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HOUSE BILL 248

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Mimi Stewart

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO DRIVER'S LICENSES; INCREASING THE AVAILABILITY OF LIMITED DRIVER'S LICENSES SUBJECT TO CERTAIN CRITERIA AND CONDITIONS OF PROBATION; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1. Section 66-5-35 NMSA 1978 (being Laws 1978, Chapter 35, Section 257, as amended) is amended to read:

"66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR REVOCATION-- HEARING-- REVIEW. --

A. Upon suspension or revocation of a person's driver's license following conviction or adjudication as a delinquent under any law, ordinance or regulation relating to motor vehicles, a person may apply to the ~~[director]~~ department for a license or permit to drive, limited to use allowing him to engage in gainful employment or to attend

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1 school, except that no person shall be eligible to apply [~~for~~
2 ~~a limited license when the person's license was revoked or~~
3 ~~suspended pursuant to~~]:

4 (1) for a limited commercial driver's
5 license;

6 [~~(1)~~] (2) for a limited license when the
7 person's driver's license was revoked pursuant to the
8 provisions of the Implied Consent Act, except as provided in
9 Subsection B or Subsections C and D of this section; [or

10 ~~(2)]~~ (3) for a limited license when the
11 person's license was revoked pursuant to an offense for which
12 the person is a subsequent offender as defined in the Motor
13 Vehicle Code, except that a person who is convicted a second
14 or third time for driving under the influence of intoxicating
15 liquor or drugs, when the second or third conviction occurs
16 more than five years after the previous conviction, may apply
17 for and shall receive a limited license if he complies with
18 the requirements set forth in Subsections C and D of this
19 section; or

20 (4) for a limited license when the person's
21 driver's license was revoked pursuant to a conviction for
22 committing homicide by vehicle or great bodily injury by
23 vehicle, as provided in Section 66-8-101 NMSA 1978.

24 B. A person [~~who has had his license~~] whose
25 driver's license is revoked for the first time pursuant to the

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1 provisions of Paragraph (1) or (2) of Subsection C of Section
2 66-8-111 NMSA 1978 may apply for and shall receive a limited
3 license or permit thirty days after suspension or revocation
4 of his license if the person pays every fee, meets the
5 criteria for limited driving privileges established in rules
6 by the department and provides the [director] department with
7 documentation of the following:

8 (1) that the person is enrolled in [an
9 ~~approved DWI school and an approved alcohol screening program~~]
10 a DWI school approved by the traffic safety bureau;

11 (2) proof of financial responsibility
12 pursuant to the provisions of the Mandatory Financial
13 Responsibility Act; and either

14 (3) proof of gainful employment or gainful
15 self-employment and that the person needs a limited license to
16 travel to and from his place of employment; or

17 (4) that the person is enrolled in school and
18 needs a limited license to travel to and from school.

19 C. A person who is convicted a second or third
20 time for driving under the influence of intoxicating liquor or
21 drugs, when the second or third conviction occurs more than
22 five years after the previous conviction, may apply for and
23 shall receive a limited license if the person pays every fee,
24 meets the criteria for limited driving privileges established
25 in rule by the department and provides the department with

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1 documented proof:

2 (1) of enrollment in a DWI school approved by
3 the traffic safety bureau;

4 (2) of financial responsibility pursuant to
5 the provisions of the Mandatory Financial Responsibility Act;
6 and either

7 (3) of gainful employment or gainful self-
8 employment and that the person needs a limited license to
9 travel to and from his place of employment; or

10 (4) of enrollment in school and that the
11 person needs a limited license to travel to and from school.

12 D. In addition to the requirements set forth in
13 Subsection C of this section, a person who is convicted a
14 second or third time for driving under the influence of
15 intoxicating liquor or drugs shall provide the department with
16 his judgment and sentence. The judgment and sentence shall
17 attest that the person will be on probation for the entire
18 period that a limited license will be in effect and that, as a
19 condition of probation, the person shall have installed, on
20 the motor vehicle owned by the person or on the motor vehicle
21 most regularly driven by the person, an ignition interlock
22 device that uses a deep-lung analysis mechanism to make
23 impractical the operation of the motor vehicle if ethyl
24 alcohol is detected in the operator's breath. The ignition
25 interlock device shall be installed on the appropriate motor

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1 vehicle at the person's expense.

2 ~~[C.]~~ E. Upon receipt of ~~[the application, proof of~~
3 ~~financial responsibility for the future and a hearing as~~
4 ~~provided in Subsection D of this section, the director]~~ an
5 order approving the application for a limited license and
6 payment of the fee specified in this subsection, the
7 department shall issue a limited license or permit to the
8 applicant showing the limitations specified in the approved
9 application ~~[provided that the applicant meets established~~
10 ~~uniform criteria for limited driving privileges adopted by~~
11 ~~regulation of the department]~~. For each limited license or
12 permit to drive, the applicant shall pay to the ~~[division]~~
13 department a fee of forty-five dollars (\$45.00), which shall
14 be transferred to the state highway and transportation
15 department. All money collected under this subsection shall
16 be used for DWI prevention and education programs for
17 elementary and secondary school students. The state highway
18 and transportation department shall coordinate with the
19 department of health to ensure that there is no program
20 duplication. The limited license or permit to drive may be
21 suspended as provided in Section 66-5-30 NMSA 1978.

22 ~~[D.]~~ F. The ~~[director]~~ department, within twenty
23 days of receipt of an application for a limited driver's
24 license or permit pursuant to this section, shall afford the
25 applicant a hearing in the county in which the applicant

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1 resides, unless the [~~division~~] department and the licensee
2 agree that the hearing may be held in some other county. The
3 [~~director may, in his discretion,~~] department may extend the
4 twenty-day period, provided that the extension is in writing
5 and made no later than fifteen days after receipt of an
6 application. Upon hearing, the [~~director or his duly~~
7 ~~authorized~~] hearing officer designated by the department may
8 administer oaths and may issue subpoenas for the attendance of
9 witnesses and the production of relevant books and papers.
10 The [~~director~~] hearing officer shall make specific findings as
11 to whether the applicant has shown proof of financial
12 responsibility for the future and enrollment in an approved
13 DWI school and meets established uniform criteria for limited
14 driving privileges adopted by [~~regulation~~] rule of the
15 department. The [~~director~~] hearing officer shall enter an
16 order either approving or denying the applicant's request for
17 a limited license or permit to drive. If any of the specific
18 findings set forth in this subsection are not found by the
19 [~~director~~] hearing officer, the applicant's request for a
20 limited license or permit shall not be approved.

21 [E.] G. A person adversely affected by an order of
22 the [~~director~~] hearing officer may seek review within thirty
23 days in the district court in the county in which he resides.
24 [~~The district court, upon thirty days' written notice to the~~
25 ~~director, shall hear the case.~~] On review, it is for the

1 court to determine only whether the applicant met the
2 requirements in this section for issuance of a limited license
3 or permit to drive. "

4 Section 2. EFFECTIVE DATE. --The effective date of the
5 provisions of this act is July 1, 1999.

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 February 8, 1999

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8 Mr. Speaker:

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10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 HOUSE BILL 248

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16
17 1. On page 3, line 10, after "bureau" insert "and an
18 approved alcohol screening program".

19
20 2. On page 4, line 3, after "bureau" insert "and an
21 approved alcohol screening program".

22
23 3. On page 5, lines 4 and 5, strike "an order
24 approving the application" and insert in lieu thereof "a
25 fully completed application that complies with statutes and
rules".

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4. On page 5, line 23, strike "receipt" and insert in lieu thereof "denial".

5. On page 6, line 13, after "and" insert "an approved alcohol screening program and".

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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4 The roll call vote was 9 For 0 Against

5 Yes: 9

6 Excused: Luna, Sanchez, Thompson

7 Absent: None

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12 J: \99BillsWP\H0248

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FIRST SESSION

February 12, 1999

HOUSE FLOOR AMENDMENT number _____ to HOUSE BILL 248, as amended

Amendment sponsored by Representative Mimi Stewart

1. On page 2, line 9, strike "or Subsections C and D".

2. On page 3, line 2, after "1978" insert:

"or for the second or third time pursuant to the provisions of Paragraph (3) of Subsection C of Section 66-8-111 NMSA 1978 when the second or third conviction occurs more than five years after the previous conviction".

3. On page 3, line 13, strike "and either".

4. On page 3, between lines 13 and 14, insert the following new paragraph:

"(3) if the person's driver's license is revoked pursuant to

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the provisions of Paragraph (3) of Subsection C of Section 66-8-111 MSA 1978, the person shall provide proof that each motor vehicle to be operated by the person, if he receives a limited license, shall be equipped with an ignition interlock device installed and operated pursuant to rules adopted by the traffic safety bureau; and either".

5. On page 3, line 23, after "license" insert "thirty days after suspension or revocation of his license".

6. On page 4, line 19, after "shall" strike the remainder of the line, strike lines 20 through 24 and insert in lieu thereof:

'provide proof that each motor vehicle to be operated by the person is equipped with an ignition interlock device installed and operated pursuant to rules adopted by the traffic safety bureau. The ignition".

Mimi Stewart

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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