

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 501

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

AN ACT

RELATING TO LICENSING; ENACTING THE IGNITION INTERLOCK
LICENSING ACT; ALLOWING INDIVIDUALS WHO HAVE A LICENSE REVOKED
OR DENIED FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING
LIQUOR OR DRUGS TO APPLY FOR AN IGNITION INTERLOCK LICENSE;
PROVIDING PENALTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA
1978; DECLARING AN EMERGENCY.

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

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

"[NEW MATERIAL] SHORT TITLE. --Sections 1 through 4 of this
act may be cited as the "Ignition Interlock Licensing Act". "

Section 2. A new section of Chapter 66, Article 5 NMSA
1978 is enacted to read:

"[NEW MATERIAL] DEFINITIONS. --As used in the Ignition
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underscored material = new
[bracketed material] = delete

1 Interlock Licensing Act:

2 A. "denied" means having an instructor's permit,
3 driver's license or provisional license denied for driving
4 while under the influence of intoxicating liquor or drugs,
5 pursuant to the provisions of Subsection D of Section 66-5-5
6 NMSA 1978;

7 B. "ignition interlock device" means a regularly
8 calibrated device, approved by the traffic safety bureau, that
9 regulates the operation of a motor vehicle by measuring an
10 operator's blood alcohol level before allowing the operator to
11 start the vehicle and that periodically tests the operator's
12 blood alcohol level while he operates the vehicle;

13 C. "ignition interlock license" means a driver's
14 license issued to a person by the division that allows that
15 person to operate a motor vehicle with an ignition interlock
16 device after that person's instructor's permit, driver's
17 license or provisional license has been revoked or denied. The
18 division shall clearly mark an ignition interlock license to
19 distinguish it from other driver's licenses; and

20 D. "revoked" means having an instructor's permit,
21 driver's license or provisional license revoked for driving
22 while under the influence of intoxicating liquor or drugs,
23 pursuant to the provisions of Sections 66-8-102 or 66-8-111
24 NMSA 1978. "

25 Section 3. A new section of Chapter 66, Article 5 NMSA

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1 1978 is enacted to read:

2 "[~~NEW MATERIAL~~] IGNITION INTERLOCK LICENSE- - REQUIREMENTS- -
3 EXCLUSIONS. - -

4 A. A person whose instructor's permit, driver's
5 license or provisional license has been revoked or denied may
6 apply for an ignition interlock license from the division.

7 B. An applicant for an ignition interlock license
8 shall:

9 (1) provide proof of installation of the
10 ignition interlock device by a traffic safety bureau-approved
11 ignition interlock installer on any vehicle the applicant
12 drives; and

13 (2) sign an affidavit acknowledging that:
14 (a) operation by the applicant of any
15 vehicle that is not equipped with an ignition interlock device
16 is subject to penalties for driving with a revoked license; and

17 (b) the applicant shall maintain the
18 ignition interlock device and keep up-to-date records in the
19 motor vehicle showing required service and calibrations and be
20 able to provide the records upon request.

21 C. A person who has been convicted of homicide by
22 vehicle or great bodily injury by vehicle while under the
23 influence of intoxicating liquor or drugs, as provided in
24 Section 66-8-101 NMSA 1978, shall not be issued an ignition
25 interlock license. "

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1 Section 4. A new section of Chapter 66, Article 5 NMSA
2 1978 is enacted to read:

3 "[NEW MATERIAL] PENALTIES. -- A person who is issued an
4 ignition interlock license and operates a vehicle that is not
5 equipped with an ignition interlock device in violation of the
6 Ignition Interlock Licensing Act shall be subject to the
7 penalties provided in Section 66-5-39 NMSA 1978. "

8 Section 5. Section 32A-2-19 NMSA 1978 (being Laws 1993,
9 Chapter 77, Section 48, as amended) is amended to read:

10 "32A-2-19. DISPOSITION OF AN ADJUDICATED DELINQUENT
11 OFFENDER. --

12 A. At the conclusion of the dispositional hearing,
13 the court may make and include in the dispositional judgment
14 its findings on the following:

15 (1) the interaction and interrelationship of
16 the child with the child's parents, siblings and any other
17 person who may significantly affect the child's best interests;

18 (2) the child's adjustment to his home, school
19 and community;

20 (3) the mental and physical health of all
21 individuals involved;

22 (4) the wishes of the child as to his
23 custodian;

24 (5) the wishes of the child's parents as to
25 the child's custody;

1 (6) whether there exists a relative of the
2 child or other individual who, after study by the department,
3 is found to be qualified to receive and care for the child;

4 (7) the availability of services recommended
5 in the predisposition report; and

6 (8) the ability of the parents to care for the
7 child in the home.

8 B. If a child is found to be delinquent, the court
9 may impose a fine not to exceed the fine that could be imposed
10 if the child were an adult and may enter its judgment making
11 any of the following dispositions for the supervision, care and
12 rehabilitation of the child:

13 (1) any disposition that is authorized for the
14 disposition of a neglected or abused child, in accordance with
15 the Abuse and Neglect Act;

16 (2) transfer legal custody to the department,
17 an agency responsible for the care and rehabilitation of
18 delinquent children, which shall receive the child at a
19 facility designated by the secretary of the department as a
20 juvenile reception facility. The department shall thereafter
21 determine the appropriate placement, supervision and
22 rehabilitation program for the child. The judge may include
23 recommendations for placement of the child. Commitments are
24 subject to limitations and modifications set forth in Section
25 32A-2-23 NMSA 1978. The types of commitments include:

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1 (a) a short-term commitment of one year;

2 (b) a long-term commitment for no more
3 than two years in a long-term facility for the care and
4 rehabilitation of adjudicated delinquent children;

5 (c) if the child is a delinquent
6 offender who committed one of the criminal offenses set forth
7 in Subsection I of Section 32A-2-3 NMSA 1978, a commitment to
8 age twenty-one, unless sooner discharged; or

9 (d) if the child is a youthful offender,
10 a commitment to age twenty-one, unless sooner discharged;

11 (3) place the child on probation under those
12 conditions and limitations as the court may prescribe;

13 (4) place the child in a local detention
14 facility that has been certified in accordance with the
15 provisions of Section 32A-2-4 NMSA 1978 for a period not to
16 exceed fifteen days within a three hundred sixty-five day time
17 period;

18 (5) if a child is found to be delinquent
19 solely on the basis of Paragraph (3) of Subsection A of Section
20 32A-2-3 NMSA 1978, the court shall only enter a judgment
21 placing the child on probation or ordering restitution or
22 imposing a fine not to exceed the fine that could be imposed if
23 the child were an adult or any combination of these
24 dispositions; or

25 (6) if a child is found to be delinquent

1 solely on the basis of Paragraph (2), (4) or (5) of Subsection
2 A of Section 32A-2-3 NMSA 1978, the court may make any
3 disposition provided by this section and may enter its judgment
4 placing the child on probation and, as a condition of
5 probation, transfer custody of the child to the department for
6 a period not to exceed six months without further order of the
7 court; provided that this transfer shall not be made unless the
8 court first determines that the department is able to provide
9 or contract for adequate and appropriate treatment for the
10 child and that the treatment is likely to be beneficial.

11 C. When the child is an Indian child, the Indian
12 child's cultural needs shall be considered in the dispositional
13 judgment and reasonable access to cultural practices and
14 traditional treatment shall be provided.

15 D. No child found to be delinquent shall be
16 committed or transferred to a penal institution or other
17 facility used for the execution of sentences of persons
18 convicted of crimes.

19 E. Whenever the court vests legal custody in an
20 agency, institution or department, it shall transmit with the
21 dispositional judgment copies of the clinical reports,
22 predisposition study and report and other information it has
23 pertinent to the care and treatment of the child.

24 F. Prior to any child being placed in the custody
25 of the department, the department shall be provided with

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1 reasonable oral or written notification and an opportunity to
2 be heard.

3 G. In addition to any other disposition pursuant to
4 this section or any other penalty provided by law, if a child
5 fifteen years of age or older is adjudicated delinquent on the
6 basis of Paragraph (2), (4) or (5) of Subsection A of Section
7 32A-2-3 NMSA 1978, the child's driving privileges may be denied
8 or the child's driver's license may be revoked for a period of
9 ninety days. For a second or a subsequent adjudication, the
10 child's driving privileges may be denied or the child's
11 driver's license revoked for a period of one year. Within
12 twenty-four hours of the dispositional judgment, the court may
13 send to the motor vehicle division of the taxation and revenue
14 department the order adjudicating delinquency. Upon receipt of
15 an order from the court adjudicating delinquency, the director
16 of the motor vehicle division of the taxation and revenue
17 department may revoke or deny the delinquent's driver's license
18 or driving privileges. Nothing in this section may prohibit
19 the delinquent from applying for a limited driving privilege
20 pursuant to Section 66-5-35 NMSA 1978 or an ignition interlock
21 license pursuant to the Ignition Interlock Licensing Act, and
22 nothing in this section precludes the delinquent's
23 participation in an appropriate educational, counseling or
24 rehabilitation program.

25 H. In addition to any other disposition pursuant to

1 this section or any other penalty provided by law, when a child
 2 is adjudicated delinquent on the basis of Paragraph (7) of
 3 Subsection A of Section 32A-2-3 NMSA 1978, the child shall
 4 perform the mandatory community service set forth in Section
 5 30-15-1.1 NMSA 1978. When a child fails to completely perform
 6 the mandatory community service, the name and address of the
 7 child's parent or legal guardian shall be published in a
 8 newspaper of general circulation, accompanied by a notice that
 9 he is the parent or legal guardian of a child adjudicated
 10 delinquent for committing graffiti."

11 Section 6. Section 32A-2-22 NMSA 1978 (being Laws 1993,
 12 Chapter 77, Section 51, as amended) is amended to read:

13 "32A-2-22. CONTINUANCE UNDER SUPERVISION WITHOUT
 14 JUDGMENT-- CONSENT DECREE-- DISPOSITION. --

15 A. At any time after the filing of a delinquency
 16 petition and before the entry of a judgment, the court may, on
 17 motion of the children's court attorney or that of counsel for
 18 the child, suspend the proceedings and continue the child under
 19 supervision in the child's own home under terms and conditions
 20 negotiated with probation services and agreed to by all the
 21 parties affected. The court's order continuing the child under
 22 supervision under this section shall be known as a "consent
 23 decree".

24 B. If the child objects to a consent decree, the
 25 court shall proceed to findings, adjudication and disposition

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1 of the case. If the child does not object but an objection is
2 made by the children's court attorney after consultation with
3 probation services, the court shall, after considering the
4 objections and the reasons given, proceed to determine whether
5 it is appropriate to enter a consent decree and may, in its
6 discretion, enter the consent decree.

7 C. A consent decree shall remain in force for six
8 months unless the child is discharged sooner by probation
9 services. Prior to the expiration of the six-month period and
10 upon the application of probation services or any other agency
11 supervising the child under a consent decree, the court may
12 extend the decree for an additional six months in the absence
13 of objection to extension by the child. If the child objects
14 to the extension, the court shall hold a hearing and make a
15 determination on the issue of extension.

16 D. If either prior to discharge by probation
17 services or expiration of the consent decree the child
18 allegedly fails to fulfill the terms of the decree, the
19 children's court attorney may file a petition to revoke the
20 consent decree. Proceedings on the petition shall be conducted
21 in the same manner as proceedings on petitions to revoke
22 probation. If the child is found to have violated the terms of
23 the consent decree, the court may:

24 (1) extend the period of the consent decree;

25 or

1 (2) make any other disposition that would have
2 been appropriate in the original proceeding.

3 E. A child who is discharged by probation services
4 or who completes a period under supervision without
5 reinstatement of the original delinquency petition shall not
6 again be proceeded against in any court for the same offense
7 alleged in the petition or an offense based upon the same
8 conduct and the original petition shall be dismissed with
9 prejudice. Nothing in this subsection precludes a civil suit
10 against the child for damages arising from the child's conduct.

11 F. A judge who pursuant to this section elicits or
12 examines information or material about a child that would be
13 inadmissible in a hearing on the allegations of the petition
14 shall not, over the objection of the child, participate in any
15 subsequent proceedings on the delinquency if:

16 (1) a consent decree is denied and the
17 allegations in the petition remain to be decided in a hearing
18 where the child denies the allegations; or

19 (2) a consent decree is granted but the
20 delinquency petition is subsequently reinstated.

21 G. If a consent decree has been entered pursuant to
22 the filing of a delinquency petition based on Paragraph (2),
23 (4) or (5) of Subsection A of Section 32A-2-3 NMSA 1978 for a
24 child who is fifteen years of age or older, a condition of the
25 consent decree agreement may be the denial of the child's

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1 driving privileges or the revocation of the child's driver's
2 license for a period of ninety days. For the second or
3 subsequent adjudication, the child's driving privileges may be
4 denied or the child's driver's license revoked for a period of
5 one year. Within twenty-four hours of the entry by the court
6 of a decree consenting to the revocation or denial of the
7 child's driver's license or driving privileges, the court shall
8 send the decree to the motor vehicle division of the taxation
9 and revenue department. Upon receipt of the decree from the
10 court consenting to the denial or revocation of the child's
11 driving [~~privilege~~] privileges or driver's license, the
12 director of the motor vehicle division of the taxation and
13 revenue department shall revoke or deny the delinquent child's
14 driver's license or driving privileges. Nothing in this
15 section shall prohibit the delinquent child from applying for a
16 limited driving privilege pursuant to Section 66-5-35 NMSA 1978
17 or an ignition interlock license pursuant to the Ignition
18 Interlock Licensing Act, and nothing in this section precludes
19 the delinquent child's participation in an appropriate
20 educational, counseling or rehabilitation program

21 H. The court shall not order more than one consent
22 decree for a child within a two-year period. "

23 Section 7. Section 66-5-5 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 227, as amended) is amended to read:

25 "66-5-5. PERSONS NOT TO BE LICENSED. --The division shall

1 not issue a driver's license under the Motor Vehicle Code to
2 any person:

3 A. who is under the age of eighteen years, except
4 the division may, in its discretion, issue:

5 (1) an instruction permit to a person fifteen
6 years of age or over who is enrolled in and attending or has
7 completed a driver education course that includes a DWI
8 education and prevention component approved by the bureau or
9 offered by a public school;

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

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

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

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

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

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

25 (c) who has not been convicted of a

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1 traffic violation that was committed during the ninety days
2 prior to applying for a driver's license; and

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

8 (4) to any person thirteen years of age or
9 older who passes an examination prescribed by the division, a
10 license restricted to the operation of a motorcycle, 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]~~ rule 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 denial,
22 or to any person whose license has been revoked, except as
23 provided in Section 66-5-32 NMSA 1978 and the Ignition
24 Interlock Licensing Act;

25 C. who is an habitual drunkard, an habitual user of

1 narcotic drugs or an habitual user of any drug to a degree
2 [~~which~~] that renders him incapable of safely driving a motor
3 vehicle;

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

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1 [drug] drugs, the division shall revoke his license for five
2 years, after which time he may apply for restoration of his
3 license as provided in this subsection;

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

9 F. who is required by the Motor Vehicle Code to
10 take an examination, unless he has successfully passed the
11 examination;

12 G. who is required under the laws of this state to
13 deposit proof of financial responsibility and who has not
14 deposited the proof;

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

18 I. as a motorcycle driver who is less than eighteen
19 years of age and who has not presented a certificate or other
20 evidence of having successfully completed a motorcycle driver
21 education program licensed or offered in conformance with
22 [~~regulations~~] rules of the bureau. "

23 Section 8. Section 66-5-29 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 251, as amended) is amended to read:

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

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1 A. The division shall immediately revoke the
2 instruction permit, driver's license or provisional license of
3 ~~any~~ a 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 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 Vehicle
23 Code or under any other law relating to the ownership or
24 operation of motor vehicles; or

25 (7) conviction or forfeiture of bail not

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

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

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

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

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

1 of a conviction for a conspiracy or an attempt to commit that
 2 offense, the division shall revoke the driver's licenses or
 3 driving privileges of the convicted person. [~~Any~~] A 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 on
 8 which the revoked license was surrendered to and received by
 9 the division, if no appeal is filed, or one year from the date
 10 that the revocation is final and the person has exhausted his
 11 rights to an appeal. "

12 Section 9. Section 66-5-32 NMSA 1978 (being Laws 1978,
 13 Chapter 35, Section 254, as amended) is amended to read:

14 "66-5-32. PERIOD OF SUSPENSION OR REVOCATION. --

15 A. The division shall not suspend a driver's
 16 license or privilege to drive a motor vehicle on the public
 17 highways for a period of more than one year except as permitted
 18 under Subsection C of this section and Sections 66-5-5 and
 19 66-5-39 NMSA 1978.

20 B. [~~Any~~] Except as provided in the Ignition
 21 Interlock Licensing Act, a person whose license or privilege to
 22 drive a motor vehicle on the public highways has been revoked
 23 shall not be entitled to have the license or privilege renewed
 24 or restored unless the revocation was for a cause that has been
 25 removed, except that after the expiration of the period

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1 specified in Subsection B of Section 66-5-29 NMSA 1978 from the
2 date on which the revoked license was surrendered to and
3 received by the division, the person may make application for a
4 new license as provided by law.

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

9 Section 10. Section 66-5-35 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 257, as amended by Laws 2001, Chapter 47,
11 Section 1 and also by Laws 2001, Chapter 242, Section 1) is
12 amended to read:

13 "66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR
14 REVOCATION-- HEARING-- REVIEW. --

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

23 (1) for a limited commercial driver's license
24 or an ignition interlock license in lieu of a revoked or
25 suspended commercial driver's license;

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

5 (3) for a limited license when the person's
 6 license was revoked pursuant to [~~an offense for which the~~
 7 ~~person is a subsequent offender as defined in the Motor Vehicle~~
 8 ~~Code, except that a person who is convicted a second or third~~
 9 ~~time for driving under the influence of intoxicating liquor or~~
 10 ~~drugs may apply for and shall receive a limited license if he~~
 11 ~~complies with the requirements set forth in Subsections C and D~~
 12 ~~of this section; or] the provisions of Section 66-8-102 NMSA
 13 1978, except as provided in the Ignition Interlock Licensing
 14 Act;~~

15 (4) for a limited license when the person's
 16 driver's license is denied pursuant to the provisions of
 17 Subsection D of Section 66-5-5 NMSA 1978, except as provided in
 18 the Ignition Interlock Licensing Act; or

19 [~~(4)~~] (5) for a limited license when the
 20 person's driver's license was revoked pursuant to a conviction
 21 for committing homicide by vehicle or great bodily injury by
 22 vehicle, as provided in Section 66-8-101 NMSA 1978.

23 B. A person whose driver's license is revoked for
 24 the first time pursuant to the provisions of Paragraph (1) or
 25 (2) of Subsection C of Section 66-8-111 NMSA 1978 [~~or for the~~

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1 ~~second or third time pursuant to the provisions of Paragraph~~
2 ~~(3) of Subsection C of Section 66-8-111 NMSA 1978]~~ may apply
3 for and shall receive a limited license, [or] permit or an
4 ignition interlock license thirty days after suspension or
5 revocation of his license if the person pays every fee, meets
6 the criteria for limited driving privileges established in
7 rules by the department and provides the department with
8 documentation of the following:

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

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

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

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

25 ~~(b) proof that the person is enrolled in~~

1 ~~school and needs a limited license to travel to and from~~
2 ~~school; or~~

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

6 ~~C. A person who is convicted a second or third time~~
7 ~~for driving under the influence of intoxicating liquor or~~
8 ~~drugs may apply for and shall receive a limited license thirty~~
9 ~~days after suspension or revocation of his license if the~~
10 ~~person pays every fee, meets the criteria for limited driving~~
11 ~~privileges established in rule by the department and provides~~
12 ~~the department with documented proof:~~

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

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

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

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

24 ~~(5) of enrollment in a court ordered treatment~~
25 ~~program and that the person needs a limited license to travel~~

1 ~~to and from the treatment program.~~

2 ~~D. In addition to the requirements set forth in~~
3 ~~Subsection C of this section, a person who is convicted a~~
4 ~~second or third time for driving under the influence of~~
5 ~~intoxicating liquor or drugs shall provide the department with~~
6 ~~his judgment and sentence. The judgment and sentence shall~~
7 ~~attest that the person will be on probation for the entire~~
8 ~~period that a limited license will be in effect and that, as a~~
9 ~~condition of probation, the person shall provide proof that~~
10 ~~each motor vehicle to be operated by the person is equipped~~
11 ~~with an ignition interlock device installed and operated~~
12 ~~pursuant to rules adopted by the traffic safety bureau. The~~
13 ~~ignition interlock device shall be installed on the appropriate~~
14 ~~motor vehicle at the person's expense.~~

15 ~~E.]~~ C. Upon receipt of a fully completed
16 application that complies with statutes and rules for a limited
17 license or an ignition interlock license and payment of the fee
18 specified in this subsection, the department shall issue a
19 limited license, ignition interlock license or permit to the
20 applicant showing the limitations specified in the approved
21 application. For each limited license, ignition interlock
22 license or permit to drive, the applicant shall pay to the
23 department a fee of forty-five dollars (\$45.00), which shall be
24 transferred to the state highway and transportation department.
25 All money collected under this subsection shall be used for DWI

1 prevention and education programs for elementary and secondary
2 school students. The state highway and transportation
3 department shall coordinate with the department of health to
4 ensure that there is no program duplication. The limited
5 license or permit to drive may be suspended as provided in
6 Section 66-5-30 NMSA 1978.

7 ~~[F-]~~ D. The department, within twenty days of
8 denial of an application for a limited driver's license or
9 permit pursuant to this section, shall afford the applicant a
10 hearing in the county in which the applicant resides, unless
11 the department and the licensee agree that the hearing may be
12 held in some other county. The department may extend the
13 twenty-day period, provided that the extension is in writing
14 and made no later than fifteen days after receipt of an
15 application. Upon hearing, the hearing officer designated by
16 the department may administer oaths and may issue subpoenas for
17 the attendance of witnesses and the production of relevant
18 books and papers. The hearing officer shall make specific
19 findings as to whether the applicant has shown proof of
20 financial responsibility for the future and enrollment in an
21 approved DWI school and an approved alcohol screening program
22 and meets established uniform criteria for limited driving
23 privileges adopted by rule of the department. The hearing
24 officer shall enter an order either approving or denying the
25 applicant's request for a limited license or permit to drive.

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1 If any of the specific findings set forth in this subsection
2 are not found by the hearing officer, the applicant's request
3 for a limited license or permit shall not be approved.

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

10 Section 11. EMERGENCY.--It is necessary for the public
11 peace, health and safety that this act take effect immediately.