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SENATE BILL 269

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

INTRODUCED BY

Phil Maloof

AN ACT

RELATING TO DRIVER'S LICENSES; PROVIDING FOR SUSPENSION OF A PERSON'S DRIVER'S LICENSE IF THE LICENSEE WITHDRAWS FROM SCHOOL; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. A new section of the Compulsory School Attendance Law is enacted to read:

"[NEW MATERIAL] SCHOOL ATTENDANCE AS CONDITION OF LICENSING FOR OPERATION OF A MOTOR VEHICLE. - -

A. As used in this section, "withdrawal" means more than ten consecutive or fifteen days total unexcused absences during a single semester except as provided in Subsection A of Section 22-12-2 NMSA 1978. For the purposes of this section, "withdrawal" includes unexcused absences due to suspension or expulsion from school or imprisonment in a

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1 jail or penitentiary.

2 B. The motor vehicle division of the taxation and
3 revenue department shall deny a license or instruction permit
4 for the operation of a motor vehicle to any person under the
5 age of eighteen who does not at the time of application
6 present a diploma or other certificate of graduation issued to
7 the person from a high school of this state or any other
8 state, or documentation provided on a form approved by the
9 state department of public education indicating that the
10 person is:

11 (1) enrolled and making satisfactory progress
12 in a course leading to a general educational development
13 certificate from a state-approved or tribal-approved
14 institution or organization, or has obtained that certificate;

15 (2) enrolled in a secondary school or home
16 school of this state or any other state;

17 (3) excused from school pursuant to
18 Subsection A of Section 22-12-2 NMSA 1978; or

19 (4) absent from school due to a personal or
20 family hardship.

21 C. The certified school administrator of a public
22 school, the chief administrator of a public school or the
23 chief administrator of a private school, a home school or a
24 state institution shall provide documentation of enrollment
25 status on a form approved by the department of education upon

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1 request to a student under the age of eighteen who is properly
2 enrolled in a school under the jurisdiction of the certified
3 school administrator or the chief administrator for
4 presentation to the motor vehicle division of the taxation and
5 revenue department on application for or reinstatement of an
6 instruction permit or license to operate a motor vehicle.

7 D. Whenever a student under the age of eighteen
8 withdraws from school, except as provided in Subsection A of
9 Section 22-12-2 NMSA 1978 or for reasons related to personal
10 or family hardship, the certified school administrator or the
11 chief administrator shall notify the licensee that his license
12 shall be suspended pursuant to the provisions of Subsection C
13 of Section 66-5-30 NMSA 1978. The licensee or the parent or
14 guardian of the licensee shall have fifteen calendar days from
15 the receipt of notice of pending license suspension to request
16 a hearing with the certified school administrator or chief
17 administrator, as applicable, for the purpose of appealing.
18 The hearing shall be conducted within thirty calendar days
19 after the certified school administrator or chief
20 administrator, as applicable, receives the request. If the
21 licensee or the parent or guardian of the licensee does not
22 request a hearing or if the appeal is unsuccessful, the
23 certified school administrator or chief administrator, as
24 applicable, shall immediately notify the motor vehicle
25 division of the taxation and revenue department, and the

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1 department shall suspend the licensee's driver's license."

2 Section 2. Section 66-5-5 NMSA 1978 (being Laws 1978,
3 Chapter 35, Section 227, as amended) is amended to read:

4 "66-5-5. PERSONS NOT TO BE LICENSED. -- The [~~division~~
5 department shall not issue a driver's license under the Motor
6 Vehicle Code to any person:

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

9 (1) a restricted instruction permit or a
10 restricted license to students fourteen years of age or over,
11 enrolled in and attending a driver-education course that
12 includes a DWI education and prevention component approved by
13 the bureau or offered by a public school;

14 (2) a license to any person fifteen years of
15 age or older who has satisfactorily completed a driver-
16 education course that is approved by the bureau or offered by
17 a public school and that includes both a DWI education and
18 prevention component and practice driving; and

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

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

25 (b) no holder of an initial license may

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1 carry any other passenger while driving a motorcycle; and

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

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

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

14 D. who, within any ten-year period, is three times
15 convicted of driving a motor vehicle while under the influence
16 of intoxicating liquor or narcotic drug regardless of whether
17 the convictions are under the laws or ordinances of this state
18 or any municipality or county of this state or under the laws
19 or ordinances of any other state, the District of Columbia or
20 any governmental subdivision thereof. Ten years after being
21 so convicted for the third time, the person may apply to any
22 district court of this state for restoration of the license,
23 and the court, upon good cause being shown, may order
24 restoration of the license applied for; provided that the
25 person has not been subsequently convicted of driving a motor

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1 vehicle while under the influence of intoxicating liquor or
2 drug in the ten-year period prior to his request for
3 restoration of his license. Upon issuance of the order of
4 restoration, a certified copy shall immediately be forwarded
5 to the [~~division~~] department, and if the person is otherwise
6 qualified for the license applied for, the three previous
7 convictions shall not prohibit issuance of the license applied
8 for. Should the person be subsequently once convicted of
9 driving a motor vehicle while under the influence of
10 intoxicating liquor or drug, the [~~division~~] department shall
11 revoke his license for five years, after which time he may
12 apply for restoration of his license as provided in this
13 subsection;

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

19 F. who is required by the Motor Vehicle Code to
20 take an examination, unless he has successfully passed the
21 examination;

22 G. who is required under the laws of this state to
23 deposit proof of financial responsibility and who has not
24 deposited the proof;

25 H. when the director has good cause to believe

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1 that the operation of a motor vehicle on the highways by the
2 person would be inimical to public safety or welfare; [or]

3 I. as a motorcycle driver who is less than
4 eighteen years of age and who has not presented a certificate
5 or other evidence of having successfully completed a
6 motorcycle driver-education program licensed or offered in
7 conformance with regulations of the bureau; or

8 J. who is under the age of eighteen and who does
9 not at the time of application present a diploma or other
10 certificate of graduation issued to the person from a high
11 school of this state or any other state, or documentation that
12 the person is:

13 (1) enrolled and making satisfactory progress
14 in a course leading to a general educational development
15 certificate from a state-approved or tribal-approved
16 institution or organization, or has obtained such certificate;

17 (2) enrolled in a secondary school or home
18 school of this state or any other state;

19 (3) excused from school pursuant to
20 Subsection A of Section 22-12-2 NMSA 1978; or

21 (4) absent from school due to a personal or
22 family hardship. "

23 Section 3. Section 66-5-30 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 252, as amended) is amended to read:

25 "66-5-30. AUTHORITY OF [~~DIVISION~~] DEPARTMENT TO SUSPEND

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1 OR REVOKE LICENSE. --

2 A. The [~~division~~] department is authorized to
3 suspend the license of a driver without preliminary hearing
4 upon a showing by its records or other sufficient evidence
5 that the licensee:

6 (1) has been convicted of an offense for
7 which mandatory revocation of license is required upon
8 conviction;

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

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

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

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

19 (6) has permitted an unlawful or fraudulent
20 use of the license;

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

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

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

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

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

13 B. Upon suspending the license of any person as
14 authorized in this section, the [~~division~~] department shall
15 immediately notify the licensee in writing and upon his
16 request shall afford him an opportunity for a hearing as early
17 as practicable within not to exceed twenty days, not counting
18 Saturdays, Sundays and legal holidays, after receipt of the
19 request in the county wherein the licensee resides unless the
20 [~~division~~] department and the licensee agree that the hearing
21 may be held in some other county; provided that the hearing
22 request is received within twenty days from the date that the
23 suspension was deposited in the United States mail. The
24 director may, in his discretion, extend the twenty-day period.
25 Upon the hearing, the director or his duly authorized agent

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1 may administer oaths and may issue subpoenas for the
2 attendance of witnesses and the production of relevant books
3 and papers and may require a reexamination of the licensee.
4 Upon the hearing, the [~~division~~] department shall either
5 rescind its order of suspension or, good cause appearing
6 therefor, may continue, modify or extend the suspension of the
7 license or revoke the license.

8 C. The department is authorized to suspend the
9 license of a licensee under the age of eighteen without a
10 hearing whenever:

11 (1) the licensee withdraws from school as
12 defined in the Compulsory School Attendance Law;

13 (2) the department receives from the
14 certified school administrator or the chief administrator, as
15 applicable, of the licensee's school, notification that the
16 student has withdrawn from school for reasons other than
17 personal or family hardship;

18 (3) the department within five days of
19 receipt of the notice from the administrator, sends notice by
20 certified mail, return receipt requested, to the licensee that
21 his license shall be suspended; and

22 (4) the licensee's appeal of the pending
23 license suspension action to the certified school
24 administrator or chief administrator, as applicable, as
25 provided in the Compulsory School Attendance Law, is

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1 unsuccessful. "

2 Section 4. Section 66-5-35 NMSA 1978 (being Laws 1978,
3 Chapter 35, Section 257, as amended) is amended to read:

4 "66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR
5 REVOCATION-- HEARING-- REVIEW. --

6 A. Upon suspension or revocation of a person's
7 driver's license following conviction or adjudication as a
8 delinquent under any law, ordinance or regulation relating to
9 motor vehicles, a person may apply to the [~~director~~
10 department for a license or permit to drive, limited to use
11 allowing him to engage in gainful employment, except that no
12 person shall be eligible to apply [~~for a limited license when~~
13 ~~the person's license was revoked or suspended pursuant to~~]:

14 (1) for a limited license when the person's
15 driver's license was revoked pursuant to the provisions of the
16 Implied Consent Act, except as provided in Subsection B of
17 this section; [~~or~~]

18 (2) for a limited license when the person's
19 driver's license was revoked pursuant to an offense for which
20 the person is a subsequent offender as defined in the Motor
21 Vehicle Code; or

22 (3) for a limited license when the person's
23 driver's license was suspended pursuant to the provisions of
24 the Compulsory School Attendance Law because the person
25 withdrew from school, unless the person provides the

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1 department with documented proof of gainful employment or
2 self-employment and that the person needs a limited license to
3 travel to and from his place of employment.

4 B. A person who has had his license revoked for
5 the first time pursuant to the provisions of Paragraph (1) or
6 (2) of Subsection C of Section 66-8-111 NMSA 1978 may apply
7 for and shall receive a limited license or permit thirty days
8 after suspension or revocation of his license if the person
9 provides the [~~director~~] department with documentation of the
10 following:

11 (1) that the person is enrolled in an
12 approved DWI school and an approved alcohol screening program;

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

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

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

21 C. Upon receipt of the application, proof of
22 financial responsibility for the future and a hearing as
23 provided in Subsection D of this section, the [~~director~~]
24 department shall issue a limited license or permit to the
25 applicant showing the limitations specified in the approved

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1 application, provided that the applicant meets established
2 uniform criteria for limited driving privileges adopted by
3 regulation of the department. For each limited license or
4 permit to drive, the applicant shall pay to the [~~division~~]
5 department a fee of forty-five dollars (\$45.00), which shall
6 be transferred to the state highway and transportation
7 department. All money collected under this subsection shall
8 be used for DWI prevention and education programs for
9 elementary and secondary school students. The state highway
10 and transportation department shall coordinate with the
11 department of health to ensure that there is no program
12 duplication. The limited license or permit to drive may be
13 suspended as provided in Section 66-5-30 NMSA 1978.

14 D. The [~~director~~] department, within twenty days
15 of receipt of an application for a limited driver's license or
16 permit pursuant to this section, shall afford the applicant a
17 hearing in the county in which the applicant resides, unless
18 the [~~division~~] department and the licensee agree that the
19 hearing may be held in some other county. The [~~director may,~~
20 ~~in his discretion~~] department may extend the twenty-day
21 period, provided that the extension is in writing and made no
22 later than fifteen days after receipt of an application. Upon
23 hearing, the [~~director or his duly authorized~~] hearing officer
24 designated by the department may administer oaths and may
25 issue subpoenas for the attendance of witnesses and the

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1 production of relevant books and papers. The [~~director~~]
2 hearing officer shall make specific findings as to whether the
3 applicant has shown proof of financial responsibility for the
4 future and meets established uniform criteria for limited
5 driving privileges adopted by regulation of the department.
6 The [~~director~~] hearing officer shall enter an order either
7 approving or denying the applicant's request for a limited
8 license or permit to drive. If any of the specific findings
9 set forth in this subsection are not found by the [~~director~~]
10 hearing officer, the applicant's request for a limited license
11 or permit shall not be approved.

12 E. A person adversely affected by an order of the
13 [~~director~~] hearing officer may seek review within thirty days
14 in the district court in the county in which he resides. The
15 district court, upon thirty days' written notice to the
16 [~~director~~] department, shall hear the case. On review, it is
17 for the court to determine only whether the applicant met the
18 requirements in this section for issuance of a limited license
19 or permit to drive. "

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

1 FORTY-FOURTH LEGISLATURE

SB 269/a

2 FIRST SESSION, 1999

3
4
5 February 25, 1999

6
7 Mr. President:

8
9 Your EDUCATION COMMITTEE, to whom has been referred

10
11 SENATE BILL 269

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 14, between lines 19 and 20, insert the following
17 new section:

18
19 "Section 5. DELAYED REPEAL.--The provisions of this act are
20 repealed effective July 1, 2004."

21
22 2. Renumber the succeeding section accordingly.

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24 and thence referred to the PUBLIC AFFAIRS COMMITTEE.

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Respectfully submitted,

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Cynthia Nava, Chairman

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

Date _____

The roll call vote was 4 For 2 Against

Yes: 4

No: Lopez, Nava

Excused: Adair, Duran, Garcia, Jennings

Absent: None

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