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SENATE BILL 329

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

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO MOTOR VEHICLES; CREATING THE CRIME OF INTENTIONAL FAILURE TO PAY FOR FUEL; PROVIDING PENALTIES; AMENDING AND ENACTING SECTIONS OF THE MOTOR VEHICLE CODE.

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

Section 1. Section 66-5-30 NMSA 1978 (being Laws 1978, Chapter 35, Section 252, as amended) is amended to read:

"66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE LICENSE. --

A. The division is authorized to suspend the instruction permit, driver's license or provisional license of a driver without preliminary hearing upon a showing by its records or other sufficient evidence, including information provided to the state pursuant to an intergovernmental agreement authorized by Section 66-5-27.1 NMSA 1978, that the

1 licensee:

2 (1) has been convicted of an offense for which
3 mandatory revocation of license is required upon conviction;

4 (2) has been convicted as a driver in an
5 accident resulting in the death or personal injury of another
6 or serious property damage;

7 (3) has been convicted with such frequency of
8 offenses against traffic laws or rules governing motor vehicles
9 as to indicate a disrespect for traffic laws and a disregard
10 for the safety of other persons on the highways;

11 (4) is an habitually reckless or negligent
12 driver of a motor vehicle;

13 (5) is incompetent to drive a motor vehicle;

14 (6) has permitted an unlawful or fraudulent
15 use of the license;

16 (7) has been convicted of an offense in
17 another state or tribal jurisdiction that if committed within
18 this state's jurisdiction would be grounds for suspension or
19 revocation of the license;

20 (8) has violated provisions stipulated by a
21 district court in limitation of certain driving privileges;

22 (9) has failed to fulfill a signed promise to
23 appear or notice to appear in court as evidenced by notice from
24 a state court or tribal court, whenever appearance is required
25 by law or by the court as a consequence of a charge or

underscored material = new
[bracketed material] = delete

1 conviction under the Motor Vehicle Code or pursuant to the laws
2 of the tribe;

3 (10) has failed to pay a penalty assessment
4 within thirty days of the date of issuance by the state or a
5 tribe; ~~[or]~~

6 (11) has accumulated seven points, but less
7 than eleven points, and when the division has received a
8 recommendation from a municipal or magistrate judge that the
9 license be suspended for a period not to exceed three months;
10 or

11 (12) has been convicted of intentional failure
12 to pay for fuel pursuant to Section 66-8-121.1 NMSA 1978.

13 B. Upon suspending the license of a person as
14 authorized in this section, the division shall immediately
15 notify the licensee in writing and upon his request shall
16 afford him an opportunity for a hearing as early as practicable
17 within not to exceed twenty days, not counting Saturdays,
18 Sundays and legal holidays, after receipt of the request in the
19 county wherein the licensee resides unless the division and the
20 licensee agree that the hearing may be held in some other
21 county; provided that the hearing request is received within
22 twenty days from the date that the suspension was deposited in
23 the United States mail. The director may, in his discretion,
24 extend the twenty-day period. Upon the hearing, the director
25 or his duly authorized agent may administer oaths and may issue

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1 subpoenas for the attendance of witnesses and the production of
2 relevant books and papers and may require a reexamination of
3 the licensee. Upon the hearing, the division shall either
4 rescind its order of suspension or, good cause appearing
5 therefor, may continue, modify or extend the suspension of the
6 license or revoke the license. "

7 Section 2. A new section of the Motor Vehicle Code,
8 Section 66-8-121.1 NMSA 1978, is enacted to read:

9 "66-8-121.1. [NEW MATERIAL] INTENTIONAL FAILURE TO PAY
10 FOR FUEL--PENALTIES--SUSPENSION OF DRIVING PRIVILEGE. --

11 A. Intentional failure to pay for fuel consists of
12 a person dispensing fuel into the tank of a motor vehicle and
13 intentionally failing to pay for the fuel.

14 B. Whoever commits intentional failure to pay for
15 fuel is guilty of a misdemeanor and when convicted shall be
16 sentenced pursuant to Section 31-19-1 NMSA 1978.

17 C. In addition to criminal penalties, upon a first
18 conviction of intentional failure to pay for fuel the director
19 shall suspend the license or permit to drive or any
20 nonresident's operating privilege for a period of up to six
21 months. Upon a second or subsequent conviction of intentional
22 failure to pay for fuel, the director shall suspend the license
23 or permit to drive or any nonresident's operating privilege for
24 a period of up to one year. "

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