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HOUSE BILL 65

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Brian F. Egolf

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING AN INCREASED PENALTY FOR
HOMICIDE BY VEHICLE WHEN THE DRIVER HAS AN ALCOHOL
CONCENTRATION OF SIXTEEN ONE HUNDREDTHS OR MORE; INCREASING THE
PENALTY ENHANCEMENT FOR PRIOR DWI CONVICTIONS.

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

Section 1. Section 66-8-101 NMSA 1978 (being Laws 1978,
Chapter 35, Section 509, as amended) is amended to read:

"66-8-101. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY
VEHICLE.--

A. Homicide by vehicle is the killing of a human
being in the unlawful operation of a motor vehicle.

B. Great bodily harm by vehicle is the injuring of
a human being, to the extent defined in Section 30-1-12 NMSA
1978, in the unlawful operation of a motor vehicle.

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1 C. A person who commits homicide by vehicle or
2 great bodily harm by vehicle while under the influence of
3 intoxicating liquor or while under the influence of any drug or
4 while violating Section 66-8-113 NMSA 1978 is guilty of a third
5 degree felony and shall be sentenced pursuant to the provisions
6 of Section 31-18-15 NMSA 1978, provided that violation of
7 speeding laws as set forth in the Motor Vehicle Code shall not
8 per se be a basis for violation of Section 66-8-113 NMSA 1978.

9 D. A person who commits homicide by vehicle or
10 great bodily harm by vehicle while under the influence of
11 intoxicating liquor or while under the influence of any drug,
12 as provided in Subsection C of this section, and who has
13 incurred a prior DWI conviction within ten years of the
14 occurrence [~~for which he is being sentenced under this section~~]
15 shall have [~~his~~] the basic sentence increased by [~~four~~] six
16 years for each prior DWI conviction.

17 E. A person who commits homicide by vehicle with an
18 alcohol concentration of sixteen one hundredths or more in the
19 person's blood or breath within three hours of driving the
20 vehicle and the alcohol concentration results from alcohol
21 consumed before or while driving the vehicle is guilty of a
22 second degree felony resulting in the death of a human being
23 and shall be sentenced pursuant to the provisions of Section
24 31-18-15 NMSA 1978. If the person has incurred a prior DWI
25 conviction within ten years of the occurrence, the basic

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1 sentence shall be increased by six years for each prior DWI
2 conviction.

3 ~~[E-]~~ F. For the purposes of this section, "prior
4 DWI conviction" means:

5 (1) a prior conviction under Section 66-8-102
6 NMSA 1978; or

7 (2) a prior conviction in New Mexico or any
8 other jurisdiction, territory or possession of the United
9 States, including a tribal jurisdiction, when the criminal act
10 is driving under the influence of alcohol or drugs.

11 ~~[F-]~~ G. A person who willfully operates a motor
12 vehicle in violation of Subsection C of Section 30-22-1 NMSA
13 1978 and directly or indirectly causes the death of or great
14 bodily harm to a human being is guilty of a third degree felony
15 and shall be sentenced pursuant to the provisions of Section
16 31-18-15 NMSA 1978."

17 Section 2. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2010.