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SENATE BILL 259

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Kent L. Cravens

AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; ENACTING THE MULTIPLE DWI OFFENDER REGISTRY ACT; CREATING A DATABASE OF MULTIPLE DWI OFFENDERS THAT MAY ONLY BE ACCESSED BY LAW ENFORCEMENT OFFICIALS.

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

Section 1. SHORT TITLE. -- This act may be cited as the "Multiple DWI Offender Registry Act".

Section 2. FINDINGS. -- The legislature finds that:

A. multiple DWI offenders pose a significant threat of recidivism; and

B. the efforts of law enforcement agencies to protect their communities and the state from multiple DWI offenders is impaired by the lack of information available concerning multiple DWI offenders living within their

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1 jurisdictions.

2 Section 3. PURPOSE. --The purpose of the Multiple DWI
3 Offender Registry Act is to assist law enforcement agencies'
4 efforts to protect their communities by:

5 A. requiring every multiple DWI offender residing
6 in New Mexico to register with the county sheriff of the county
7 in which the multiple DWI offender resides; and

8 B. requiring the establishment of a central
9 registry for multiple DWI offenders.

10 Section 4. DEFINITION. --As used in the Multiple DWI
11 Offender Registry Act, "multiple DWI offender" means a person
12 who has two or more convictions for driving while under the
13 influence of intoxicating liquor or drugs, as provided in
14 Section 66-8-102 NMSA 1978; provided that only one conviction
15 for driving while under the influence of intoxicating liquor or
16 drugs that occurred during the ten-year period immediately
17 prior to July 1, 2002 may be counted as a conviction for the
18 purpose of determining if a person is a multiple DWI offender.

19 Section 5. REGISTRATION OF MULTIPLE DWI OFFENDERS--
20 INFORMATION REQUIRED--CRIMINAL PENALTY FOR NONCOMPLIANCE. --

21 A. A multiple DWI offender residing in this state
22 shall register with the county sheriff for the county in which
23 the multiple DWI offender resides. The offender shall register
24 no later than ten days after his second or subsequent DWI
25 conviction.

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1 B. When a multiple DWI offender registers with the
2 county sheriff, the offender shall provide the following
3 registration information:

4 (1) his legal name and any other names or
5 aliases that he is using or has ever used;

6 (2) his date of birth;

7 (3) his current address;

8 (4) his place of employment;

9 (5) the dates and places of his prior DWI
10 convictions; and

11 (6) the make, model, color and all
12 registration information on every vehicle that the multiple DWI
13 offender owns, drives or has access to. This shall include all
14 vehicles registered to the same household as the multiple DWI
15 offender.

16 C. When a multiple DWI offender registers with a
17 county sheriff, the sheriff shall obtain a photograph of the
18 multiple DWI offender.

19 D. When a multiple DWI offender who has registered
20 changes his residence within the same county, the multiple DWI
21 offender shall send written notice of his change of address to
22 the county sheriff no later than ten days after establishing
23 his new residence.

24 E. When a multiple DWI offender who is registered
25 changes his residence to a new county in New Mexico, the

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1 multiple DWI offender shall register with the county sheriff of
2 the new county no later than ten days after establishing his
3 new residence. The multiple DWI offender shall also send
4 written notice of the change in residence to the county sheriff
5 with whom he last registered no later than ten days after
6 establishing his new residence.

7 F. A multiple DWI offender shall annually renew his
8 registration with the county sheriff prior to December 31 of
9 each subsequent calendar year for a period of ten years
10 following his most recent DWI conviction.

11 G. A multiple DWI offender who willfully fails to
12 comply with the registration requirements set forth in this
13 section is guilty of a fourth degree felony and shall be
14 sentenced pursuant to the provisions of Section 31-18-15 NMSA
15 1978.

16 H. A multiple DWI offender who willfully provides
17 false information when complying with the registration
18 requirements set forth in this section is guilty of a fourth
19 degree felony and shall be sentenced pursuant to the provisions
20 of Section 31-18-15 NMSA 1978.

21 Section 6. LOCAL REGISTRY--CENTRAL REGISTRY.--

22 A. The county sheriff shall maintain a local
23 registry of multiple DWI offenders in his jurisdiction required
24 to register pursuant to the provisions of the Multiple DWI
25 Offender Registry Act.

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1 B. The county sheriff shall forward registration
2 information obtained from multiple DWI offenders to the
3 department of public safety. The initial registration
4 information and any new or subsequently obtained registration
5 information shall be forwarded by the county sheriff no later
6 than ten working days after the information is obtained from a
7 multiple DWI offender. If the department of public safety
8 receives information regarding a multiple DWI offender from a
9 governmental entity other than a county sheriff, the department
10 shall send that information to the county sheriff for the
11 county in which the multiple DWI offender resides.

12 C. The department of public safety shall maintain a
13 central registry of multiple DWI offenders required to register
14 pursuant to the provisions of the Multiple DWI Offender
15 Registry Act. Information obtained pursuant to the Multiple
16 DWI Offender Registry Act is for law enforcement purposes only
17 and is not subject to disclosure under the Inspection of Public
18 Records Act.

19 D. The department of public safety shall retain
20 registration information regarding a multiple DWI offender for
21 the entirety of the multiple DWI offender's natural life.

22 Section 7. NOTICE TO MULTIPLE DWI OFFENDERS OF DUTY TO
23 REGISTER. --

24 A. A court shall provide a multiple DWI offender
25 convicted in that court with written notice of his duty to

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1 register pursuant to the provisions of the Multiple DWI
2 Offender Registry Act. The written notice shall be included in
3 the judgment and sentence forms provided to the multiple DWI
4 offender. The written notice shall inform the multiple DWI
5 offender that he is required to:

6 (1) register with the county sheriff for the
7 county in which the multiple DWI offender will reside pursuant
8 to the provisions of the Multiple DWI Offender Registry Act;

9 (2) report subsequent changes of address
10 pursuant to the provisions of the Multiple DWI Offender
11 Registry Act; and

12 (3) read and sign a form that indicates that
13 the multiple DWI offender has received the written notice and
14 that a responsible court official, designated by the chief
15 judge for that judicial district, has explained the written
16 notice to the multiple DWI offender.

17 B. The court shall also provide written
18 notification regarding a multiple DWI offender's conviction to
19 the sheriff of the county in which the multiple DWI offender
20 resides and to the department of public safety.

21 Section 8. DWI OFFENDER DATABASE. --The department of
22 public safety may develop its DWI offender database in
23 conjunction with the administrative office of the courts'
24 database regarding DWI conviction information. The
25 administrative office of the courts shall cooperate with the

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1 department of public safety by making all databases and
2 information available for this purpose and ensuring that both
3 databases can be integrated with other law enforcement and
4 criminal justice databases.

5 Section 9. IMMUNITY.--Nothing in the Multiple DWI
6 Offender Registry Act creates a cause of action on behalf of a
7 person against a public employer, public employee or public
8 agency responsible for enforcement of the provisions of that
9 act, so long as the public employer, public employee or public
10 agency complies with the provisions of that act.

11 Section 10. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2003.