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SENATE BILL 256

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

INTRODUCED BY

Dede Feldman

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO MOTOR VEHICLES; ESTABLISHING A SYSTEM OF GRADUATED DRIVER'S LICENSES FOR PERSONS LESS THAN EIGHTEEN YEARS OF AGE; AMENDING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. Section 66-5-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 227, as amended) is amended to read:

"66-5-5. PERSONS NOT TO BE LICENSED. -- The division shall not issue a driver's license under the Motor Vehicle Code to any person:

A. who is under the age of [~~sixteen~~] eighteen years, except the division may, in its discretion, issue:

(1) a restricted instruction permit [~~or a restricted license~~] to [~~students fourteen~~] a person fifteen years of age or over who is enrolled in and attending or has

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1 completed a driver education course that includes a DWI
2 education and prevention component approved by the bureau or
3 offered by a public school;

4 ~~[(2) a license to any person fifteen years of~~
5 ~~age or older who has satisfactorily completed a driver~~
6 ~~education course that is approved by the bureau or offered by~~
7 ~~a public school that includes both a DWI education and~~
8 ~~prevention component and practice driving; and]~~

9 (2) a provisional license to any person
10 fifteen years and six months of age or older:

11 (a) who has completed a driver
12 education course approved by the bureau or offered by a public
13 school that includes a DWI education and prevention component;
14 and

15 (b) who has successfully completed a
16 practice driving component;

17 (3) a driver's license to any person sixteen
18 years and six months of age or older:

19 (a) who has had a provisional license
20 for the twelve-month period immediately preceding the date of
21 the application for the driver's license;

22 (b) who has complied with restrictions
23 on that license; and

24 (c) who has not been convicted of a
25 traffic violation that was committed during this period; and

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~~[(3)]~~ (4) to any person thirteen years of age or older who passes an examination prescribed by the division, a license restricted to the operation of a motorcycle, provided:

(a) the motor is not in excess of one hundred cubic centimeters displacement;

(b) no holder of an initial license may carry any other passenger while driving a motorcycle; and

(c) the director approves and certifies motorcycles as not in excess of one hundred cubic centimeters displacement and by regulation provides for a method of identification of such motorcycles by all law enforcement officers;

B. whose license or driving privilege has been suspended or denied, during the period of suspension or denial, or to any person whose license has been revoked, except as provided in Section 66-5-32 NMSA 1978;

C. who is an habitual drunkard, an habitual user of narcotic drugs or an habitual user of any drug to a degree which renders him incapable of safely driving a motor vehicle;

D. who, within any ten-year period, is three times convicted of driving a motor vehicle while under the influence of intoxicating liquor or narcotic drug regardless of whether the convictions are under the laws or ordinances of this state

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1 or any municipality or county of this state or under the laws
2 or ordinances of any other state, the District of Columbia or
3 any governmental subdivision thereof. Ten years after being
4 so convicted for the third time, the person may apply to any
5 district court of this state for restoration of the license,
6 and the court, upon good cause being shown, may order
7 restoration of the license applied for; provided that the
8 person has not been subsequently convicted of driving a motor
9 vehicle while under the influence of intoxicating liquor or
10 drug in the ten-year period prior to his request for
11 restoration of his license. Upon issuance of the order of
12 restoration, a certified copy shall immediately be forwarded
13 to the division, and if the person is otherwise qualified for
14 the license applied for, the three previous convictions shall
15 not prohibit issuance of the license applied for. Should the
16 person be subsequently once convicted of driving a motor
17 vehicle while under the influence of intoxicating liquor or
18 drug, the division shall revoke his license for five years,
19 after which time he may apply for restoration of his license
20 as provided in this subsection;

21 E. who has previously been afflicted with or who
22 is suffering from any mental disability or disease which would
23 render him unable to drive a motor vehicle with safety upon
24 the highways and who has not, at the time of application, been
25 restored to health;

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1 F. who is required by the Motor Vehicle Code to
2 take an examination, unless he has successfully passed the
3 examination;

4 G. who is required under the laws of this state to
5 deposit proof of financial responsibility and who has not
6 deposited the proof;

7 H. when the director has good cause to believe
8 that the operation of a motor vehicle on the highways by the
9 person would be inimical to public safety or welfare; or

10 I. as a motorcycle driver who is less than
11 eighteen years of age and who has not presented a certificate
12 or other evidence of having successfully completed a
13 motorcycle driver education program licensed or offered in
14 conformance with regulations of the bureau. "

15 Section 2. Section 66-5-8 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 230, as amended) is amended to read:

17 "66-5-8. PROVISIONAL LICENSES--INSTRUCTION PERMITS [AND]
18 --DRIVER EDUCATION STUDENTS--TEMPORARY LICENSES.--

19 A. A person fifteen years and six months of age or
20 older who has completed a driver education course that
21 includes a DWI prevention and education program approved by
22 the bureau or offered by a public school and who has
23 successfully completed a practice driving component may apply
24 to the division for a provisional license. Successful
25 completion of a practice driving component shall include not

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1 less than fifty hours of actual driving by the applicant,
2 including not less than ten hours of night driving. The
3 applicant's parent or guardian shall certify that the
4 applicant has completed the practice driving component.

5 B. When operating a motor vehicle, a provisional
6 licensee may be accompanied by not more than one passenger
7 under the age of twenty-one who is not a member of the
8 licensee's immediate family. A provisional license entitles
9 the licensee, while having the license in his immediate
10 possession, to operate a motor vehicle upon the public
11 highways between the hours of 5:00 a.m. and midnight. A
12 provisional licensee may drive at any hour if:

13 (1) accompanied by a licensed driver twenty-
14 one years of age or older;

15 (2) required by family necessity as evidenced
16 by a signed statement of a parent or guardian;

17 (3) required by medical necessity as
18 evidenced by a signed statement from medical personnel;

19 (4) driving to and from work as evidenced by
20 a signed statement from the licensee's employer;

21 (5) driving to and from school or a religious
22 activity as evidenced by a signed statement of a school or
23 religious official or a parent or guardian; or

24 (6) required due to a medical emergency.

25 C. A provisional license shall not be issued to a

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1 person convicted of a traffic violation in the ninety days
2 prior to applying for a provisional license. A provisional
3 license shall be in such form as to be readily distinguishable
4 from an unrestricted driver's license and shall contain an
5 indication that the licensee may drive without supervision.

6 ~~[A.]~~ D. Any person fifteen years of age or older
7 who is enrolled in and attending or has completed a driver
8 education course that includes a DWI prevention and education
9 program approved by the bureau or offered by a public school
10 may apply to the division for an instruction permit. The
11 division, in its discretion after the applicant has
12 successfully passed all parts of the examination other than
13 the driving test, may issue to the applicant an instruction
14 permit. This permit entitles the applicant, while having the
15 permit in his immediate possession, to drive a motor vehicle
16 upon the public highways for a period of six months when
17 accompanied by a licensed driver twenty-one years of age or
18 older who has been licensed for at least three years in this
19 state or in another state and who is occupying a seat beside
20 the driver except in the event the permittee is operating a
21 motorcycle. ~~[The instruction permit may be renewed or a new~~
22 ~~permit issued for an additional period of six months.]~~

23 ~~B.~~ ~~The division upon receiving proper application~~
24 ~~may in its discretion issue a restricted instruction permit~~
25 ~~effective for a restricted period of a school year or more to~~

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1 ~~an applicant fourteen]~~

2 E. A person fifteen years of age or older who is a
3 student enrolled in and attending a driver education course
4 that is approved by the bureau or offered by a public school
5 and that includes both a DWI education and prevention
6 component and practice driving component may drive a motor
7 vehicle on the highways of this state even though [~~the~~
8 ~~applicant]~~ he has not reached the legal age to be eligible for
9 a driver's license [~~The instruction permit entitles the~~
10 ~~permittee, when he has the permit in his immediate possession,~~
11 ~~to operate a motor vehicle only on a designated highway or~~
12 ~~within a designated area but only when]~~ or a provisional
13 license. In completing the practice driving component, a
14 person may only operate a motor vehicle on a public highway
15 if:

16 (1) an approved instructor is occupying a
17 seat beside the [~~permittee]~~ person; or

18 (2) a licensed driver twenty-one years of age
19 or older who has been licensed for at least three years in
20 this state or another state is occupying a seat beside the
21 person.

22 [~~E.~~] F. The division in its discretion may issue a
23 temporary driver's permit to an applicant for a driver's
24 license permitting him to operate a motor vehicle while the
25 division is completing its investigation and determination of

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1 all facts relative to the applicant's right to receive a
2 driver's license. The permit [~~must~~] shall be in his immediate
3 possession while operating a motor vehicle, and it shall be
4 invalid when the applicant's license has been issued or for
5 good cause has been refused.

6 [~~D-~~] G. Any holder of an instruction permit for a
7 motorcycle shall not carry any other passenger while operating
8 a motorcycle. "

9 Section 3. Section 66-5-9 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 231, as amended) is amended to read:

11 "66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE,
12 PROVISIONAL LICENSE OR INSTRUCTION PERMIT. --

13 A. Every application for an instruction permit,
14 provisional license or [~~for a~~] driver's license shall be made
15 upon a form furnished by the department. Every application
16 shall be accompanied by the proper fee. For permits,
17 provisional licenses or driver's licenses other than those
18 issued pursuant to the New Mexico Commercial Driver's License
19 Act, submission of a complete application with payment of the
20 fee entitles the applicant to not more than three attempts to
21 pass the examination within a period of six months from the
22 date of application.

23 B. Every application shall contain the full name,
24 social security number, date of birth, sex and New Mexico
25 residence address of the applicant and briefly describe the

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1 applicant and indicate whether the applicant has previously
2 been licensed as a driver and, if so, when and by what state
3 or country and whether any such license has ever been
4 suspended or revoked or whether an application has ever been
5 refused and, if so, the date of and reason for the suspension,
6 revocation or refusal.

7 C. Every applicant shall indicate whether he has
8 been convicted of driving while under the influence of
9 intoxicating liquor or drugs in this state or in any other
10 jurisdiction. Failure to disclose any such conviction
11 prevents the issuance of a driver's license, temporary license
12 or instruction permit for a period of one year if the failure
13 to disclose is discovered by the department prior to issuance.
14 If the nondisclosure is discovered by the department
15 subsequent to issuance, the department shall revoke the
16 driver's license, temporary license or instruction permit for
17 a period of one year. Intentional and willful failure to
18 disclose, as required in this subsection, is a misdemeanor.

19 D. Every applicant less than eighteen years of age
20 who is making an application to be granted his first New
21 Mexico driver's license shall submit evidence that he has:

22 (1) successfully completed a driver education
23 course that included a DWI prevention and education program
24 approved by the bureau or offered by a public school. The
25 bureau may accept verification of driver education course

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1 completion from another state if the driver education course
2 substantially meets the requirements of the bureau for a
3 course offered in New Mexico;

4 (2) had a provisional license for the twelve-
5 month period immediately preceding the date of the application
6 for the driver's license;

7 (3) complied with restrictions on that
8 license;

9 (4) not been convicted of a traffic violation
10 committed during that period;

11 (5) not been cited for a traffic violation
12 that is pending at the time of his application; and

13 (6) not been adjudicated for an offense
14 involving the use of alcohol during that period and that there
15 are no pending adjudications alleging an offense involving the
16 use of alcohol at the time of his application.

17 E. Every applicant eighteen years of age and over,
18 but less than forty-five years of age, who is making an
19 application to be granted his first New Mexico driver's
20 license shall submit evidence with his application that he has
21 successfully completed a bureau-approved DWI prevention and
22 education program.

23 F. Every applicant forty-five years of age and
24 over, who has not been previously licensed in other
25 jurisdictions for a cumulative total of more than ten years or

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1 who has been convicted of driving under the influence of
2 intoxicating liquor or drugs, and who is making an application
3 to be granted his first New Mexico driver's license, shall
4 submit evidence with his application that he has successfully
5 completed a bureau-approved DWI prevention and education
6 program.

7 G. Whenever application is received from a person
8 previously licensed in another jurisdiction, the department
9 may request a copy of the driver's record from the other
10 jurisdiction. When received, the driver's record may become a
11 part of the driver's record in this state with the same effect
12 as though entered on the driver's record in this state in the
13 original instance.

14 H. Whenever the department receives a request for
15 a driver's record from another licensing jurisdiction, the
16 record shall be forwarded without charge.

17 I. This section does not apply to driver's
18 licenses issued pursuant to the New Mexico Commercial Driver's
19 License Act. "

20 Section 4. Section 66-5-11 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 233) is amended to read:

22 "66-5-11. APPLICATION OF MINORS. --

23 A. The application of any person under the age of
24 eighteen years for an instruction permit, provisional license
25 or driver's license shall be signed and verified by the

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1 father, mother or guardian or, in the event there is no parent
2 or guardian, [~~then~~] by another responsible adult who is
3 willing to assume the obligation imposed under this article
4 upon a person signing the application of a minor.

5 B. Any negligence or willful misconduct of a minor
6 under the age of eighteen years when driving a motor vehicle
7 upon a highway shall be imputed to the person who has signed
8 the application of [~~such~~] the minor for a permit or license,
9 which person shall be jointly and severally liable with [~~such~~]
10 the minor for any damages caused by [~~such~~] the negligence or
11 willful misconduct except as otherwise provided in Subsection
12 C of this section.

13 C. In the event a minor deposits or there is
14 deposited upon his behalf proof of financial responsibility in
15 respect to the operation of a motor vehicle owned by him or,
16 if not the owner of a motor vehicle, [~~then~~] with respect to
17 the operation of any motor vehicle, in form and in amounts as
18 required under the motor vehicle financial responsibility laws
19 of this state, [~~then~~] the division may accept the application
20 of [~~such~~] the minor when signed by one parent or the guardian
21 of [~~such~~] the minor, and, while such proof is maintained,
22 [~~such~~] the parent or guardian [~~shall~~] is not [~~be~~] subject to
23 the liability imposed under Subsection B of this section. "

24 Section 5. Section 66-5-12 NMSA 1978 (being Laws 1978,
25 Chapter 35, Section 234) is amended to read:

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1 "66-5-12. RELEASE FROM LIABILITY. -- Any person who has
2 signed the application of a minor for a driver's license or
3 provisional license may thereafter file with the division a
4 verified written request that the license of [~~said~~] the minor
5 so granted [~~shall~~] be [~~cancelled~~] canceled. Thereupon, the
6 division shall cancel the license of [~~said~~] the minor, and the
7 person who signed the application of [~~such~~] the minor shall be
8 relieved from the liability imposed under this article, by
9 reason of having signed [~~such~~] the application, on account of
10 any subsequent negligence or willful misconduct of [~~such~~] the
11 minor in operating a motor vehicle. "

12 Section 6. Section 66-5-13 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 235) is amended to read:

14 "66-5-13. CANCELLATION OF LICENSE UPON DEATH OF PERSON
15 SIGNING MINOR'S APPLICATION. -- The division upon receipt of
16 satisfactory evidence of the death of the person who signed
17 the application of a minor for a driver's license or
18 provisional license shall cancel [~~such~~] the license and shall
19 not issue a new license until such time as a new application,
20 duly signed and verified, is made as required by this article.
21 This provision [~~shall~~] does not apply in the event the minor
22 has attained the age of eighteen years. "

23 Section 7. Section 66-5-24 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 246) is amended to read:

25 "66-5-24. AUTHORITY OF DIVISION TO CANCEL LICENSE. --

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1 A. The division is authorized to cancel any
2 driver's license or provisional license upon determining that
3 the licensee was not entitled to the issuance [~~thereof~~] of the
4 license or that [~~said~~] the licensee failed to give the
5 required or correct information in his application or
6 committed any fraud in making [~~such~~] the application.

7 B. Upon such cancellation, the licensee must
8 surrender the license so [~~cancelled~~] canceled to the
9 division. "

10 Section 8. Section 66-5-29 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 251, as amended by Laws 1993, Chapter 66,
12 Section 4 and also by Laws 1993, Chapter 78, Section 4) is
13 amended to read:

14 "66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION. --

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

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

23 (2) any offense rendering a person a "first
24 offender" as defined in the Motor Vehicle Code, if that person
25 does not attend a driver rehabilitation program pursuant to

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1 Subsection [H] E of Section 66-8-102 NMSA 1978;

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

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

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

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

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

17 B. Any person whose license has been revoked under
18 this section, except as provided in Subsection C, D or E of
19 this section, shall not be entitled to apply for or receive
20 any new license until the expiration of one year from the date
21 of the last application on which the revoked license was
22 surrendered to and received by the division, if no appeal is
23 filed, or one year from the date that the revocation is final
24 and he has exhausted his rights to an appeal.

25 C. Any person who upon adjudication as a

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1 delinquent or conviction is subject to license revocation
2 under this section for an offense pursuant to which he was
3 also subject to license revocation pursuant to Section
4 66-8-111 NMSA 1978 shall have his license revoked for that
5 offense for a combined period of time equal to one year.

6 D. Upon receipt of an order from a court pursuant
7 to Subsection J of Section [~~32-1-34~~] 32A-2-19 NMSA 1978 or
8 Subsection G of Section [~~32-1-36~~] 32A-2-22 NMSA 1978, the
9 division shall revoke the driver's license or driving
10 privileges for a period of time in accordance with these
11 provisions.

12 E. Upon receipt from a district court of a record
13 of conviction for the offense of shooting at or from a motor
14 vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978
15 or of a conviction for a conspiracy or an attempt to commit
16 that offense, the division shall revoke the driver's licenses
17 or driving privileges of the convicted person. Any person
18 whose license or privilege has been revoked pursuant to the
19 provisions of this subsection shall not be entitled to apply
20 for or receive any new license or privilege until the
21 expiration of one year from the date of the last application
22 on which the revoked license was surrendered to and received
23 by the division, if no appeal is filed, or one year from the
24 date that the revocation is final and [~~he~~] the person has
25 exhausted his rights to an appeal. "

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1 Section 9. Section 66-5-30 NMSA 1978 (being Laws 1978,
2 Chapter 35, Section 252, as amended) is amended to read:

3 "66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE
4 LICENSE. --

5 A. The division is authorized to suspend the
6 driver's license or provisional license of a driver without
7 preliminary hearing upon a showing by its records or other
8 sufficient evidence that the licensee:

9 (1) has been convicted of an offense for
10 which mandatory revocation of license is required upon
11 conviction;

12 (2) has been convicted as a driver in any
13 accident resulting in the death or personal injury of another
14 or serious property damage;

15 (3) has been convicted with such frequency of
16 offenses against traffic laws or regulations governing motor
17 vehicles as to indicate a disrespect for traffic laws and a
18 disregard for the safety of other persons on the highways;

19 (4) is an habitually reckless or negligent
20 driver of a motor vehicle;

21 (5) is incompetent to drive a motor vehicle;

22 (6) has permitted an unlawful or fraudulent
23 use of the license;

24 (7) has been convicted of an offense in
25 another state which if committed in this state would be

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1 grounds for suspension or revocation;

2 (8) has violated provisions stipulated by a
3 district court in limitation of certain driving privileges;

4 (9) has failed to fulfill a signed promise to
5 appear or notice to appear in court as evidenced by notice
6 from a court, whenever appearance is required by law or by the
7 court as a consequence of any charge or conviction under the
8 Motor Vehicle Code;

9 (10) has failed to pay a penalty assessment
10 within thirty days of the date of issuance; or

11 (11) has accumulated seven points, but less
12 than eleven points, and when the division has received a
13 recommendation from a municipal or magistrate judge that the
14 [licensee] license be suspended for a period not to exceed
15 three months.

16 B. Upon suspending the license of any person as
17 authorized in this section, the division shall immediately
18 notify the licensee in writing and upon his request shall
19 afford him an opportunity for a hearing as early as
20 practicable within not to exceed twenty days, not counting
21 Saturdays, Sundays and legal holidays, after receipt of the
22 request in the county wherein the licensee resides unless the
23 division and the licensee agree that the hearing may be held
24 in some other county; provided that the hearing request is
25 received within twenty days from the date that the suspension

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1 was deposited in the United States mail. The director may, in
2 his discretion, extend the twenty-day period. Upon the
3 hearing, the director or his duly authorized agent may
4 administer oaths and may issue subpoenas for the attendance of
5 witnesses and the production of relevant books and papers and
6 may require a reexamination of the licensee. Upon the
7 hearing, the division shall either rescind its order of
8 suspension or, good cause appearing therefor, may continue,
9 modify or extend the suspension of the license or revoke the
10 license. "

11 Section 10. APPROPRIATION. --Two hundred fifty thousand
12 dollars (\$250,000) is appropriated from the general fund to
13 the motor vehicle division of the taxation and revenue
14 department for expenditure in fiscal year 2000 for the purpose
15 of implementing the provisions of this act. Any unexpended or
16 unencumbered balance remaining at the end of fiscal year 2000
17 shall revert to the general fund.

18 Section 11. EFFECTIVE DATE. --The effective date of the
19 provisions of this act is July 1, 1999.

3
4
5 February 5, 1999

6 Mr. President:

7
8 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
9 referred

10
11 SENATE BILL 256

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:

15
16 1. On page 1, line 23, after "(1)" strike "a restricted"
17 and insert in lieu thereof "an".

18
19 2. On page 5, line 22, after "school" insert ", who has
20 had an instruction permit for at least six months".

21
22 3. On page 11, line 14, after "alcohol" insert "or
23 drugs". ,

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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Shannon Robinson, Chairman

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Garcia, Howes, Stockard

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FIRST SESSION, 1999

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Absent: None

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1 FORTY- FOURTH LEGISLATURE

2 FIRST SESSION, 1999

SB 256/a

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6 February 22, 1999

7
8 Mr. President:

9
10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 SENATE BILL 256, as amended

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

16
17
18 1. On page 1, line 13, after "AMENDING" insert "AND
19 ENACTING".

20
21 2. On page 2, line 13, after "component" insert "and has
22 had an instruction permit for at least six months".

23
24 3. On page 2, line 23, strike "and".

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

SJC/SB 256

Page 25

4. On page 2, after line 25, insert the following new subparagraph to read:

"(d) who has not been adjudicated for an offense involving the use of alcohol or drugs during that period and who has no pending adjudications alleging an offense involving the use of alcohol or drugs at the time of his application; and".

5. On page 10, line 11, after "driver's license," insert "provisional license,".

6. On page 10, line 16, after "driver's license," insert "provisional license,".

7. On page 11, line 16, after "alcohol" insert "or drugs".

8. On page 14, line 2, after "for" insert "an instruction permit,".

9. On page 14, line 17, after "for" insert "an instruction

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permi t, ".
permi t, ".

10. On page 15, line 1, after "any" insert "instruction
permi t, ".

11. On page 15, line 15, after the second occurrence of
"the" insert "instruction permi t, ".

12. On page 18, line 5, after the second occurrence of
"the" insert "instruction permi t, ".

13. On page 20, between lines 10 and 11, insert the
following new section:

"Section 10. A new Section 66-5-44.1 NMSA 1978 is enacted
to read:

"66-5-44.1. [NEW MATERIAL] PROVISIONAL LICENSES-- DURATION
AND FEE-- APPROPRIATION. --

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A. There shall be paid to the division a fee of thirteen dollars (\$13.00) for each provisional license or duplicate provisional license. Each provisional license shall be for a term provided for in Section 66-5-21 NMSA 1978.

B. The director with the approval of the governor may increase the amount of the fee provided for in this section by an amount not to exceed three dollars (\$3.00) for the purpose of implementing an enhanced driver's license system. The additional amounts collected pursuant to this subsection are appropriated to the division to defray the expense of the new system of licensing.

C. The fees collected pursuant to the provisions of Subsection A of this section are appropriated to the division to defray the expense of implementing the new system of provisional licensing. "".

14. Renumber the succeeding sections accordingly.

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15. On page 20, line 19, strike "July 1, 1999" and insert
in lieu thereof "January 1, 2000".,
and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

Michael S. Sanchez, Chairman

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

. 124661. 3

underscored material = new
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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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Yes: 5

No: None

Excused: Aragon, Davis, Tsosie

Absent: None

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1 FORTY-FOURTH LEGISLATURE
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6 FORTY-FOURTH LEGISLATURE
7 FIRST SESSION, 1999

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12 February 27, 1999

13
14 Mr. President:

15
16 Your FINANCE COMMITTEE, to whom has been referred

17
18 SENATE BILL 256, as amended

19
20 has had it under consideration and reports same with
21 recommendation that it DO NOT PASS, but that

22
23 SENATE FINANCE COMMITTEE SUBSTITUTE FOR
24 SENATE BILL 256

25 . 124661. 3

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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DO PASS.

Respectfully submitted,

Ben D. Altamirano, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

No: 0

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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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Excused: Carraro, Rodriguez, Tsosie, Wilson

Absent: None

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~~[bracketed material]~~ = delete

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SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 256

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

AN ACT

RELATING TO MOTOR VEHICLES; ESTABLISHING A SYSTEM OF GRADUATED
DRIVER'S LICENSES FOR PERSONS LESS THAN EIGHTEEN YEARS OF AGE;
AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 66-5-5 NMSA 1978 (being Laws 1978,
Chapter 35, Section 227, as amended) is amended to read:

"66-5-5. PERSONS NOT TO BE LICENSED. --The division shall
not issue a driver's license under the Motor Vehicle Code to
any person:

A. who is under the age of [~~sixteen~~] eighteen years,
except the division may, in its discretion, issue:

(1) [~~a restricted~~] an instruction permit [~~or a
restricted license~~] to [~~students fourteen~~] a person fifteen
years of age or over who is enrolled in and attending or has

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1 completed a driver education course that includes a DWI
2 education and prevention component approved by the bureau or
3 offered by a public school;

4 ~~[(2) a license to any person fifteen years of~~
5 ~~age or older who has satisfactorily completed a driver~~
6 ~~education course that is approved by the bureau or offered by~~
7 ~~a public school that includes both a DWI education and~~
8 ~~prevention component and practice driving; and]~~

9 (2) a provisional license to any person fifteen
10 years and six months of age or older:

11 (a) who has completed a driver education
12 course approved by the bureau or offered by a public school
13 that includes a DWI education and prevention component and has
14 had an instruction permit for at least six months; and

15 (b) who has successfully completed a
16 practice driving component;

17 (3) a driver's license to any person sixteen
18 years and six months of age or older:

19 (a) who has had a provisional license for
20 the twelve-month period immediately preceding the date of the
21 application for the driver's license;

22 (b) who has complied with restrictions on
23 that license;

24 (c) who has not been convicted of a traffic
25 violation that was committed during the ninety days prior to

1 applying for a driver's license; and

2 (d) who has not been adjudicated for an
3 offense involving the use of alcohol or drugs during that
4 period and who has no pending adjudications alleging an
5 offense involving the use of alcohol or drugs at the time of
6 his application; and

7 [~~3~~] (4) to any person thirteen years of age
8 or older who passes an examination prescribed by the division,
9 a license restricted to the operation of a motorcycle,
10 provided:

11 (a) the motor is not in excess of one
12 hundred cubic centimeters displacement;

13 (b) no holder of an initial license may
14 carry any other passenger while driving a motorcycle; and

15 (c) the director approves and certifies
16 motorcycles as not in excess of one hundred cubic centimeters
17 displacement and by regulation provides for a method of
18 identification of such motorcycles by all law enforcement
19 officers;

20 B. whose license or driving privilege has been
21 suspended or denied, during the period of suspension or
22 denial, or to any person whose license has been revoked,
23 except as provided in Section 66-5-32 NMSA 1978;

24 C. who is an habitual drunkard, an habitual user of
25 narcotic drugs or an habitual user of any drug to a degree

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underscored material = new
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1 which renders him incapable of safely driving a motor vehicle;

2 D. who, within any ten-year period, is three times
3 convicted of driving a motor vehicle while under the influence
4 of intoxicating liquor or narcotic drug regardless of whether
5 the convictions are under the laws or ordinances of this state
6 or any municipality or county of this state or under the laws
7 or ordinances of any other state, the District of Columbia or
8 any governmental subdivision thereof. Ten years after being
9 so convicted for the third time, the person may apply to any
10 district court of this state for restoration of the license,
11 and the court, upon good cause being shown, may order
12 restoration of the license applied for; provided that the
13 person has not been subsequently convicted of driving a motor
14 vehicle while under the influence of intoxicating liquor or
15 drug in the ten-year period prior to his request for
16 restoration of his license. Upon issuance of the order of
17 restoration, a certified copy shall immediately be forwarded
18 to the division, and if the person is otherwise qualified for
19 the license applied for, the three previous convictions shall
20 not prohibit issuance of the license applied for. Should the
21 person be subsequently once convicted of driving a motor
22 vehicle while under the influence of intoxicating liquor or
23 drug, the division shall revoke his license for five years,
24 after which time he may apply for restoration of his license
25 as provided in this subsection;

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1 E. who has previously been afflicted with or who is
2 suffering from any mental disability or disease which would
3 render him unable to drive a motor vehicle with safety upon
4 the highways and who has not, at the time of application, been
5 restored to health;

6 F. who is required by the Motor Vehicle Code to take
7 an examination, unless he has successfully passed the
8 examination;

9 G. who is required under the laws of this state to
10 deposit proof of financial responsibility and who has not
11 deposited the proof;

12 H. when the director has good cause to believe that
13 the operation of a motor vehicle on the highways by the person
14 would be inimical to public safety or welfare; or

15 I. as a motorcycle driver who is less than eighteen
16 years of age and who has not presented a certificate or other
17 evidence of having successfully completed a motorcycle driver
18 education program licensed or offered in conformance with
19 regulations of the bureau. "

20 Section 2. Section 66-5-8 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 230, as amended) is amended to read:

22 "66-5-8. PROVISIONAL LICENSES--INSTRUCTION PERMITS [~~AND~~]
23 --DRIVER EDUCATION STUDENTS--TEMPORARY LICENSES.--

24 A. A person fifteen years and six months of age or
25 older who has completed a driver education course that

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1 includes a DWI prevention and education program approved by
2 the bureau or offered by a public school, who has had an
3 instruction permit for at least six months, and who has
4 successfully completed a practice driving component may apply
5 to the division for a provisional license. Successful
6 completion of a practice driving component shall include not
7 less than fifty hours of actual driving by the applicant,
8 including not less than ten hours of night driving. The
9 applicant's parent or guardian shall certify that the
10 applicant has completed the practice driving component.

11 B. When operating a motor vehicle, a provisional
12 licensee may be accompanied by not more than one passenger
13 under the age of twenty-one who is not a member of the
14 licensee's immediate family. A provisional license entitles
15 the licensee, while having the license in his immediate
16 possession, to operate a motor vehicle upon the public
17 highways between the hours of 5:00 a.m. and midnight. A
18 provisional licensee may drive at any hour if:

19 (1) accompanied by a licensed driver twenty-one
20 years of age or older;

21 (2) required by family necessity as evidenced
22 by a signed statement of a parent or guardian;

23 (3) required by medical necessity as evidenced
24 by a signed statement from medical personnel;

25 (4) driving to and from work as evidenced by a

1 signed statement from the licensee's employer;

2 (5) driving to and from school or a religious
 3 activity as evidenced by a signed statement of a school or
 4 religious official or a parent or guardian; or

5 (6) required due to a medical emergency.

6 C. A provisional license shall not be issued to a
 7 person convicted of a traffic violation in the ninety days
 8 prior to applying for a provisional license. A provisional
 9 license shall be in such form as to be readily distinguishable
 10 from an unrestricted driver's license and shall contain an
 11 indication that the licensee may drive without supervision.

12 ~~[A.]~~ D. Any person fifteen years of age or older who
 13 is enrolled in and attending or has completed a driver
 14 education course that includes a DWI prevention and education
 15 program approved by the bureau or offered by a public school
 16 may apply to the division for an instruction permit. The
 17 division, in its discretion after the applicant has
 18 successfully passed all parts of the examination other than
 19 the driving test, may issue to the applicant an instruction
 20 permit. This permit entitles the applicant, while having the
 21 permit in his immediate possession, to drive a motor vehicle
 22 upon the public highways for a period of six months when
 23 accompanied by a licensed driver twenty-one years of age or
 24 older who has been licensed for at least three years in this
 25 state or in another state and who is occupying a seat beside

1 the driver except in the event the permittee is operating a
2 motorcycle. [~~The instruction permit may be renewed or a new~~
3 ~~permit issued for an additional period of six months.~~

4 B. ~~The division upon receiving proper application~~
5 ~~may in its discretion issue a restricted instruction permit~~
6 ~~effective for a restricted period of a school year or more to~~
7 ~~an applicant fourteen]~~

8 E. A person fifteen years of age or older who is a
9 student enrolled in and attending a driver education course
10 that is approved by the bureau or offered by a public school
11 and that includes both a DWI education and prevention
12 component and practice driving component may drive a motor
13 vehicle on the highways of this state even though [~~the~~
14 ~~applicant]~~ he has not reached the legal age to be eligible for
15 a driver's license [~~The instruction permit entitles the~~
16 ~~permittee, when he has the permit in his immediate possession,~~
17 ~~to operate a motor vehicle only on a designated highway or~~
18 ~~within a designated area but only when]~~ or a provisional
19 license. In completing the practice driving component, a
20 person may only operate a motor vehicle on a public highway
21 if:

22 (1) an approved instructor is occupying a seat
23 beside the [permittee] person; or

24 (2) a licensed driver twenty-one years of age
25 or older who has been licensed for at least three years in

1 this state or another state is occupying a seat beside the
 2 person.

3 ~~[E-]~~ F. The division in its discretion may issue a
 4 temporary driver's permit to an applicant for a driver's
 5 license permitting him to operate a motor vehicle while the
 6 division is completing its investigation and determination of
 7 all facts relative to the applicant's right to receive a
 8 driver's license. The permit ~~[must]~~ shall be in his immediate
 9 possession while operating a motor vehicle, and it shall be
 10 invalid when the applicant's license has been issued or for
 11 good cause has been refused.

12 ~~[D-]~~ G. Any holder of an instruction permit for a
 13 motorcycle shall not carry any other passenger while operating
 14 a motorcycle. "

15 Section 3. Section 66-5-9 NMSA 1978 (being Laws 1978,
 16 Chapter 35, Section 231, as amended) is amended to read:

17 "66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE,
 18 PROVISIONAL LICENSE OR INSTRUCTION PERMIT. --

19 A. Every application for an instruction permit,
 20 provisional license or ~~[for a]~~ driver's license shall be made
 21 upon a form furnished by the department. Every application
 22 shall be accompanied by the proper fee. For permits,
 23 provisional licenses or driver's licenses other than those
 24 issued pursuant to the New Mexico Commercial Driver's License
 25 Act, submission of a complete application with payment of the

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1 fee entitles the applicant to not more than three attempts to
2 pass the examination within a period of six months from the
3 date of application.

4 B. Every application shall contain the full name,
5 social security number, date of birth, sex and New Mexico
6 residence address of the applicant and briefly describe the
7 applicant and indicate whether the applicant has previously
8 been licensed as a driver and, if so, when and by what state
9 or country and whether any such license has ever been
10 suspended or revoked or whether an application has ever been
11 refused and, if so, the date of and reason for the suspension,
12 revocation or refusal.

13 C. Every applicant shall indicate whether he has
14 been convicted of driving while under the influence of
15 intoxicating liquor or drugs in this state or in any other
16 jurisdiction. Failure to disclose any such conviction
17 prevents the issuance of a driver's license, provisional
18 license, temporary license or instruction permit for a period
19 of one year if the failure to disclose is discovered by the
20 department prior to issuance. If the nondisclosure is
21 discovered by the department subsequent to issuance, the
22 department shall revoke the driver's license, provisional
23 license, temporary license or instruction permit for a period
24 of one year. Intentional and willful failure to disclose, as
25 required in this subsection, is a misdemeanor.

1 D. Every applicant less than eighteen years of age
2 who is making an application to be granted his first New
3 Mexico driver's license shall submit evidence that he has:

4 (1) successfully completed a driver education
5 course that included a DWI prevention and education program
6 approved by the bureau or offered by a public school. The
7 bureau may accept verification of driver education course
8 completion from another state if the driver education course
9 substantially meets the requirements of the bureau for a
10 course offered in New Mexico;

11 (2) had a provisional license for the twelve-
12 month period immediately preceding the date of the application
13 for the driver's license;

14 (3) complied with restrictions on that license;

15 (4) not been convicted of a traffic violation
16 committed during the ninety days prior to applying for a
17 driver's license;

18 (5) not been cited for a traffic violation that
19 is pending at the time of his application; and

20 (6) not been adjudicated for an offense
21 involving the use of alcohol or drugs during that period and
22 that there are no pending adjudications alleging an offense
23 involving the use of alcohol or drugs at the time of his
24 application.

25 E. Every applicant eighteen years of age and over,

1 but less than [~~forty-five~~] twenty-five years of age, who is
2 making an application to be granted his first New Mexico
3 driver's license shall submit evidence with his application
4 that he has successfully completed a bureau-approved DWI
5 prevention and education program.

6 F. Every applicant forty-five years of age and over,
7 who has not been previously licensed in other jurisdictions
8 for a cumulative total of more than ten years or who has been
9 convicted of driving under the influence of intoxicating
10 liquor or drugs, and who is making an application to be
11 granted his first New Mexico driver's license, shall submit
12 evidence with his application that he has successfully
13 completed a bureau-approved DWI prevention and education
14 program.

15 G. Whenever application is received from a person
16 previously licensed in another jurisdiction, the department
17 may request a copy of the driver's record from the other
18 jurisdiction. When received, the driver's record may become a
19 part of the driver's record in this state with the same effect
20 as though entered on the driver's record in this state in the
21 original instance.

22 H. Whenever the department receives a request for a
23 driver's record from another licensing jurisdiction, the
24 record shall be forwarded without charge.

25 I. This section does not apply to driver's licenses

1 issued pursuant to the New Mexico Commercial Driver's License
2 Act. "

3 Section 4. Section 66-5-11 NMSA 1978 (being Laws 1978,
4 Chapter 35, Section 233) is amended to read:

5 "66-5-11. APPLICATION OF MINORS. --

6 A. The application of any person under the age of
7 eighteen years for an instruction permit, provisional license
8 or driver's license shall be signed and verified by the
9 father, mother or guardian or, in the event there is no parent
10 or guardian, [~~then~~] by another responsible adult who is
11 willing to assume the obligation imposed under this article
12 upon a person signing the application of a minor.

13 B. Any negligence or willful misconduct of a minor
14 under the age of eighteen years when driving a motor vehicle
15 upon a highway shall be imputed to the person who has signed
16 the application of [~~such~~] the minor for a permit or license,
17 which person shall be jointly and severally liable with [~~such~~]
18 the minor for any damages caused by [~~such~~] the negligence or
19 willful misconduct except as otherwise provided in Subsection
20 C of this section.

21 C. In the event a minor deposits or there is
22 deposited upon his behalf proof of financial responsibility in
23 respect to the operation of a motor vehicle owned by him or,
24 if not the owner of a motor vehicle, [~~then~~] with respect to
25 the operation of any motor vehicle, in form and in amounts as

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1 required under the motor vehicle financial responsibility laws
2 of this state, ~~then~~ the division may accept the application
3 of ~~such~~ the minor when signed by one parent or the guardian
4 of ~~such~~ the minor, and, while such proof is maintained,
5 ~~such~~ the parent or guardian ~~shall~~ is not ~~be~~ subject to
6 the liability imposed under Subsection B of this section. "

7 Section 5. Section 66-5-12 NMSA 1978 (being Laws 1978,
8 Chapter 35, Section 234) is amended to read:

9 "66-5-12. RELEASE FROM LIABILITY. -- Any person who has
10 signed the application of a minor for an instruction permit, a
11 driver's license or provisional license may thereafter file
12 with the division a verified written request that the license
13 of ~~said~~ the minor so granted ~~shall~~ be ~~cancelled~~
14 canceled. Thereupon, the division shall cancel the license of
15 ~~said~~ the minor, and the person who signed the application of
16 ~~such~~ the minor shall be relieved from the liability imposed
17 under this article, by reason of having signed ~~such~~ the
18 application, on account of any subsequent negligence or
19 willful misconduct of ~~such~~ the minor in operating a motor
20 vehicle. "

21 Section 6. Section 66-5-13 NMSA 1978 (being Laws 1978,
22 Chapter 35, Section 235) is amended to read:

23 "66-5-13. CANCELLATION OF LICENSE UPON DEATH OF PERSON
24 SIGNING MINOR'S APPLICATION. -- The division upon receipt of
25 satisfactory evidence of the death of the person who signed

1 the application of a minor for an instruction permit, a
 2 driver's license or provisional license shall cancel [~~such~~]
 3 the license and shall not issue a new license until such time
 4 as a new application, duly signed and verified, is made as
 5 required by this article. This provision [~~shall~~] does not
 6 apply in the event the minor has attained the age of eighteen
 7 years. "

8 Section 7. Section 66-5-24 NMSA 1978 (being Laws 1978,
 9 Chapter 35, Section 246) is amended to read:

10 "66-5-24. AUTHORITY OF DIVISION TO CANCEL LICENSE. --

11 A. The division is authorized to cancel any
 12 instruction permit, driver's license or provisional license
 13 upon determining that the licensee was not entitled to the
 14 issuance [~~thereof~~] of the license or that [~~said~~] the licensee
 15 failed to give the required or correct information in his
 16 application or committed any fraud in making [~~such~~] the
 17 application.

18 B. Upon such cancellation, the licensee must
 19 surrender the license so [~~cancelled~~] canceled to the
 20 division. "

21 Section 8. Section 66-5-29 NMSA 1978 (being Laws 1978,
 22 Chapter 35, Section 251, as amended by Laws 1993, Chapter 66,
 23 Section 4 and also by Laws 1993, Chapter 78, Section 4) is
 24 amended to read:

25 "66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION. --

1 A. The division shall immediately revoke the
2 instruction permit, driver's license or provisional license of
3 any driver upon receiving a record of the driver's
4 adjudication as a delinquent for or conviction of any of the
5 following offenses, whether the offense is under any state law
6 or local ordinance, when the conviction or adjudication has
7 become final:

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

10 (2) any offense rendering a person a "first
11 offender" as defined in the Motor Vehicle Code, if that person
12 does not attend a driver rehabilitation program pursuant to
13 Subsection [H] E of Section 66-8-102 NMSA 1978;

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

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

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

21 (6) perjury or the making of a false affidavit
22 or statement under oath to the division under the Motor
23 Vehicle Code or under any other law relating to the ownership
24 or operation of motor vehicles; or

25 (7) conviction or forfeiture of bail not

1 vacated upon three charges of reckless driving committed
2 within a period of twelve months.

3 B. Any person whose license has been revoked under
4 this section, except as provided in Subsection C, D or E of
5 this section, shall not be entitled to apply for or receive
6 any new license until the expiration of one year from the date
7 of the last application on which the revoked license was
8 surrendered to and received by the division, if no appeal is
9 filed, or one year from the date that the revocation is final
10 and he has exhausted his rights to an appeal.

11 C. Any person who upon adjudication as a delinquent
12 or conviction is subject to license revocation under this
13 section for an offense pursuant to which he was also subject
14 to license revocation pursuant to Section 66-8-111 NMSA 1978
15 shall have his license revoked for that offense for a combined
16 period of time equal to one year.

17 D. Upon receipt of an order from a court pursuant to
18 Subsection J of Section [~~32-1-34~~] 32A-2-19 NMSA 1978 or
19 Subsection G of Section [~~32-1-36~~] 32A-2-22 NMSA 1978, the
20 division shall revoke the driver's license or driving
21 privileges for a period of time in accordance with these
22 provisions.

23 E. Upon receipt from a district court of a record of
24 conviction for the offense of shooting at or from a motor
25 vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978

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1 or of a conviction for a conspiracy or an attempt to commit
2 that offense, the division shall revoke the driver's licenses
3 or driving privileges of the convicted person. Any person
4 whose license or privilege has been revoked pursuant to the
5 provisions of this subsection shall not be entitled to apply
6 for or receive any new license or privilege until the
7 expiration of one year from the date of the last application
8 on which the revoked license was surrendered to and received
9 by the division, if no appeal is filed, or one year from the
10 date that the revocation is final and [~~he~~] the person has
11 exhausted his rights to an appeal. "

12 Section 9. Section 66-5-30 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 252, as amended) is amended to read:

14 "66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE
15 LICENSE. --

16 A. The division is authorized to suspend the
17 instruction permit, driver's license or provisional license of
18 a driver without preliminary hearing upon a showing by its
19 records or other sufficient evidence that the licensee:

20 (1) has been convicted of an offense for which
21 mandatory revocation of license is required upon conviction;

22 (2) has been convicted as a driver in any
23 accident resulting in the death or personal injury of another
24 or serious property damage;

25 (3) has been convicted with such frequency of

1 offenses against traffic laws or regulations governing motor
2 vehicles as to indicate a disrespect for traffic laws and a
3 disregard for the safety of other persons on the highways;

4 (4) is an habitually reckless or negligent
5 driver of a motor vehicle;

6 (5) is incompetent to drive a motor vehicle;

7 (6) has permitted an unlawful or fraudulent use
8 of the license;

9 (7) has been convicted of an offense in another
10 state which if committed in this state would be grounds for
11 suspension or revocation;

12 (8) has violated provisions stipulated by a
13 district court in limitation of certain driving privileges;

14 (9) has failed to fulfill a signed promise to
15 appear or notice to appear in court as evidenced by notice
16 from a court, whenever appearance is required by law or by the
17 court as a consequence of any charge or conviction under the
18 Motor Vehicle Code;

19 (10) has failed to pay a penalty assessment
20 within thirty days of the date of issuance; or

21 (11) has accumulated seven points, but less
22 than eleven points, and when the division has received a
23 recommendation from a municipal or magistrate judge that the
24 [~~licensee~~] license be suspended for a period not to exceed
25 three months.

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1 B. Upon suspending the license of any person as
2 authorized in this section, the division shall immediately
3 notify the licensee in writing and upon his request shall
4 afford him an opportunity for a hearing as early as
5 practicable within not to exceed twenty days, not counting
6 Saturdays, Sundays and legal holidays, after receipt of the
7 request in the county wherein the licensee resides unless the
8 division and the licensee agree that the hearing may be held
9 in some other county; provided that the hearing request is
10 received within twenty days from the date that the suspension
11 was deposited in the United States mail. The director may, in
12 his discretion, extend the twenty-day period. Upon the
13 hearing, the director or his duly authorized agent may
14 administer oaths and may issue subpoenas for the attendance of
15 witnesses and the production of relevant books and papers and
16 may require a reexamination of the licensee. Upon the
17 hearing, the division shall either rescind its order of
18 suspension or, good cause appearing therefor, may continue,
19 modify or extend the suspension of the license or revoke the
20 license. "

21 Section 10. A new Section 66-5-44.1 NMSA 1978 is enacted
22 to read:

23 "66-5-44.1. [NEW MATERIAL] PROVISIONAL LICENSES--
24 DURATION AND FEE-- APPROPRIATION. --

25 A. There shall be paid to the division a fee of
 . 128309. 2

1 thirteen dollars (\$13.00) for each provisional license or
2 duplicate provisional license. Each provisional license shall
3 be for a term provided for in Section 66-5-21 NMSA 1978.

4 B. The director with the approval of the governor
5 may increase the amount of the fee provided for in this
6 section by an amount not to exceed three dollars (\$3.00) for
7 the purpose of implementing an enhanced driver's license
8 system. The additional amounts collected pursuant to this
9 subsection are appropriated to the division to defray the
10 expense of the new system of licensing.

11 C. The fees collected pursuant to the provisions of
12 Subsection A of this section are appropriated to the division
13 to defray the expense of implementing the new system of
14 provisional licensing. "

15 Section 11. EFFECTIVE DATE. --The effective date of the
16 provisions of this act is January 1, 2000.

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2 SFC/SB 256

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4 FORTY-FOURTH LEGISLATURE
5 FIRST SESSION, 1999
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9 March 10, 1999
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11 Mr. Speaker:
12

13 Your JUDICIARY COMMITTEE, to whom has been referred
14

15 SENATE FINANCE COMMITTEE SUBSTITUTE FOR
16 SENATE BILL 256
17

18 has had it under consideration and reports same with
19 recommendation that it DO PASS, amended as follows:
20

21 1. On page 1, between lines 15 and 16, insert the
22 following new section:

23 "Section 1. A new section of Chapter 66, Article 5
24 NMSA 1978 is enacted to read:

25 "NEW MATERIAL DEFINITION. -- As used in Sections 66-5-
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5, 66-5-8 and 66-5-9 NMSA 1978, "traffic violation" means a violation of one or more of the following offenses:

A. failure to obey sign as provided in Section 66-7-104 NMSA 1978;

B. failure to obey signals as provided in Section 66-7-105 NMSA 1978;

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

D. vehicular homicide as provided in Section 66-8-101 NMSA 1978;

E. injury to pregnant woman as provided in Section 66-8-101.1 NMSA 1978;

F. driving while under the influence of intoxicating liquor or drugs as provided in Section 66-8-102 NMSA 1978;

G. refusal to submit to chemical tests as provided in Section 66-8-111 NMSA 1978;

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H. reckless driving as provided in Section 66-8-113 NMSA 1978;

I. careless driving as provided in Section 66-8-114 NMSA 1978; and

J. racing on highways as provided in Section 66-8-115 NMSA 1978. "".

K. failure to yield as provided in Sections 66-7-328 through 66-7-332.1 NMSA 1978.

2. Renumber the succeeding sections accordingly.

3. On page 12, line 7, strike "forty-five" and insert in lieu thereof "twenty-five".

4. On page 12, line 8, after the word "over", strike the comma and the remainder of line 8, strike line 9 in its entirety.

1 FORTY-FOURTH LEGISLATURE
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4 Respectfully submitted,
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8 _____
9 R. David Pederson, Chairman
10

11 Adopted _____ Not Adopted _____
12 (Chief Clerk) (Chief Clerk)
13

14 Date _____
15

16 The roll call vote was 10 For 0 Against

17 Yes: 10

18 Excused: Luna, Thompson

19 Absent: None
20
21

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1 SFC/SB 256

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3 FORTY- FOURTH LEGISLATURE
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7 March 12, 1999
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9
10 HOUSE FLOOR AMENDMENT number _____ to SENATE FINANCE COMMITTEE
11 SUBSTITUTE FOR SENATE BILL 256,
12 as amended

13 Amendment sponsored by Representative R. David Pederson
14

15 1. Strike House Judiciary Committee Amendments 1 through 4.
16

17 2. On page 1, between lines 15 and 16, insert the following new
18 section:

19 "Section 1. A new section of Chapter 66, Article 5 NMSA 1978 is
20 enacted to read:

21
22 "[NEW MATERIAL] DEFINITION. --As used in Sections 66-5-5, 66-5-8
23 and 66-5-9 NMSA 1978, "traffic violation" means a violation of one or
24 more of the following offenses:

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

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

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

D. homicide by vehicle, as provided in Section 66-8-101 NMSA
1978;

E. injury to pregnant woman by vehicle, as provided in
Section 66-8-101.1 NMSA 1978;

F. driving while under the influence of intoxicating liquor
or drugs, as provided in Section 66-8-102 NMSA 1978;

G. refusal to submit to chemical tests, as provided in
Section 66-8-111 NMSA 1978;

H. reckless driving, as provided in Section 66-8-113 NMSA
1978;

I. careless driving, as provided in Section 66-8-114 NMSA

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1978;

J. racing on highways, as provided in Section 66-8-115 NMSA
1978; and

K. failure to yield, as provided in Sections 66-7-328 through
66-7-332.1 NMSA 1978. "".

3. Renumber the succeeding sections accordingly.

4. On page 12, line 7, strike "forty-five" and insert in
lieu thereof "twenty-five".

5. On page 12, line 8, after the word "over" strike the
comma and the remainder of line 8 and strike line 9 in its entirety.

R. David Pederson

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

Date _____

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