

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 437

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; REQUIRING AN IGNITION INTERLOCK LICENSE PRIOR TO ISSUANCE OF A NEW MEXICO DRIVER'S LICENSE FOR CERTAIN PERSONS WHO HAVE DWI CONVICTIONS IN OTHER STATES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAWS IN LAWS 2005.

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

Section 1. Section 66-5-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 227, as amended by Laws 2005, Chapter 241, Section 1 and by Laws 2005, Chapter 269, Section 1) is amended to read:

"66-5-5. PERSONS NOT TO BE LICENSED.--The division shall not issue a driver's license under the Motor Vehicle Code to any person:

A. who is under the age of eighteen years, except

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underscored material = new  
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1 the division may, in its discretion, issue:

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

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

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

13 (b) who has successfully completed a  
14 practice driving component;

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

17 (a) who has had a provisional license  
18 for the twelve-month period immediately preceding the date of  
19 the application for the driver's license;

20 (b) who has complied with restrictions  
21 on that license;

22 (c) who has not been convicted of a  
23 traffic violation that was committed during the ninety days  
24 prior to applying for a driver's license; and

25 (d) who has not been adjudicated for an

1 offense involving the use of alcohol or drugs during that  
2 period and who has no pending adjudications alleging an offense  
3 involving the use of alcohol or drugs at the time of  
4 application; and

5 (4) to any person thirteen years of age or  
6 older who passes an examination prescribed by the division, a  
7 license restricted to the operation of a motorcycle, provided:

8 (a) the motorcycle is not in excess of  
9 one hundred cubic centimeters displacement;

10 (b) no holder of an initial license may  
11 carry any other passenger while driving a motorcycle; and

12 (c) the director approves and certifies  
13 motorcycles as not in excess of one hundred cubic centimeters  
14 displacement and by rule provides for a method of  
15 identification of such motorcycles by all law enforcement  
16 officers;

17 B. whose license or driving privilege has been  
18 suspended or denied, during the period of suspension or denial,  
19 or to any person whose license has been revoked, except as  
20 provided in Section 66-5-32 NMSA 1978 and the Ignition  
21 Interlock Licensing Act;

22 C. who is an habitual user of narcotic drugs or  
23 alcohol or an habitual user of any drug to a degree that  
24 renders the person incapable of safely driving a motor vehicle;

25 D. who is four or more times convicted of driving a

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1 motor vehicle while under the influence of intoxicating liquor  
2 or narcotic drug regardless of whether the convictions are  
3 under the laws or ordinances of this state or any municipality  
4 or county of this state or under the laws or ordinances of any  
5 other state, the District of Columbia or any governmental  
6 subdivision thereof, except as provided in the Ignition  
7 Interlock Licensing Act. Five years from the date of the  
8 fourth conviction and every five years thereafter, the person  
9 may apply to any district court of this state for restoration  
10 of the license, and the court, upon good cause being shown, may  
11 order restoration of the license applied for; provided that the  
12 person has not been subsequently convicted of driving a motor  
13 vehicle while under the influence of intoxicating liquor or  
14 drugs. Upon issuance of the order of restoration, a certified  
15 copy shall immediately be forwarded to the division, and if the  
16 person is otherwise qualified for the license applied for, the  
17 four previous convictions shall not prohibit issuance of the  
18 license;

19 E. who was convicted on or after June 17, 2005 of  
20 driving a motor vehicle while under the influence of  
21 intoxicating liquor or drugs pursuant to the laws or ordinances  
22 of any other state, the District of Columbia or any  
23 governmental subdivision thereof, unless the person obtains an  
24 ignition interlock license as provided in the Ignition  
25 Interlock Licensing Act for a period of one year for a first

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1 conviction; a period of two years for a second conviction; a  
2 period of three years for a third conviction; or the remainder  
3 of the offender's life for a fourth or subsequent conviction,  
4 subject to a five-year review as provided in Subsection D of  
5 this section. Upon presentation of proof satisfactory to the  
6 division, the division may credit time spent by a person  
7 operating a motor vehicle with an ignition interlock or  
8 comparable device, as a condition of the person's sentence for  
9 a conviction in another jurisdiction pursuant to this  
10 subsection, against the ignition interlock time requirements  
11 imposed by this subsection. The division shall promulgate  
12 rules necessary for granting credit to persons who participate  
13 in comparable out-of-state programs following a conviction for  
14 driving a motor vehicle while under the influence of  
15 intoxicating liquor or drugs. The requirements of this  
16 subsection shall not apply to a person who applies for a  
17 driver's license ten years or more from the date of the  
18 person's last conviction, except for a person who is subject to  
19 lifetime driver's license revocation for a conviction in  
20 another jurisdiction pursuant to this subsection.

21 ~~[E.]~~ F. who has previously been afflicted with or  
22 who is suffering from any mental disability or disease that  
23 would render ~~[him]~~ the person unable to drive a motor vehicle  
24 with safety upon the highways and who has not, at the time of  
25 application, been restored to health;

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1           ~~[F.]~~ G. who is required by the Motor Vehicle Code  
2 to take an examination, unless the person has successfully  
3 passed the examination;

4           ~~[G.]~~ H. who is required under the laws of this  
5 state to deposit proof of financial responsibility and who has  
6 not deposited the proof;

7           ~~[H.]~~ I. when the director has good cause to believe  
8 that the operation of a motor vehicle on the highways by the  
9 person would be inimical to public safety or welfare; or

10           ~~[I.]~~ J. as a motorcycle driver who is less than  
11 eighteen years of age and who has not presented a certificate  
12 or other evidence of having successfully completed a motorcycle  
13 driver education program licensed or offered in conformance  
14 with rules of the bureau."

15           Section 2. Section 66-5-502 NMSA 1978 (being Laws 2003,  
16 Chapter 239, Section 2, as amended) is amended to read:

17           "66-5-502. DEFINITIONS.--As used in the Ignition  
18 Interlock Licensing Act:

19           A. "denied" means having an instructor's permit,  
20 driver's license or provisional license denied for driving  
21 while under the influence of intoxicating liquor or drugs,  
22 pursuant to the provisions of Subsection D or E of Section  
23 66-5-5 NMSA 1978;

24           B. "ignition interlock device" means a device,  
25 approved by the traffic safety bureau, that prevents the

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1 operation of a motor vehicle by an intoxicated or impaired  
2 person;

3 C. "ignition interlock license" means a driver's  
4 license issued to a person by the division that allows that  
5 person to operate a motor vehicle with an ignition interlock  
6 device after that person's instructor's permit, driver's  
7 license or provisional license has been revoked or denied. The  
8 division shall clearly mark an ignition interlock license to  
9 distinguish it from other driver's licenses; and

10 D. "revoked" means having an instructor's permit,  
11 driver's license or provisional license revoked for driving  
12 while under the influence of intoxicating liquor or drugs,  
13 pursuant to the provisions of Section 66-8-102 or 66-8-111 NMSA  
14 1978."

15 Section 3. EFFECTIVE DATE.--The effective date of the  
16 provisions of this act is July 1, 2007.

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