

BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO MOTOR VEHICLES; CLARIFYING PROVISIONS IN THE MOTOR
VEHICLE CODE RELATING TO THE SUSPENSION AND REVOCATION OF A
DRIVER'S LICENSE.

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

SECTION 1. Section 66-5-32 NMSA 1978 (being Laws 1978,
Chapter 35, Section 254, as amended by Laws 2005, Chapter 241,
Section 3 and by Laws 2005, Chapter 269, Section 3) is amended
to read:

"66-5-32. PERIOD OF SUSPENSION OR REVOCATION.--

A. The division shall not suspend a driver's
license or privilege to drive a motor vehicle on the public
highways for a period of more than one year except as permitted
under Subsection C of this section and Sections 60-7B-1,
66-5-5, ~~[and]~~ 66-5-39 and 66-5-39.1 NMSA 1978.

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1 B. Except as provided in the Ignition Interlock
2 Licensing Act, a person whose license or privilege to drive a
3 motor vehicle on the public highways has been revoked shall not
4 be entitled to have the license or privilege renewed or
5 restored unless the revocation was for a cause that has been
6 removed, except that after the expiration of the periods
7 specified in Subsections B and C of Section 66-5-29 NMSA 1978
8 from the date on which the revoked license was surrendered to
9 and received by the division, the person may make application
10 for a new license as provided by law.

11 C. The suspension period for failure to appear or
12 failure to remit the penalty assessment shall, at the
13 discretion of the director, be extended indefinitely subject to
14 the provisions of Subsection B of Section 66-5-30 NMSA 1978."

15 **SECTION 2.** Section 66-5-39 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 261, as amended) is amended to read:

17 "66-5-39. DRIVING WHILE LICENSE SUSPENDED [~~OR REVOKED~~]
18 [~~PROVIDING~~] PENALTIES.--

19 A. Any person who drives a motor vehicle on any
20 public highway of this state at a time when [~~his~~] the person's
21 privilege to do so is suspended [~~or revoked~~] and who knows or
22 should have known that [~~his~~] the person's license was suspended
23 [~~or revoked~~] is guilty of a misdemeanor and shall be charged
24 with a violation of this section. Upon conviction, the person
25 shall be punished, notwithstanding the provisions of Section

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1 31-18-13 NMSA 1978, by imprisonment for not less than four days
2 or more than three hundred sixty-four days or participation for
3 an equivalent period of time in a certified alternative
4 sentencing program, and there may be imposed in addition a fine
5 of not more than one thousand dollars (\$1,000). When a person
6 pays any or all of the cost of participating in a certified
7 alternative sentencing program, the court may apply that
8 payment as a deduction to any fine imposed by the court.

9 ~~[Notwithstanding any other provision of law for suspension or~~
10 ~~deferment of execution of a sentence, if the person's privilege~~
11 ~~to drive was revoked for driving while under the influence of~~
12 ~~intoxicating liquor or drugs or a violation of the Implied~~
13 ~~Consent Act, upon conviction under this section, that person~~
14 ~~shall be punished by imprisonment for not less than seven~~
15 ~~consecutive days and shall be fined not less than three hundred~~
16 ~~dollars (\$300) or not more than one thousand dollars (\$1,000)~~
17 ~~and the fine and imprisonment shall not be suspended, deferred~~
18 ~~or taken under advisement. No other disposition by plea of~~
19 ~~guilty to any other charge in satisfaction of a charge under~~
20 ~~this section shall be authorized if the person's privilege to~~
21 ~~drive was revoked for driving while under the influence of~~
22 ~~intoxicating liquor or drugs or a violation of the Implied~~
23 ~~Consent Act.] Any municipal ordinance prohibiting driving with~~
24 a suspended [or ~~revoked~~] license shall provide penalties no
25 less stringent than provided in this section.

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

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

21 SECTION 3. A new Section 66-5-39.1 NMSA 1978 is enacted
22 to read:

23 "66-5-39.1. [NEW MATERIAL] DRIVING WHILE LICENSE
24 REVOKED--PENALTIES.--

25 A. A person who drives a motor vehicle on a public
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1 highway of this state at a time when the person's privilege to
2 do so is revoked and who knows or should have known that the
3 person's license was revoked is guilty of a misdemeanor and
4 shall be charged with a violation of this section. Upon
5 conviction, the person shall be punished, notwithstanding the
6 provisions of Section 31-18-13 NMSA 1978, by imprisonment for
7 not less than four days or more than three hundred sixty-four
8 days or by participation for an equivalent period of time in a
9 certified alternative sentencing program, and there may be
10 imposed in addition a fine of not more than one thousand
11 dollars (\$1,000). When a person pays any or all of the cost of
12 participating in a certified alternative sentencing program,
13 the court may apply that payment as a deduction to any fine
14 imposed by the court.

15 B. Notwithstanding any other provision of law for
16 suspension or deferment of execution of a sentence, if the
17 person's privilege to drive was revoked for driving under the
18 influence of intoxicating liquor or drugs or a violation of the
19 Implied Consent Act, upon conviction pursuant to this section,
20 the person shall be punished by imprisonment for not less than
21 seven consecutive days and shall be fined not less than three
22 hundred dollars (\$300) and not more than one thousand dollars
23 (\$1,000) and the fine and imprisonment shall not be suspended,
24 deferred or taken under advisement. No other disposition by
25 plea of guilty to any other charge in satisfaction of a charge

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1 under this section shall be authorized if the person's
2 privilege to drive was revoked for driving under the influence
3 of intoxicating liquor or drugs or a violation of the Implied
4 Consent Act. Any municipal ordinance prohibiting driving with
5 a revoked license shall provide penalties no less stringent
6 than provided in this section.

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

17 D. The division, upon receiving a record of the
18 conviction of any person under this section, shall not issue a
19 new license for an additional period of one year from the date
20 the person would otherwise have been entitled to apply for a
21 new license."

22 SECTION 4. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2013.