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HOUSE BILL 401

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO MOTOR VEHICLES; AUTHORIZING THE USE OF AUTOMATED
ENFORCEMENT SYSTEMS FOR THE ISSUANCE OF CITATIONS FOR CERTAIN
VIOLATIONS.

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

Section 1. A new section of the Motor Vehicle Code is
enacted to read:

"[NEW MATERIAL] AUTOMATED ENFORCEMENT SYSTEM CITATIONS.--A
state or local law enforcement agency may use an automated
enforcement system to issue citations for alleged violations of
state or municipal laws relating to motor vehicles that are
punishable as a misdemeanor."

Section 2. Section 66-1-4.21 NMSA 1978 (being Laws 1998
(1st S.S.), Chapter 10, Section 9) is amended to read:

"66-1-4.21. ADDITIONAL DEFINITIONS.--As used in the Motor
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1 Vehicle Code:

2 A. "automated enforcement system" means an
3 electronic system consisting of cameras and a vehicle sensor
4 that automatically records images of each vehicle whose driver
5 violates a traffic law at an intersection or in a school zone
6 by not obeying a standard traffic-control device;

7 [~~A.~~] B. "evidence of registration" means any
8 documentation issued by the department identifying a motor
9 carrier vehicle as being registered with New Mexico or
10 documentation issued by another state pursuant to the terms of
11 a multistate agreement on registration of vehicles to which
12 this state is a party identifying a motor carrier vehicle as
13 being registered with that state; provided that evidence of
14 payment of the weight distance tax and permits obtained under
15 either the Special Fuels Supplier Tax Act or Trip Tax Act are
16 not "evidence of registration";

17 [~~B.~~] C. "fleet" means one or more motor carrier
18 vehicles, either commercial or noncommercial but not mixed,
19 that are operated in this and at least one other jurisdiction;

20 [~~C.~~] D. "motor carrier" means any person or firm
21 that owns, controls, operates or manages any motor vehicle with
22 gross vehicle weight of twelve thousand pounds or more that is
23 used to transport persons or property on the public highways of
24 this state;

25 [~~D.~~] E. "one-way rental fleet" means two or more

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1 vehicles each having a gross vehicle weight of under twenty-six
2 thousand one pounds and rented to the public without a driver;

3 ~~[E-]~~ F. "preceding year" means a period of twelve
4 consecutive months fixed by the department, which period is
5 within the sixteen months immediately preceding the
6 commencement of the registration or license year for which
7 proportional registration is sought. The department, in fixing
8 that period, shall make it conform to the terms, conditions and
9 requirements of any applicable agreement or arrangement for the
10 proportional registration of vehicles;

11 ~~[F-]~~ G. "properly registered" means bearing the
12 lawfully issued and currently valid evidence of registration of
13 this or another jurisdiction, regardless of the owner's
14 residence, except in those cases where the evidence has been
15 procured by misrepresentation or fraud; and

16 ~~[G-]~~ H. "public highway" means every way or place
17 generally open to the use of the public as a matter of right
18 for the purpose of vehicular travel, even though it may be
19 temporarily closed or restricted for the purpose of
20 construction, maintenance, repair or reconstruction."

21 Section 3. Section 66-7-9 NMSA 1978 (being Laws 1978,
22 Chapter 35, Section 379, as amended) is amended to read:

23 "66-7-9. POWERS OF LOCAL AUTHORITIES.--

24 A. The provisions of the Motor Vehicle Code shall
25 not be deemed to prevent local authorities, with respect to

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1 streets and highways under their jurisdiction and within the
2 reasonable exercise of the police power, from:

3 (1) regulating the standing or parking of
4 vehicles;

5 (2) regulating traffic by means of police
6 officers or traffic-control signals;

7 (3) regulating or prohibiting processions or
8 assemblages on the highways;

9 (4) designating particular highways as one-way
10 highways and requiring that all vehicles thereon be moved in
11 one specific direction;

12 (5) regulating the speed of vehicles in public
13 parks;

14 (6) designating any highway as a through
15 highway and requiring that all vehicles stop before entering or
16 crossing it or designating any intersection as a stop
17 intersection or a yield intersection and requiring all vehicles
18 to stop or yield at one or more entrances to the intersection;

19 (7) restricting the use of highways as
20 authorized in the Motor Vehicle Code;

21 (8) regulating the operation of bicycles and
22 requiring their registration and licensing, including the
23 requirement of a registration fee;

24 (9) regulating or prohibiting the turning of
25 vehicles, or specified types of vehicles, at intersections;

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1 (10) altering the maximum speed limits as
2 authorized in the Motor Vehicle Code;

3 (11) adopting other traffic regulations as
4 specifically authorized by the Motor Vehicle Code;

5 (12) regulating the operation of snowmobiles
6 on public lands, waters and property under their jurisdiction
7 and on streets and highways within their boundaries by
8 resolution or ordinance of their governing bodies and by giving
9 appropriate notice, if such regulation is not inconsistent with
10 the provisions of Sections 66-9-1 through 66-9-13 NMSA 1978;
11 [~~or~~]

12 (13) regulating the operation of golf carts on
13 public lands and property under their jurisdiction and on
14 streets and roads within their boundaries by resolution or
15 ordinance of their governing bodies and requiring their
16 registration and licensing, including the payment of a
17 registration fee; provided, the resolution or ordinance shall:

18 (a) not permit operation of a golf cart
19 on any state highway;

20 (b) require that the golf cart be in
21 compliance with Section 66-3-887 NMSA 1978; and

22 (c) not be inconsistent with the
23 provisions of Sections 66-3-1001 through 66-3-1016 NMSA 1978;
24 or

25 (14) regulating traffic and issuing citations

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1 by means of an automated enforcement system at intersections or
2 in school zones.

3 B. ~~[No]~~ A local authority shall not erect or
4 maintain any stop sign or traffic-control signal at any
5 location so as to require the traffic on any state highway to
6 stop or yield before entering or crossing any intersecting
7 highway unless approval in writing has first been obtained from
8 the state transportation commission.

9 C. ~~[No]~~ An ordinance or regulation enacted under
10 Paragraph (4), (5), (6), (7), ~~[or]~~ (10) or (14) of Subsection A
11 of this section shall not be effective until signs giving
12 notice of the local traffic regulations are posted upon or at
13 the entrances to the highway or part thereof affected as may be
14 most appropriate."

15 Section 4. Section 66-8-117 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 525, as amended) is amended to read:

17 "66-8-117. PENALTY ASSESSMENT MISDEMEANORS--OPTION--
18 EFFECT.--

19 A. Unless a warning notice is given, at the time of
20 making an arrest for any penalty assessment misdemeanor the
21 arresting officer shall offer the alleged violator the option
22 of accepting a penalty assessment. The violator's signature on
23 the penalty assessment notice constitutes an acknowledgment of
24 guilt of the offense stated in the notice.

25 B. In the case of an automated enforcement system

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1 citation issued by a law enforcement agency, the violator shall
2 have the option of accepting the penalty assessments or
3 appearing in court. The violator's signature on the penalty
4 assessment notice constitutes an acknowledgment of guilt of the
5 offense stated in the notice.

6 [B-] C. Except for penalty assessments made under a
7 municipal program authorized by Section 66-8-130 NMSA 1978,
8 payment of any penalty assessment must be made by mail to the
9 division within thirty days from the date of arrest or notice
10 of an automated enforcement system citation. Payments of
11 penalty assessments are timely if postmarked within thirty days
12 from the date of arrest or notice of an automated enforcement
13 system citation. The division may issue a receipt when a
14 penalty assessment is paid by currency, but checks tendered by
15 the violator upon which payment is received are sufficient
16 receipt.

17 [G.-No] D. A record of any penalty assessment
18 payment is not admissible as evidence in any court in any civil
19 action."

20 Section 5. Section 66-8-124 NMSA 1978 (being Laws 1961,
21 Chapter 213, Section 3, as amended) is amended to read:

22 "66-8-124. ARRESTING OFFICER TO BE IN UNIFORM.--

23 A. [No] A person shall not be arrested for
24 violating the Motor Vehicle Code or other law relating to motor
25 vehicles punishable as a misdemeanor except by a commissioned,

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1 salaried peace officer who, at the time of arrest, is wearing a
2 uniform clearly indicating [~~his~~] the officer's official status.

3 B. Notwithstanding the provisions of Subsection A
4 of this section, a municipality may provide by ordinance that
5 uniformed private security guards may be commissioned by the
6 local police agency to issue parking citations for violations
7 of clearly and properly marked fire zones and handicapped
8 zones. Prior to the commissioning of any security guard, the
9 employer of the security guard shall agree in writing with the
10 local police agency to [~~said~~] the commissioning of the
11 employer's security guard. The employer of any security guard
12 commissioned under the provisions of this section shall be
13 liable for the actions of that security guard in carrying out
14 his duties pursuant to that commission. Notwithstanding the
15 provisions of the Tort Claims Act, private security guards
16 commissioned under this section shall not be deemed public
17 employees under that act.

18 C. Notwithstanding the provisions of Subsection A
19 of this section, a state or local law enforcement agency may
20 use an automated enforcement system to issue citations for
21 alleged violations of state or municipal laws relating to motor
22 vehicles that are punishable as a misdemeanor."

23 Section 6. Section 66-8-126 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 534) is amended to read:

25 "66-8-126. FAILURE TO OBEY NOTICE TO APPEAR.--

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1 A. It is a misdemeanor for any person to violate
2 his written promise to appear in court given in response to an
3 automated enforcement system citation or to an officer upon
4 issuance of a uniform traffic citation regardless of the
5 disposition of the charge for which the citation was issued.

6 B. A written promise to appear in court may be
7 complied with by appearance of counsel."

8 Section 7. Section 66-8-128 NMSA 1978 (being Laws 1978,
9 Chapter 35, Section 536, as amended) is amended to read:

10 "66-8-128. UNIFORM TRAFFIC CITATION.--

11 A. The department shall prepare a uniform traffic
12 citation containing at least the following information:

13 (1) an information section, serially numbered
14 and containing spaces for the name, address, city and state of
15 the individual charged; the individual's physical description,
16 age and sex; the registration number, year and state of the
17 vehicle involved and its make and type; the state and number of
18 the individual's driver's license; the specific section number
19 and common name of the offense charged under the NMSA 1978 or
20 of local law; the date and time of arrest; the arresting
21 officer's signature and identification number; and the
22 conditions existing at the time of the violation;

23 (2) a notice to appear; and

24 (3) a penalty assessment notice with a place
25 for the signature of the violator agreeing to pay the penalty

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1 assessment prescribed.

2 B. The department shall prescribe how the uniform
3 traffic citation form may be used as a warning notice.

4 C. The department shall prescribe the size and
5 number of copies of the paper version of the uniform traffic
6 citation and the disposition of each copy. The department may
7 also prescribe one or more electronic versions of the uniform
8 traffic citation, and these electronic versions may be used in
9 the issuance of citations.

10 D. Any entity that wishes to submit uniform traffic
11 citations required to be submitted to the department by
12 electronic means ~~[must]~~ shall secure the prior permission of
13 the department.

14 E. The department shall prescribe the form and
15 content of a uniform automated enforcement system citation and
16 the procedures by which the citation may be issued and
17 processed."

18 Section 8. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2005.

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