

1 HOUSE BILL 106
2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY
4 Andrea Reeb
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10 AN ACT

11 RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR
12 OR DRUGS; AMENDING THE REQUIREMENTS FOR TESTING THE BLOOD OF A
13 PERSON SUSPECTED OF OPERATING A MOTOR VEHICLE WHILE UNDER THE
14 INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; PROVIDING THAT
15 CERTAIN MEDICAL PROFESSIONALS ARE AUTHORIZED TO WITHDRAW BLOOD
16 IN THE PERFORMANCE OF A CHEMICAL BLOOD TEST FOR DRIVING A MOTOR
17 VEHICLE OR OPERATING A MOTORBOAT UNDER THE INFLUENCE OF
18 INTOXICATING LIQUOR OR DRUGS.
19

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

21 SECTION 1. Section 66-8-102 NMSA 1978 (being Laws 1953,
22 Chapter 139, Section 54, as amended) is amended to read:

23 "66-8-102. DRIVING UNDER THE INFLUENCE OF INTOXICATING
24 LIQUOR OR DRUGS--AGGRAVATED DRIVING UNDER THE INFLUENCE OF
25 INTOXICATING LIQUOR OR DRUGS--PENALTIES.--

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1 A. It is unlawful for a person who is under the
2 influence of intoxicating liquor to drive a vehicle within this
3 state.

4 B. It is unlawful for a person who is under the
5 influence of any drug to a degree that renders the person
6 incapable of safely driving a vehicle to drive a vehicle within
7 this state.

8 C. It is unlawful for:

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

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

21 D. Aggravated driving under the influence of
22 intoxicating liquor or drugs consists of:

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

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

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

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

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

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

24 F. A second or third conviction pursuant to this
25 section shall be punished, notwithstanding the provisions of

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1 Section 31-18-13 NMSA 1978, by imprisonment for not more than
2 three hundred sixty-four days or by a fine of not more than one
3 thousand dollars (\$1,000), or both; provided that if the
4 sentence is suspended in whole or in part, the period of
5 probation may extend beyond one year but shall not exceed five
6 years. Notwithstanding any provision of law to the contrary
7 for suspension or deferment of execution of a sentence:

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

22 (2) upon a third conviction, an offender shall
23 be sentenced to a jail term of not less than thirty consecutive
24 days, not less than ninety-six hours of community service and a
25 fine of seven hundred fifty dollars (\$750). In addition to

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1 those penalties, when an offender commits aggravated driving
2 under the influence of intoxicating liquor or drugs, the
3 offender shall be sentenced to a jail term of not less than
4 sixty consecutive days. If an offender fails to complete,
5 within a time specified by the court, any community service,
6 screening program or treatment program ordered by the court,
7 the offender shall be sentenced to not less than an additional
8 sixty consecutive days in jail. A penalty imposed pursuant to
9 this paragraph shall not be suspended or deferred or taken
10 under advisement.

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

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

23 I. Upon a sixth conviction pursuant to this
24 section, an offender is guilty of a third degree felony and,
25 notwithstanding the provisions of Section 31-18-15 NMSA 1978,

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1 shall be sentenced to a term of imprisonment of thirty months,
2 eighteen months of which shall not be suspended, deferred or
3 taken under advisement.

4 J. Upon a seventh conviction pursuant to this
5 section, an offender is guilty of a third degree felony and,
6 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
7 shall be sentenced to a term of imprisonment of three years,
8 two years of which shall not be suspended, deferred or taken
9 under advisement.

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

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

24 M. Upon a second or third conviction pursuant to
25 this section, an offender shall be required to participate in

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1 and complete, within a time specified by the court:

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

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

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

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

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

13 N. Upon a felony conviction pursuant to this
14 section, the corrections department shall provide substance
15 abuse counseling and treatment to the offender in its custody.
16 While the offender is on probation or parole under its
17 supervision, the corrections department shall also provide
18 substance abuse counseling and treatment to the offender or
19 shall require the offender to obtain substance abuse counseling
20 and treatment.

21 O. Upon a conviction pursuant to this section, an
22 offender shall be required to obtain an ignition interlock
23 license and have an ignition interlock device installed and
24 operating on all motor vehicles driven by the offender,
25 pursuant to rules adopted by the bureau. Unless determined by

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

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

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

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

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

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

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

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

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

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

22 U. With respect to this section and notwithstanding
23 any provision of law to the contrary, if an offender's sentence
24 was suspended or deferred in whole or in part and the offender
25 violates any condition of probation, the court may impose any

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1 sentence that the court could have originally imposed and
2 credit shall not be given for time served by the offender on
3 probation.

4 V. As used in this section:

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

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

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

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

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

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

24 SECTION 2. Section 66-8-103 NMSA 1978 (being Laws 1967,
25 Chapter 160, Section 1) is amended to read:

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1 "66-8-103. CHEMICAL BLOOD TESTS--PERSONS QUALIFIED TO
2 PERFORM TESTS--RELIEF FROM LIABILITY.--Only a physician,
3 licensed professional or practical nurse, [~~or laboratory~~
4 ~~technician~~] emergency medical technician or certified
5 phlebotomist or a technologist employed by a hospital or
6 physician shall withdraw blood from [~~any~~] a person in the
7 performance of a [~~blood-alcohol~~] chemical blood test. No such
8 physician, nurse, technician, phlebotomist or technologist who
9 withdraws blood from [~~any~~] a person in the performance of a
10 [~~blood-alcohol~~] chemical blood test that has been directed by
11 [~~any~~] a police officer or by [~~any~~] a judicial or probation
12 officer shall be held liable in any civil or criminal action
13 for assault, battery, false imprisonment or any conduct of
14 [~~any~~] a police officer except for negligence, nor shall [~~any~~] a
15 person assisting in the performance of [~~such a~~] the test or
16 [~~any~~] a hospital wherein blood is withdrawn in the performance
17 of [~~such a~~] the test be subject to civil or criminal liability
18 for assault, battery, false imprisonment or any conduct of
19 [~~any~~] a police officer except for negligence."

20 SECTION 3. Section 66-8-104 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 512) is amended to read:

22 "66-8-104. [~~BLOOD-ALCOHOL~~] CHEMICAL BLOOD TESTS--[~~POLICE,~~
23 ~~JUDICIAL OR PROBATION~~] OFFICER UNAUTHORIZED TO MAKE ARREST OR
24 DIRECT TEST EXCEPT IN PERFORMANCE OF OFFICIAL DUTIES
25 [~~AUTHORIZED BY LAW~~].--Nothing in Sections [~~64-8-103 or 64-8-104~~

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1 ~~NMSA 1953]~~ 66-8-103 or 66-8-104 NMSA 1978 is intended to
2 authorize [~~any~~] a police officer or [~~any~~] a judicial or
3 probation officer to make [~~any~~] an arrest or to direct the
4 performance of a [~~blood-alcohol~~] chemical blood test except in
5 the performance of [~~his~~] that officer's official duties and as
6 otherwise authorized by law."

7 SECTION 4. Section 66-8-111 NMSA 1978 (being Laws 1978,
8 Chapter 35, Section 519, as amended) is amended to read:

9 "66-8-111. REFUSAL TO SUBMIT TO CHEMICAL TESTS--TESTING--
10 GROUNDS FOR REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE.--

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

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1 chemical tests as provided in Section 66-8-107 NMSA 1978 will
2 produce material evidence in a [~~felony~~] criminal prosecution.

3 B. If a person under arrest for violation of an
4 offense enumerated in the Motor Vehicle Code refuses upon
5 request of a law enforcement officer to submit to chemical
6 tests designated by the law enforcement agency as provided in
7 Subsection A of this section and the person does not cause
8 great bodily injury of another person or there is probable
9 cause to believe the person has committed a misdemeanor while
10 under the influence of alcohol, cannabis or a controlled
11 substance, the person's charge may be aggravated pursuant to
12 the provisions of Section 66-8-102 NMSA 1978. The department,
13 upon receipt of a statement signed under penalty of perjury
14 from a law enforcement officer stating the officer's reasonable
15 grounds to believe the arrested person had been driving a motor
16 vehicle within this state while under the influence of
17 intoxicating liquor, cannabis or drugs and that, upon request,
18 the person refused to submit to a chemical test after being
19 advised that failure to submit could result in revocation of
20 the person's privilege to drive, shall revoke the person's New
21 Mexico driver's license or any nonresident operating privilege
22 for a period of one year or until all conditions for license
23 reinstatement are met, whichever is later.

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

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1 stating the officer's reasonable grounds to believe the
2 arrested person had been driving a motor vehicle within this
3 state while under the influence of intoxicating liquor and that
4 the person submitted to chemical testing pursuant to Section
5 66-8-107 NMSA 1978 and the test results indicated an alcohol
6 concentration in the person's blood or breath of eight one
7 hundredths or more if the person is twenty-one years of age or
8 older, four one hundredths or more if the person is driving a
9 commercial motor vehicle or two one hundredths or more if the
10 person is less than twenty-one years of age, shall revoke the
11 person's license or permit to drive or ~~[his]~~ the person's
12 nonresident operating privilege for a period of:

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

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

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

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1 subsection.

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

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

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

24 G. As used in this section, "cannabis" means:

25 (1) all parts of the plant genus Cannabis

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1 containing a delta-9-tetrahydrocannabinol concentration of more
2 than three-tenths percent on a dry weight basis, whether
3 growing or not; the seeds of the plant; the resin extracted
4 from any part of the plant; and every compound, manufacture,
5 salt, derivative, mixture or preparation of the plant, its
6 seeds or its resin;

7 (2) cannabis extract, which:

8 (a) includes a product obtained by
9 separating resins, tetrahydrocannabinols or other substances
10 from cannabis by extraction methods approved by the cannabis
11 control division of the regulation and licensing department;
12 and

13 (b) does not include the weight of any
14 other ingredient combined with cannabis extract to prepare
15 topical or oral administrations, food, drink or another
16 product; and

17 (3) a cannabis product that is or that
18 contains cannabis or cannabis extract, including edible or
19 topical products that may also contain other ingredients."

20 SECTION 5. Section 66-8-111.1 NMSA 1978 (being Laws 1984,
21 Chapter 72, Section 7, as amended) is amended to read:

22 "66-8-111.1. LAW ENFORCEMENT OFFICER AGENT FOR
23 DEPARTMENT--WRITTEN NOTICE OF REVOCATION AND RIGHT TO
24 HEARING.--

25 A. On behalf of the department, a law enforcement

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1 officer requesting a chemical test or directing the
2 administration of a chemical test pursuant to ~~[Section]~~
3 Sections 66-8-107 and 66-8-111 NMSA 1978 shall serve immediate
4 written notice of revocation and of right to a hearing before
5 the administrative hearings office pursuant to the Implied
6 Consent Act on a person who:

7 (1) refuses to permit chemical testing; or
8 (2) submits to a chemical test the results of
9 which indicate an alcohol concentration in the person's blood
10 or breath of:

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

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

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

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

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1 C. The law enforcement officer shall send to the
2 department the signed statement required pursuant to Section
3 66-8-111 NMSA 1978."

4 **SECTION 6.** Section 66-13-1 NMSA 1978 (being Laws 2003,
5 Chapter 241, Section 1) is amended to read:

6 "66-13-1. SHORT TITLE.--~~[Sections 1 through 13 of this~~
7 ~~act]~~ Chapter 66, Article 13 NMSA 1978 may be cited as the
8 "Boating While Intoxicated Act"."

9 **SECTION 7.** Section 66-13-6 NMSA 1978 (being Laws 2003,
10 Chapter 241, Section 6) is amended to read:

11 "66-13-6. [~~BLOOD-ALCOHOL~~] CHEMICAL BLOOD TESTS--PERSONS
12 QUALIFIED TO PERFORM TESTS--RELIEF FROM CIVIL AND CRIMINAL
13 LIABILITY.--Only a physician, licensed professional or
14 practical nurse, [~~or laboratory technician~~] emergency medical
15 technician or certified phlebotomist or a technologist employed
16 by a hospital or physician shall withdraw blood from a person
17 in the performance of a [~~blood-alcohol or drug~~] chemical blood
18 test. A physician, nurse, technician, phlebotomist or
19 technologist who withdraws blood from a person in the
20 performance of a [~~blood-alcohol or drug~~] chemical blood test
21 that has been directed by a law enforcement officer, or by a
22 judicial or probation officer, shall not be held liable in a
23 civil or criminal action for assault, battery, false
24 imprisonment or any conduct of a law enforcement officer,
25 except for negligence, nor shall a person assisting in the

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1 performance of the test, or a hospital wherein blood is
2 withdrawn in the performance of the test, be subject to civil
3 or criminal liability for assault, battery, false imprisonment
4 or any conduct of a law enforcement officer, except for
5 negligence."

6 SECTION 8. Section 66-13-7 NMSA 1978 (being Laws 2003,
7 Chapter 241, Section 7) is amended to read:

8 "66-13-7. [~~BLOOD-ALCOHOL~~] CHEMICAL BLOOD TEST--~~[LAW~~
9 ~~ENFORCEMENT, JUDICIAL OR PROBATION]~~ OFFICER UNAUTHORIZED TO
10 MAKE ARREST OR DIRECT TEST EXCEPT IN PERFORMANCE OF OFFICIAL
11 DUTIES [~~AUTHORIZED BY LAW~~].--Nothing in the Boating While
12 Intoxicated Act is intended to authorize a law enforcement
13 officer, or a judicial or probation officer, to make an arrest
14 or direct the performance of a [~~blood-alcohol or drug~~] chemical
15 blood test, except in the performance of [~~his~~] that officer's
16 official duties or as otherwise authorized by law."