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HOUSE BILL 457

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

TIMOTHY E. MACKO

AN ACT

RELATING TO MOTOR VEHICLES; INCREASING THE MANDATORY PERIOD OF
INCARCERATION FOR A PERSON WHO DRIVES WHEN HIS LICENSE IS
SUSPENDED OR REVOKED FOR DRIVING WHILE UNDER THE INFLUENCE OF
INTOXICATING LIQUOR OR DRUGS; AMENDING A SECTION OF THE NMSA
1978.

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

Section 1. Section 66-5-39 NMSA 1978 (being Laws 1978,
Chapter 35, Section 261, as amended) is amended to read:

"66-5-39. DRIVING WHILE LICENSE SUSPENDED OR REVOKED--
PROVIDING PENALTIES. --

A. Any person who drives a motor vehicle on any
public highway of this state at a time when his privilege to
do so is suspended or revoked and who knows or should have
known that his license was suspended or revoked is guilty of a

. 122196. 1GJ

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1 misdemeanor and shall be charged with a violation of this
2 section. Upon conviction, the person shall be punished,
3 notwithstanding the provisions of Section 31-18-13 NMSA 1978,
4 by imprisonment for not less than four days or more than three
5 hundred sixty-four days or participation for an equivalent
6 period of time in a certified alternative sentencing program,
7 and there may be imposed in addition a fine of not more than
8 one thousand dollars (\$1,000). When a person pays any or all
9 of the cost of participating in a certified alternative
10 sentencing program, the court may apply that payment as a
11 deduction to any fine imposed by the court. Notwithstanding
12 any other provision of law for suspension or deferment of
13 execution of a sentence, if the person's privilege to drive
14 was revoked for driving while under the influence of
15 intoxicating liquor or drugs or a violation of the Implied
16 Consent Act, upon conviction under this section, that person
17 shall be punished by imprisonment for not less than [~~seven~~
18 ~~consecutive days~~] six months and shall be fined not less than
19 three hundred dollars (\$300) or not more than one thousand
20 dollars (\$1,000) and the fine and imprisonment shall not be
21 suspended, deferred or taken under advisement. No other
22 disposition by plea of guilty to any other charge in
23 satisfaction of a charge under this section shall be
24 authorized if the person's privilege to drive was revoked for
25 driving while under the influence of intoxicating liquor or

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1 drugs or a violation of the Implied Consent Act. Any
2 municipal ordinance prohibiting driving with a suspended or
3 revoked license shall provide penalties no less stringent than
4 provided in this section.

5 B. In addition to any other penalties imposed
6 pursuant to the provisions of this section, when a person is
7 convicted pursuant to the provisions of this section or a
8 municipal ordinance that prohibits driving on a suspended or
9 revoked license, the motor vehicle the person was driving
10 shall be immobilized by an immobilization device for thirty
11 days, unless immobilization of the motor vehicle poses an
12 imminent danger to the health, safety or employment of the
13 convicted person's immediate family or the family of the owner
14 of the motor vehicle. The convicted person shall bear the
15 cost of immobilizing the motor vehicle.

16 C. The division, upon receiving a record of the
17 conviction of any person under this section upon a charge of
18 driving a vehicle while the license of the person was
19 suspended, shall extend the period of suspension for an
20 additional like period, and if the conviction was upon a
21 charge of driving while a license was revoked, the division
22 shall not issue a new license for an additional period of one
23 year from the date the person would otherwise have been
24 entitled to apply for a new license. "

25 Section 2. EFFECTIVE DATE. --The effective date of the
. 122196. 1GJ

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1 provisions of this act is July 1, 1998.

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