arrested;

13 (3) whether this hearing is held no later than  
14 ninety days after notice of revocation; and

15 (4) whether:

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

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

21 (5) whether:

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

24 (b) the test results indicated an alcohol  
25 concentration in the person's blood or breath of eight one



1 hundredths or more if the person is twenty-one years of age or  
2 older, four one hundredths or more if the person is driving a  
3 commercial motor vehicle or two one hundredths or more if the  
4 person is less than twenty-one years of age.

5 F. The administrative hearings office shall enter an  
6 order sustaining the revocation or denial of the person's  
7 license or privilege to drive if the hearing officer from the  
8 administrative hearings office finds that:

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

12 (2) the person was arrested;

13 (3) the hearing is held no later than ninety  
14 days after notice of revocation; and

15 (4) either:

16 (a) the person refused to submit to the test  
17 upon request of the law enforcement officer after the law  
18 enforcement officer advised the person that the person's  
19 failure to submit to the test could result in the revocation of  
20 the person's privilege to drive; or

21 (b) that a chemical test was administered  
22 pursuant to the provisions of the Implied Consent Act and the  
23 test results indicated an alcohol concentration in the person's  
24 blood or breath of eight one hundredths or more if the person  
25 is twenty-one years of age or older, four one hundredths or

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1 more if the person is driving a commercial motor vehicle or two  
2 one hundredths or more if the person is less than twenty-one  
3 years of age.

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

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

17 I. Any person less than eighteen years of age shall  
18 have results of the person's hearing forwarded by the  
19 administrative hearings office to the person's parent, guardian  
20 or custodian."

21 SECTION 55. Section 66-5-501 NMSA 1978 (being Laws 2003,  
22 Chapter 239, Section 1) is recompiled as Section 66-14-51 NMSA  
23 1978 and is amended to read:

24 "66-14-51. IGNITION INTERLOCK LICENSING ACT--SHORT  
25 TITLE.--Sections [~~1 through 4 of this act~~] 66-14-51 through  
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1 66-14-56 NMSA 1978 may be cited as the "Ignition Interlock  
2 Licensing Act".

3 SECTION 56. Section 66-5-502 NMSA 1978 (being Laws 2003,  
4 Chapter 239, Section 2, as amended) is recompiled as Section  
5 66-14-52 NMSA 1978 and is amended to read:

6 "66-14-52. DEFINITIONS.--As used in the Ignition  
7 Interlock Licensing Act:

8 A. "denied" means the division has refused to issue  
9 an instruction permit, driver's license or provisional license  
10 pursuant to the provisions of Subsection D or E of Section  
11 66-5-5 NMSA 1978;

12 B. "ignition interlock device" means a device,  
13 approved by the [~~traffic safety~~] bureau, that prevents the  
14 operation of a motor vehicle by an intoxicated or impaired  
15 person;

16 C. "ignition interlock license" means a driver's  
17 license issued to a person by the division that allows that  
18 person to operate a motor vehicle with an ignition interlock  
19 device after that person's driving privilege or driver's  
20 license has been revoked or denied. The division shall clearly  
21 mark an ignition interlock license to distinguish it from other  
22 driver's licenses; and

23 D. "revoked" means the division, pursuant to the  
24 provisions of Section 66-5-29 or [~~66-8-111~~] 66-14-47 NMSA 1978,  
25 has terminated a person's driving privilege or driver's license

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1 for:

2 (1) driving while under the influence of  
3 intoxicating liquor or drugs; or

4 (2) a conviction of homicide by vehicle or great  
5 bodily harm by vehicle while under the influence of  
6 intoxicating liquor or drugs."

7 SECTION 57. A new Section 66-14-53 NMSA 1978 is enacted  
8 to read:

9 "66-14-53. [NEW MATERIAL] IGNITION INTERLOCK  
10 REQUIREMENT.--

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

21 (1) a period of one year for a first conviction;

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

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

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

3                   B. Five years from the date of conviction and every  
4 five years thereafter, a fourth or subsequent offender may  
5 apply to a district court for removal of the ignition interlock  
6 device requirement provided in this section and for restoration  
7 of a driver's license. A district court may, for good cause  
8 shown, remove the ignition interlock device requirement and  
9 order restoration of the license; provided that the offender  
10 has not been subsequently convicted of driving a motor vehicle  
11 under the influence of intoxicating liquor or drugs. Good  
12 cause may include an alcohol screening and proof from the  
13 interlock vendor that the person has not had violations of the  
14 interlock device.

15                   C. An offender who obtains an ignition interlock  
16 license and installs an ignition interlock device prior to  
17 conviction shall be given credit at sentencing for the time  
18 period the ignition interlock device has been in use."

19                   SECTION 58. Section 66-5-503 NMSA 1978 (being Laws 2003,  
20 Chapter 239, Section 3, as amended) is recompiled as Section  
21 66-14-54 NMSA 1978 and is amended to read:

22                   "66-14-54. IGNITION INTERLOCK LICENSE--REQUIREMENTS.--

23                   A. A person whose driving privilege or driver's  
24 license has been revoked or denied or who has not met the  
25 ignition interlock license requirement as a condition of

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1 reinstatement pursuant to Section 66-5-33.1 NMSA 1978 may apply  
2 for an ignition interlock license from the ~~[division]~~  
3 department.

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

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

10 (2) sign an affidavit acknowledging that:

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

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

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

24 C. A person who has been convicted of homicide by  
25 vehicle or great bodily harm by vehicle while under the

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1 influence of intoxicating liquor or drugs, as provided in  
2 Section [~~66-8-101~~] 66-14-15 NMSA 1978, shall not be issued an  
3 ignition interlock license unless the person has completed  
4 serving the sentence for that crime, including any period of  
5 probation and parole."

6 SECTION 59. Section 66-5-504 NMSA 1978 (being Laws 2003,  
7 Chapter 239, Section 4, as amended) is recompiled as Section  
8 66-14-55 NMSA 1978 and is amended to read:

9 "66-14-55. PENALTIES.--

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

16 B. A person who is issued an ignition interlock  
17 license and who knowingly and deliberately tampers or  
18 interferes with or causes another to tamper or interfere with  
19 the proper and intended operation of an ignition interlock  
20 device may be subject to the penalties for driving with a  
21 license that was revoked for driving under the influence of  
22 intoxicating liquor or drugs or a violation of the Implied  
23 Consent Act as provided in Section 66-5-39 NMSA 1978."

24 SECTION 60. Section 66-8-102.3 NMSA 1978 (being Laws  
25 2002, Chapter 82, Section 2, as amended) is recompiled as

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1 Section 66-14-56 NMSA 1978 and is amended to read:

2 "66-14-56. IMPOSING A FEE--INTERLOCK DEVICE FUND  
3 CREATED.--

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

18 B. The "interlock device fund" is created in the  
19 state treasury. The fee imposed pursuant to Subsection A of  
20 this section shall be collected by the [~~motor vehicle division~~  
21 ~~of the taxation and revenue~~] department and deposited in the  
22 interlock device fund.

23 C. All money in the interlock device fund is  
24 appropriated to the [~~traffic safety~~] bureau [~~of the department~~  
25 ~~of transportation~~] to cover part of the costs of installing,

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

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

- 20 (1) temporary assistance for needy families;
- 21 (2) general assistance;
- 22 (3) the supplemental nutritional assistance  
23 program, also known as "food stamps";
- 24 (4) supplemental security income;
- 25 (5) the federal food distribution program on

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1 Indian reservations; or

2 (6) other criteria approved by the [~~traffic~~  
3 ~~safety~~] bureau.

4 E. Any balance remaining in the interlock device fund  
5 shall not revert to the general fund at the end of any fiscal  
6 year. Any money remaining in the fund at the end of a fiscal  
7 year that exceeds twenty percent of the expenditures from the  
8 prior fiscal year may be used by the traffic safety bureau for  
9 other statutory duties of the bureau.

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

16 SECTION 61. TEMPORARY PROVISION--REQUIRING A STUDY ON  
17 INSURANCE LEVELS REGARDING DRIVERS SUBJECT TO THE IGNITION  
18 INTERLOCK LICENSING ACT.--The traffic safety bureau of the  
19 department of transportation shall coordinate a study to  
20 include the motor vehicle division of the taxation and revenue  
21 department and other appropriate stakeholders. The study shall  
22 investigate the procedures to be recommended to ensure that  
23 drivers subject to the Ignition Interlock Licensing Act are  
24 insured at the levels required by the Mandatory Financial  
25 Responsibility Act at all times, and the steps to be taken if

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1 the bureau or division is made aware that a driver subject to  
2 the Ignition Interlock Licensing Act fails to maintain adequate  
3 financial responsibility to drive on the roads of this state.  
4 The study shall also investigate if the insurance obtained by  
5 this class of high-risk driver should be required to be  
6 registered with the state through the motorist, whereas  
7 insurance is currently registered with the state through the  
8 vehicle only in New Mexico.

9 SECTION 62. TEMPORARY PROVISION--REQUIRING A STUDY ON  
10 DUPLICATIVE FORMS USED FOR PERSONS ALLEGED TO HAVE DRIVEN UNDER  
11 THE INFLUENCE OF ALCOHOL OR DRUGS.--The traffic safety bureau  
12 of the department of transportation shall coordinate a study to  
13 include the motor vehicle division of the taxation and revenue  
14 department and other appropriate stakeholders. The study shall  
15 identify duplicative forms used in the detection, apprehension,  
16 arrest and prosecution of persons alleged to have driven under  
17 the influence of drugs or alcohol in this state and recommend  
18 appropriate administrative and legislative changes, if any.

19 SECTION 63. TEMPORARY PROVISION--REQUIRING CHAPTER 66,  
20 ARTICLE 14 NMSA 1978 TO BE NAMED "INTOXICATION AND  
21 IMPAIRMENT".--The New Mexico compilation commission shall name  
22 Chapter 66, Article 14 NMSA 1978 "Intoxication and Impairment".

23 SECTION 64. REPEAL.--Sections 66-8-102, 66-8-103,  
24 66-8-104 and 66-13-1 through 66-13-13 NMSA 1978 (being Laws  
25 1953, Chapter 139, Section 54, Laws 1967, Chapter 160, Section  
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1 1, Laws 1978, Chapter 35, Section 512 and Laws 2003, Chapter  
2 241, Sections 1 through 13, as amended) are repealed.

3 SECTION 65. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is January 1, 2025.

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