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AN ACT

RELATING TO COMMERCIAL VEHICLE DRIVERS; UPDATING, CLARIFYING  
AND REORGANIZING SECTIONS OF THE MOTOR VEHICLE CODE APPLYING  
TO COMMERCIAL MOTOR VEHICLE DRIVERS; INCREASING PENALTIES FOR  
CERTAIN VIOLATIONS; REORGANIZING CONVICTION REPORTING  
REQUIREMENTS THAT APPLY ONLY TO COMMERCIAL VEHICLE DRIVERS;  
AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 65-3-7 NMSA 1978 (being Laws 1989,  
Chapter 201, Section 7) is amended to read:

"65-3-7. QUALIFICATIONS OF DRIVERS.--

A. A person shall not drive a motor vehicle unless  
the person is qualified to drive a motor vehicle, and a motor  
carrier shall not require or permit a person to drive a motor  
vehicle unless that person is qualified to drive a motor  
vehicle.

B. A person is qualified to drive a commercial  
motor carrier vehicle if the person:

(1) is at least:

(a) twenty-one years old; or

(b) eighteen years old if involved only  
in intrastate commerce and drives only within the boundaries  
of the state of New Mexico;

(2) is physically qualified to drive a motor

1 vehicle;

2 (3) is not disqualified from driving a motor  
3 vehicle;

4 (4) has been issued a currently valid motor  
5 vehicle operator's license or permit of the proper class for  
6 the vehicle that the person is driving;

7 (5) can, by reason of experience, training  
8 or both, safely operate the type of motor vehicle that the  
9 person drives; and

10 (6) can, by reason of experience, training  
11 or both, determine whether the cargo that the person  
12 transports is properly located, distributed and secured in or  
13 on the motor vehicle that the person drives.

14 C. The director shall adopt regulations requiring  
15 motor carriers to maintain appropriate records pertaining to  
16 the qualifications of every commercial motor carrier vehicle  
17 driver in its employ, either regularly or casually. Such  
18 regulations shall not be inconsistent with or more stringent  
19 than applicable federal safety standards.

20 D. The director is authorized to adopt specific  
21 exceptions for the qualifications of drivers under the Motor  
22 Carrier Safety Act for drivers of articulated farm vehicles  
23 and intrastate drivers of motor vehicles transporting  
24 combustible liquids."

25 Section 2. Section 65-3-14 NMSA 1978 (being Laws 2007,

1 Chapter 151, Section 1) is amended to read:

2 "65-3-14. DRUG AND ALCOHOL TESTING PROGRAM--REPORT OF  
3 POSITIVE TEST.--

4 A. A motor carrier shall have an in-house drug and  
5 alcohol testing program that meets the requirements of 49  
6 C.F.R. part 382 or be a member of a consortium, as defined in  
7 49 C.F.R. part 382.107, that provides testing that meets the  
8 requirements of C.F.R. part 382.

9 B. A person or entity specified in 49 C.F.R. part  
10 382.103, who is not explicitly excepted by New Mexico law, is  
11 subject to the provisions of this section and shall report  
12 positive test results or a refusal to submit to a test  
13 pursuant to provisions in this section. A refusal to submit  
14 to a pre-employment test shall not be considered a violation  
15 of this section.

16 C. When a person or entity specified in 49 C.F.R.  
17 part 382.103 determines that a positive test result is valid,  
18 the person or entity shall report the findings to the motor  
19 vehicle division of the taxation and revenue department. The  
20 motor vehicle division shall enter the report of a positive  
21 test result or refusal to submit to a test on the reported  
22 person's motor vehicle record so that it can be contained in  
23 the commercial driver's license information system pursuant  
24 to the New Mexico Commercial Driver's License Act.

25 D. The division shall keep the report of a

1 positive test result or the refusal to submit to a test in  
2 the motor vehicle record of the driver for five years from  
3 the time the report was received by the motor vehicle  
4 division."

5 Section 3. Section 66-1-4.3 NMSA 1978 (being Laws 1990,  
6 Chapter 120, Section 4, as amended) is amended to read:

7 "66-1-4.3. DEFINITIONS.--As used in the Motor Vehicle  
8 Code:

9 A. "camping body" means a vehicle body primarily  
10 designed or converted for use as temporary living quarters  
11 for recreational, camping or travel activities excluding  
12 recreational vehicles unless used in commerce;

13 B. "camping trailer" means a camping body, mounted  
14 on a chassis, or frame with wheels, designed to be drawn by  
15 another vehicle and that has collapsible partial side walls  
16 that fold for towing and unfold at the campsite;

17 C. "cancellation" means that a driver's license is  
18 annulled and terminated because of some error or defect or  
19 because the licensee is no longer entitled to the license,  
20 but cancellation of a license is without prejudice, and  
21 application for a new license may be made at any time after  
22 cancellation;

23 D. "casual sale" means the sale of a motor vehicle  
24 by the registered owner of the vehicle if the owner has not  
25 sold more than four vehicles in that calendar year;

1           E. "chassis" means the complete motor vehicle,  
2 including standard factory equipment, exclusive of the body  
3 and cab;

4           F. "collector" means a person who is the owner of  
5 one or more vehicles of historic or special interest who  
6 collects, purchases, acquires, trades or disposes of these  
7 vehicles or parts thereof for the person's own use in order  
8 to preserve, restore and maintain a similar vehicle for hobby  
9 purposes;

10          G. "combination" means any connected assemblage of  
11 a motor vehicle and one or more semitrailers, trailers or  
12 semitrailers converted to trailers by means of a converter  
13 gear;

14          H. "combination gross vehicle weight" means the  
15 sum total of the gross vehicle weights of all units of a  
16 combination;

17          I. "commerce" means the transportation of persons,  
18 property or merchandise for hire, compensation, profit or in  
19 the furtherance of a commercial enterprise in this state or  
20 between New Mexico and a place outside New Mexico, including  
21 a place outside the United States;

22          J. "commercial motor vehicle" means a  
23 self-propelled or towed vehicle, other than special mobile  
24 equipment, used on public highways in commerce to transport  
25 passengers or property when the vehicle:

1                   (1) is operated interstate and has a gross  
2 vehicle weight rating or gross combination weight rating, or  
3 gross vehicle weight or gross combination weight, of four  
4 thousand five hundred thirty-six kilograms, or ten thousand  
5 one pounds or more; or is operated only in intrastate  
6 commerce and has a gross vehicle weight rating or gross  
7 combination weight rating, or gross vehicle weight or gross  
8 combination weight, of twenty-six thousand one or more  
9 pounds;

10                   (2) is designed or used to transport more  
11 than eight passengers, including the driver, and is used to  
12 transport passengers for compensation;

13                   (3) is designed or used to transport sixteen  
14 or more passengers, including the driver, and is not used to  
15 transport passengers for compensation; or

16                   (4) is used to transport hazardous materials  
17 of the type or quantity requiring placarding under rules  
18 prescribed by applicable federal or state law;

19                   K. "controlled-access highway" means every  
20 highway, street or roadway in respect to which owners or  
21 occupants of abutting lands and other persons have no legal  
22 right of access to or from the highway, street or roadway  
23 except at those points only and in the manner as may be  
24 determined by the public authority having jurisdiction over  
25 the highway, street or roadway;

1           L. "controlled substance" means any substance  
2 defined in Section 30-31-2 NMSA 1978 as a controlled  
3 substance;

4           M. "converter gear" means any assemblage of one or  
5 more axles with a fifth wheel mounted thereon, designed for  
6 use in a combination to support the front end of a  
7 semitrailer but not permanently attached thereto. A  
8 converter gear shall not be considered a vehicle, as that  
9 term is defined in Section 66-1-4.19 NMSA 1978, but weight  
10 attributable thereto shall be included in declared gross  
11 weight;

12           N. "conviction":

13                 (1) means:

14                         (a) a finding of guilt in the trial  
15 court in regard to which the violator has waived or exhausted  
16 all rights to appeal;

17                         (b) a plea of guilty or nolo contendere  
18 accepted by the court;

19                         (c) an unvacated forfeiture of bail or  
20 collateral deposited to secure a person's appearance in  
21 court; or

22                         (d) the promise to mail a payment on a  
23 penalty assessment; and

24                         (2) does not include a conditional discharge  
25 as provided in Section 31-20-13 NMSA 1978 or a deferred

1 sentence when the terms of the deferred sentence are met;

2 O. "crosswalk" means:

3 (1) that part of a roadway at an  
4 intersection included within the connections of the lateral  
5 lines of the sidewalks on opposite sides of the highway  
6 measured from the curbs or, in the absence of curbs, from the  
7 edges of the traversable roadway; and

8 (2) any portion of a roadway at an  
9 intersection or elsewhere distinctly indicated for pedestrian  
10 crossing by lines or other markings on the surface; and

11 P. "curb cut" means a short ramp through a curb or  
12 built up to the curb."

13 Section 4. Section 66-5-54 NMSA 1978 (being Laws 1989,  
14 Chapter 14, Section 3, as amended) is amended to read:

15 "66-5-54. DEFINITIONS.--As used in the New Mexico  
16 Commercial Driver's License Act:

17 A. "commerce" means:

18 (1) trade, traffic or transportation within  
19 the jurisdiction of the United States between a place in New  
20 Mexico and a place outside of New Mexico, including a place  
21 outside of the United States; and

22 (2) trade, traffic or transportation in the  
23 United States that affects any trade, traffic or  
24 transportation described in Paragraph (1) of this subsection;

25 B. "commercial driver's license holder" means an

1 individual to whom a license has been issued by a state or  
2 other jurisdiction, in accordance with the standards found in  
3 49 C.F.R. part 383, as amended or renumbered, that authorizes  
4 the individual to operate a commercial motor vehicle;

5 C. "commercial driver's license information  
6 system" means the information system created pursuant to the  
7 federal Commercial Motor Vehicle Safety Act of 1986 that  
8 contains information pertaining to operators of commercial  
9 motor vehicles;

10 D. "commercial motor vehicle" means a motor  
11 vehicle or combination of motor vehicles used in commerce to  
12 transport passengers or property if the motor vehicle:

13 (1) has a gross combination weight rating of  
14 more than twenty-six thousand pounds inclusive of a towed  
15 unit with a gross vehicle weight rating of more than ten  
16 thousand pounds;

17 (2) has a gross vehicle weight rating of  
18 more than twenty-six thousand pounds;

19 (3) is designed to transport sixteen or more  
20 passengers, including the driver; or

21 (4) is of any size and is used in the  
22 transportation of hazardous materials, as hazardous materials  
23 are defined in 49 C.F.R. part 383.5;

24 E. "conviction" means:

25 (1) an unvacated adjudication of guilt or a

1 determination that a person has violated or failed to comply  
2 with the law by:

3 (a) a court of original jurisdiction;  
4 or

5 (b) an authorized administrative  
6 tribunal;

7 (2) an unvacated forfeiture of bail or  
8 collateral deposited to secure a person's appearance in  
9 court;

10 (3) a plea of guilty or nolo contendere  
11 accepted by the court;

12 (4) the payment of a fine or court cost;

13 (5) a violation of a condition of release  
14 without bail, regardless of whether the payment is rebated,  
15 suspended or probated;

16 (6) an assignment to a diversion program or  
17 a driver improvement school; or

18 (7) a conditional discharge as provided in  
19 Section 31-20-13 NMSA 1978;

20 F. "director" means the director of the motor  
21 vehicle division of the department;

22 G. "disqualification" means:

23 (1) a suspension, revocation or cancellation  
24 of a commercial driver's license by the state or jurisdiction  
25 that issued the commercial driver's license;

1 (2) a withdrawal of a person's privileges to  
2 drive a commercial motor vehicle by a state or other  
3 jurisdiction as the result of a violation of state or local  
4 law relating to motor vehicle control other than a parking,  
5 vehicle weight or vehicle defect violation; and

6 (3) a determination by the federal motor  
7 carrier safety administration that a person is not qualified  
8 to operate a motor vehicle;

9 H. "division" means the motor vehicle division of  
10 the department;

11 I. "driving a commercial motor vehicle while under  
12 the influence of alcohol" means:

13 (1) driving a commercial motor vehicle while  
14 the driver has an alcohol concentration in the driver's blood  
15 or breath of four one hundredths or more;

16 (2) driving a commercial motor vehicle while  
17 the driver is under the influence of intoxicating liquor; or

18 (3) refusal to submit to chemical tests  
19 administered pursuant to Section 66-8-107 NMSA 1978;

20 J. "employee" means an operator of a commercial  
21 motor vehicle, including full-time, regularly employed  
22 drivers; casual, intermittent or occasional drivers; leased  
23 drivers; and independent owner-operator contractors, while in  
24 the course of operating a commercial motor vehicle, who is  
25 either directly employed by or under lease to an employer;

1           K. "employer" means a person, including the United  
2 States, a state and a political subdivision of a state or  
3 their agencies or instrumentalities, that owns or leases a  
4 commercial motor vehicle or assigns employees to operate such  
5 a vehicle;

6           L. "fatality" means the death of a person as a  
7 result of a motor vehicle accident;

8           M. "gross combination weight rating" means the  
9 value specified by the manufacturer as the loaded weight of a  
10 combination vehicle. In the absence of a value specified by  
11 the manufacturer, gross combination weight rating shall be  
12 determined by adding the gross vehicle weight rating of the  
13 power unit and the total weight of the towed unit or units  
14 and any load thereon;

15           N. "gross vehicle weight rating" means the value  
16 specified by the manufacturer as the loaded weight of a  
17 single vehicle;

18           O. "imminent hazard" means a condition that  
19 presents a substantial likelihood that death, serious  
20 illness, severe personal injury or a substantial endangerment  
21 to health, property or the environment will occur before the  
22 reasonable foreseeable completion date of a formal proceeding  
23 to lessen the risk of that death, illness, injury or  
24 endangerment;

25           P. "noncommercial motor vehicle" means a motor

1 vehicle or combination of motor vehicles that is not a  
2 commercial motor vehicle;

3 Q. "nonresident commercial driver's license" means  
4 a commercial driver's license issued by another state to a  
5 person domiciled in that state or by a foreign country to a  
6 person domiciled in that country;

7 R. "out-of-service order" means a declaration by  
8 an authorized enforcement officer of a federal, state,  
9 Canadian, Mexican or local jurisdiction that a driver, a  
10 commercial motor vehicle or a motor carrier operation is  
11 temporarily prohibited from operating;

12 S. "railroad-highway grade crossing violation"  
13 means a violation of a provision of Section 66-7-341 or  
14 66-7-343 NMSA 1978 or a violation of federal or local law or  
15 rule pertaining to stopping at or crossing a railroad-highway  
16 grade crossing;

17 T. "serious traffic violation" means conviction of  
18 any of the following if committed when operating a motor  
19 vehicle:

20 (1) speed of fifteen miles or more per hour  
21 above the posted limits;

22 (2) reckless driving as defined by Section  
23 66-8-113 NMSA 1978 or a municipal ordinance or the law of  
24 another state;

25 (3) homicide by vehicle, as defined in

1 Section 66-8-101 NMSA 1978;

2 (4) injury to pregnant woman by vehicle as  
3 defined in Section 66-8-101.1 NMSA 1978 or a municipal  
4 ordinance or the law of another state;

5 (5) any other violation of law relating to  
6 motor vehicle traffic control, other than a parking  
7 violation, that the secretary determines by regulation to be  
8 a serious traffic violation. "Serious traffic violation"  
9 does not include a vehicle weight or vehicle defect  
10 violation;

11 (6) improper or erratic lane changes in  
12 violation of Section 66-7-317 NMSA 1978;

13 (7) following another vehicle too closely in  
14 violation of Section 66-7-318 NMSA 1978;

15 (8) directly or indirectly causing death or  
16 great bodily injury to a human being in the unlawful  
17 operation of a motor vehicle in violation of Section 66-8-101  
18 NMSA 1978;

19 (9) driving a commercial motor vehicle  
20 without possession of a commercial driver's license in  
21 violation of Section 66-5-59 NMSA 1978;

22 (10) driving a commercial motor vehicle  
23 without the proper class of commercial driver's license and  
24 endorsements pursuant to Section 66-5-65 NMSA 1978 and the  
25 Motor Carrier Safety Act for the specific vehicle group

1 operated or for the passengers or type of cargo transported;  
2 or

3 (11) driving a commercial motor vehicle  
4 without obtaining a commercial driver's license in violation  
5 of Section 66-5-59 NMSA 1978; and

6 U. "state of domicile" means the state in which a  
7 person has a true, fixed and permanent home and principal  
8 residence and to which the person has the intention of  
9 returning whenever the person has been absent from that  
10 state."

11 Section 5. Section 66-5-68 NMSA 1978 (being Laws 1989,  
12 Chapter 14, Section 17, as amended) is amended to read:

13 "66-5-68. DISQUALIFICATION.--

14 A. The department shall disqualify a person from  
15 driving a commercial motor vehicle for at least thirty days  
16 if the federal motor carrier safety administration reports to  
17 the division that the person poses an imminent hazard.

18 B. The department shall disqualify a person who  
19 holds a commercial driver's license or who is required to  
20 hold a commercial driver's license from driving a commercial  
21 motor vehicle for a period of not less than one year, which  
22 shall run concurrently with any revocation or suspension  
23 action for the same offense, if the person:

24 (1) refuses to submit to a chemical test  
25 when requested pursuant to the provisions of the Implied

1 Consent Act;

2 (2) is twenty-one years of age or more and  
3 submits to chemical testing pursuant to the Implied Consent  
4 Act and the test results indicate an alcohol concentration of  
5 eight one hundredths or more;

6 (3) submits to chemical testing pursuant to  
7 the Implied Consent Act and the test results indicate an  
8 alcohol concentration of four one hundredths or more if the  
9 person is driving a commercial motor vehicle;

10 (4) is less than twenty-one years of age and  
11 submits to chemical testing pursuant to the Implied Consent  
12 Act and the test results indicate an alcohol concentration of  
13 two one hundredths or more; or

14 (5) is convicted of a violation of:

15 (a) driving a motor vehicle while under  
16 the influence of intoxicating liquor or drugs in violation of  
17 Section 66-8-102 NMSA 1978, an ordinance of a municipality of  
18 this state or the law of another state;

19 (b) leaving the scene of an accident  
20 involving a commercial motor vehicle driven by the person in  
21 violation of Section 66-7-201 NMSA 1978 or an ordinance of a  
22 municipality of this state or the law of another state;

23 (c) using a motor vehicle in the  
24 commission of a felony;

25 (d) driving a commercial motor vehicle

1 after the driver's commercial driver's license is revoked,  
2 suspended, disqualified or canceled for violations while  
3 operating a commercial motor vehicle; or

4 (e) causing a fatality in the unlawful  
5 operation of a motor vehicle pursuant to Section 66-8-101  
6 NMSA 1978.

7 C. The department shall disqualify a person from  
8 driving a commercial motor vehicle for a period of not less  
9 than three years if any of the violations specified in  
10 Subsection B of this section occur while transporting a  
11 hazardous material required to be placarded.

12 D. The department shall disqualify a person from  
13 driving a commercial motor vehicle for life if convicted of  
14 two or more violations of any of the offenses specified in  
15 Subsection B of this section, or any combination of those  
16 offenses, arising from two or more separate incidents, but  
17 the secretary may issue regulations establishing guidelines,  
18 including conditions, under which a disqualification for life  
19 under this subsection may be reduced to a period of not less  
20 than ten years. This subsection applies only to those  
21 offenses committed after July 1, 1989.

22 E. The department shall disqualify a person from  
23 driving a commercial motor vehicle for life if the person  
24 uses a commercial motor vehicle in the commission of any  
25 felony involving the manufacture, distribution or dispensing

1 of a controlled substance or the possession with intent to  
2 manufacture, distribute or dispense a controlled substance.

3 F. The department shall disqualify a person from  
4 driving a commercial motor vehicle for a period of not less  
5 than sixty days if convicted of two serious traffic  
6 violations or one hundred twenty days if convicted of three  
7 serious traffic violations, if the violations were committed  
8 while driving a commercial motor vehicle, arising from  
9 separate incidents occurring within a three-year period.

10 G. The department shall disqualify a person from  
11 driving a commercial motor vehicle for a period of:

12 (1) not less than one hundred eighty days  
13 nor more than two years if the person is convicted of a first  
14 violation of an out-of-service order while transporting  
15 hazardous materials required to be placarded pursuant to the  
16 federal Hazardous Materials Transportation Act or while  
17 operating a motor vehicle designed to transport more than  
18 fifteen passengers, including the driver;

19 (2) not more than one year if the person is  
20 convicted of a first violation of an out-of-service order; or

21 (3) not less than three years nor more than  
22 five years if, during any ten-year period, the person is  
23 convicted of any subsequent violations of out-of-service  
24 orders, in separate incidents, while transporting hazardous  
25 materials required to be placarded pursuant to that act or

1 while operating a motor vehicle designed to transport more  
2 than fifteen passengers, including the driver.

3 H. The department shall disqualify a person from  
4 driving a commercial motor vehicle for sixty days if:

5 (1) the person has been convicted of two  
6 serious traffic violations in separate incidents within a  
7 three-year period; and

8 (2) the second conviction results in  
9 revocation, cancellation or suspension of the person's  
10 commercial driver's license or noncommercial motor vehicle  
11 driving privileges for sixty days.

12 I. The department shall disqualify a person from  
13 driving a commercial motor vehicle for one hundred twenty  
14 days, in addition to any other period of disqualification,  
15 if:

16 (1) the person has been convicted of more  
17 than two serious traffic violations within a three-year  
18 period; and

19 (2) the third or a subsequent conviction  
20 results in the revocation, cancellation or suspension of the  
21 person's commercial driver's license or noncommercial motor  
22 vehicle driving privileges.

23 J. When a person is disqualified from driving a  
24 commercial motor vehicle, any commercial driver's license  
25 held by that person is invalidated without a separate

1 proceeding of any kind and the driver is not eligible to  
2 apply for a commercial driver's license until the period of  
3 time for which the driver was disqualified has elapsed.

4 K. The department shall disqualify a person from  
5 driving a commercial motor vehicle for not less than:

6 (1) sixty days if the person is convicted of  
7 a first violation of a railroad-highway grade crossing  
8 violation;

9 (2) one hundred twenty days if, during any  
10 three-year period, the person is convicted of a second  
11 railroad-highway grade crossing violation in a separate  
12 incident; and

13 (3) one year if, during any three-year  
14 period, the person is convicted of a third or subsequent  
15 railroad-highway grade crossing violation in a separate  
16 incident.

17 L. After disqualifying, suspending, revoking or  
18 canceling a commercial driver's license, the department  
19 shall, within ten days, update its records to reflect that  
20 action. After disqualifying, suspending, revoking or  
21 canceling a nonresident commercial driver's privileges, the  
22 department shall, within ten days, notify the licensing  
23 authority of the state that issued the commercial driver's  
24 license.

25 M. When disqualifying, suspending, revoking or

1 canceling a commercial driver's license, the department shall  
2 treat a conviction received in another state in the same  
3 manner as if it was received in this state.

4 N. The department shall post and enforce any  
5 disqualification sent by the federal motor carrier safety  
6 administration to the department that indicates that a  
7 commercial motor vehicle driver poses an imminent hazard.

8 O. The federal transportation security  
9 administration of the department of homeland security shall  
10 provide for an appeal of a disqualification for a commercial  
11 driver's license hazardous materials endorsement on the basis  
12 of a background check, and the department shall provide to a  
13 hazardous materials applicant a copy of the procedures  
14 established by the transportation security administration, on  
15 request, at the time of application.

16 P. New Mexico shall conform to the federal  
17 transportation security administration of the department of  
18 homeland security rules and shall "look back" or review a  
19 maximum of seven years for a background check."

20 Section 6. Section 66-5-71 NMSA 1978 (being Laws 1998,  
21 Chapter 17, Section 5, as amended) is amended to read:

22 "66-5-71. PENALTIES FOR VIOLATION OF OUT-OF-SERVICE  
23 ORDERS.--

24 A. A driver who is convicted of violating an  
25 out-of-service order shall be subject to a civil penalty of

1 not less than two thousand five hundred dollars (\$2,500) for  
2 a first violation and five thousand dollars (\$5,000) for a  
3 second or subsequent violation, in addition to  
4 disqualification as provided in Subsection C of this section.  
5 The director shall collect the penalty upon conviction.

6 B. An employer who is convicted of a violation of  
7 Subsection C of Section 66-5-58 NMSA 1978 shall be subject to  
8 a civil penalty of not less than two thousand seven hundred  
9 fifty dollars (\$2,750) or more than eleven thousand dollars  
10 (\$11,000). The director shall collect the penalty upon  
11 conviction.

12 C. A driver who is convicted of violating an  
13 out-of-service order shall be disqualified for:

14 (1) not less than ninety days or more than  
15 one year if the driver is convicted of a first violation of  
16 an out-of-service order;

17 (2) not less than one year or more than five  
18 years if, during any ten-year period, the driver is convicted  
19 of two violations of out-of-service orders in separate  
20 incidents; and

21 (3) not less than three years or more than  
22 five years if, during any ten-year period, the driver is  
23 convicted of three or more violations of out-of-service  
24 orders in separate incidents."

1 Chapter 35, Section 543, as amended) is amended to read:

2 "66-8-135. RECORD OF TRAFFIC CASES.--

3 A. Every trial court judge shall keep a record of  
4 every traffic complaint, uniform traffic citation and other  
5 form of traffic charge filed in the judge's court or its  
6 traffic violations bureau and every official action and  
7 disposition of the charge by that court.

8 B. Within ten days of the later of entry of  
9 judgment and sentence or failure to appear on a charge of  
10 violating the Motor Vehicle Code or other law or ordinance  
11 relating to motor vehicles or the final decision of any  
12 higher court that reviews the matter and from which no appeal  
13 or review is successfully taken, every trial court judge,  
14 including children's court judges, or the clerk of the court  
15 in which the entry of judgment and sentence or failure to  
16 appear occurred shall prepare and forward to the department  
17 an abstract of the record containing:

18 (1) the name and address of the defendant;

19 (2) the specific section number and common  
20 name of the provision of the NMSA 1978 or local law,  
21 ordinance or regulation under which the defendant was tried;

22 (3) the plea, finding of the court and  
23 disposition of the charge, including fine or jail sentence or  
24 both, forfeiture of bail or dismissal of the charge;

25 (4) an itemization of costs assessed to the

1 defendant;

2 (5) the date of the hearing;

3 (6) the court's name and address;

4 (7) whether the defendant was a first or  
5 subsequent offender; and

6 (8) whether the defendant was represented by  
7 counsel or waived the right to counsel and, if represented,  
8 the name and address of counsel.

9 C. The abstract of record prepared and forwarded  
10 under Subsection B of this section shall be certified as  
11 correct by the person required to prepare it. With the prior  
12 approval of the department, the information required by  
13 Subsection B of this section may be transmitted  
14 electronically to the department. Report need not be made of  
15 any disposition of a charge of illegal parking or standing of  
16 a vehicle except when the uniform traffic citation is used.

17 D. When the uniform traffic citation is used, the  
18 court shall provide the information required by Subsection B  
19 of this section in the manner prescribed by the department.

20 E. Every court of record shall also forward a like  
21 report to the department upon conviction of any person of any  
22 felony if a motor vehicle was used in the commission. With  
23 the prior approval of the department, the information  
24 required by this subsection may be submitted electronically  
25 to the department. The report shall be forwarded to the

1 department within ten days of the final decision of the court  
2 or of any higher court that reviews the matter and from which  
3 the decision of no appeal or review is successfully taken.

4 F. The failure or refusal of any judicial officer  
5 to comply with this section is misconduct in office and  
6 grounds for removal.

7 G. Except as set forth in Subsection H of this  
8 section for records of a person holding a commercial driver's  
9 license, the department shall keep records received on  
10 motorists licensed in this state at its main office. Records  
11 showing a record of conviction by a court of law shall be  
12 open to public inspection during business hours for three  
13 years from the date of their receipt, after which they shall  
14 be destroyed by the department except for records of  
15 convictions under Sections 66-8-101 through 66-8-112 NMSA  
16 1978, which may not be destroyed until fifty-five years from  
17 the date of their receipt. Any record received on a motorist  
18 licensed in another state or country shall be forwarded to  
19 the licensing authority of that state or country.

20 H. The department shall keep records received on a  
21 person holding a commercial driver's license or an individual  
22 driving a commercial motor vehicle who was required to have a  
23 commercial driver's license but was driving a commercial  
24 motor vehicle without the appropriate license in its main  
25 office. Records showing a record of conviction by a court of

