

AN ACT

RELATING TO MOTOR VEHICLES; CLARIFYING THAT A PERSON IN POSSESSION OF A LIMITED DRIVER'S LICENSE MAY LAWFULLY DRIVE TO AND FROM A COURT-ORDERED TREATMENT PROGRAM; AMENDING A SECTION OF THE NMSA 1978.

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

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

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

A. Upon suspension or revocation of a person's driver's license following conviction or adjudication as a delinquent under any law, ordinance or rule relating to motor vehicles, a person may apply to the department for a license or permit to drive, limited to use allowing him to engage in gainful employment, to attend school or to attend a court-ordered treatment program, except that the person shall not be eligible to apply:

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

(2) for a limited license when the person's driver's license was revoked pursuant to the provisions of the Implied Consent Act, except as provided in Subsection B of this section;

(3) for a limited license when the person's license was revoked pursuant to an offense for which the person is a subsequent offender as defined in the Motor Vehicle Code, except that a person who is convicted a second or third time for driving under the influence of intoxicating liquor or drugs may apply for and shall receive a limited license if he complies with the requirements set forth in Subsections C and D of this section; or

(4) for a limited license when the person's driver's license was revoked pursuant to a conviction for committing homicide by vehicle or great bodily injury by vehicle, as provided in Section 66-8-101 NMSA 1978.

B. A person whose driver's license is revoked for the first time pursuant to the provisions of Paragraph (1) or (2) of Subsection C of Section 66-8-111 NMSA 1978 or for the second or third time pursuant to the provisions of Paragraph (3) of Subsection C of Section 66-8-111 NMSA 1978 may apply for and shall receive a limited license or permit thirty days after suspension or revocation of his license if the person pays every fee, meets the criteria for limited driving privileges established in rules by the department and provides the department with documentation of the following:

(1) that the person is enrolled in a DWI school approved by the traffic safety bureau and an approved alcohol screening program;

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

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

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

(b) proof that the person is enrolled in school and needs a limited license to travel to and from school; or

(c) proof that the person is enrolled in a court-ordered treatment program and needs a limited license to travel to and from the treatment program.

C. A person who is convicted a second or third time for driving under the influence of intoxicating liquor or drugs may apply for and shall receive a limited license thirty days after suspension or revocation of his license if the person pays every fee, meets the criteria for limited

driving privileges established in rule by the department and provides the department with documented proof:

(1) of enrollment in a DWI school approved by the traffic safety bureau and an approved alcohol screening program;

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

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

(4) of enrollment in school and that the person needs a limited license to travel to and from school; or

(5) of enrollment in a court-ordered treatment program and that the person needs a limited license to travel to and from the treatment program.

D. In addition to the requirements set forth in Subsection C of this section, a person who is convicted a second or third time for driving under the influence of intoxicating liquor or drugs shall provide the department with his judgment and sentence. The judgment and sentence shall attest that the person will be on probation for the entire period that a limited license will be in effect and that, as a condition of probation, the person shall provide

proof that each motor vehicle to be operated by the person is equipped with an ignition interlock device installed and operated pursuant to rules adopted by the traffic safety bureau. The ignition interlock device shall be installed on the appropriate motor vehicle at the person's expense.

E. Upon receipt of a fully completed application that complies with statutes and rules for a limited license and payment of the fee specified in this subsection, the department shall issue a limited license or permit to the applicant showing the limitations specified in the approved application. For each limited license or permit to drive, the applicant shall pay to the department a fee of forty-five dollars (\$45.00), which shall be transferred to the state highway and transportation department. All money collected under this subsection shall be used for DWI prevention and education programs for elementary and secondary school students. The state highway and transportation department shall coordinate with the department of health to ensure that there is no program duplication. The limited license or permit to drive may be suspended as provided in Section 66-5-30 NMSA 1978.

F. The department, within twenty days of denial of an application for a limited driver's license or permit pursuant to this section, shall afford the applicant a hearing in the county in which the applicant resides, unless

the department and the licensee agree that the hearing may be held in some other county. The department may extend the twenty-day period, provided that the extension is in writing and made no later than fifteen days after receipt of an application. Upon hearing, the hearing officer designated by the department may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. The hearing officer shall make specific findings as to whether the applicant has shown proof of financial responsibility for the future and enrollment in an approved DWI school and an approved alcohol screening program and meets established uniform criteria for limited driving privileges adopted by rule of the department. The hearing officer shall enter an order either approving or denying the applicant's request for a limited license or permit to drive. If any of the specific findings set forth in this subsection are not found by the hearing officer, the applicant's request for a limited license or permit shall not be approved.

G. A person adversely affected by an order of the hearing officer may seek review within thirty days in the district court in the county in which he resides. On review, it is for the court to determine only whether the applicant met the requirements in this section for issuance of a limited license or permit to drive. "

