

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILLS 89 & 188

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

AN ACT

RELATING TO MOTOR VEHICLES; ENACTING A NEW SECTION OF THE MOTOR
VEHICLE CODE TO PROHIBIT TEXT-BASED COMMUNICATIONS WHILE
OPERATING A MOTOR VEHICLE; PROVIDING EXCEPTIONS; PROVIDING A
PENALTY.

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

Section 1. A new section of the Motor Vehicle Code,
Section 66-7-358.1 NMSA 1978, is enacted to read:

"66-7-358.1. [NEW MATERIAL] TEXT-BASED COMMUNICATION
PROHIBITED.--

A. A driver shall not use a hand-held wireless
communications device to write, send or read a text-based
communication except:

- (1) to report illegal activity;
- (2) to summon medical or law enforcement help;

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[bracketed material] = delete

1 (3) to prevent injury to a person or property;
2 or

3 (4) while the motor vehicle is legally parked.

4 B. As used in this section, "hand-held wireless
5 communication device" means a hand-held device used for the
6 transfer of information without the use of electrical
7 conductors or wires, including a wireless telephone, personal
8 digital assistant, pager and text-messaging device, but does
9 not include a voice-operated or hands-free device that allows
10 the user to write, send or read a text message without the use
11 of either hand except to activate or deactivate a feature or
12 function or the device.

13 C. The penalties for first and second and
14 subsequent violations of the provisions of this section are as
15 provided in Section 66-8-116 NMSA 1978."

16 Section 2. Section 66-8-116 NMSA 1978 (being Laws 1978,
17 Chapter 35, Section 524, as amended) is amended to read:

18 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--
19 DEFINITION--SCHEDULE OF ASSESSMENTS.--

20 A. As used in the Motor Vehicle Code, "penalty
21 assessment misdemeanor" means violation of any of the following
22 listed sections of the NMSA 1978 for which, except as provided
23 in Subsections D and E of this section, the listed penalty
24 assessment is established:

25 COMMON NAME OF OFFENSE SECTION VIOLATED PENALTY

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ASSESSMENT

1			
2	Permitting unlicensed		
3	minor to drive	66-5-40	\$ 10.00
4	Failure to obey sign	66-7-104	10.00
5	Failure to obey signal	66-7-105	10.00
6	Speeding	66-7-301	
7	(1) up to and including		
8	ten miles an hour		
9	over the speed limit		15.00
10	(2) from eleven up to		
11	and including fifteen		
12	miles an hour		
13	over the speed limit		30.00
14	(3) from sixteen up to		
15	and including twenty		
16	miles an hour over the		
17	speed limit		65.00
18	(4) from twenty-one up to		
19	and including twenty-five		
20	miles an hour		
21	over the speed limit		100.00
22	(5) from twenty-six up to		
23	and including thirty		
24	miles an hour over the		
25	speed limit		125.00

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1	(6) from thirty-one up to		
2	and including thirty-five		
3	miles an hour over the		
4	speed limit		150.00
5	(7) more than thirty-five		
6	miles an hour over the		
7	speed limit		200.00
8	Unfastened safety belt	66-7-372	25.00
9	Child not in restraint device		
10	or seat belt	66-7-369	25.00
11	Minimum speed	66-7-305	10.00
12	Speeding	66-7-306	15.00
13	Improper starting	66-7-324	10.00
14	Improper backing	66-7-354	10.00
15	Improper lane	66-7-308	10.00
16	Improper lane	66-7-313	10.00
17	Improper lane	66-7-316	10.00
18	Improper lane	66-7-317	10.00
19	Improper lane	66-7-319	10.00
20	Improper passing	66-7-309 through 66-7-312	10.00
21	Improper passing	66-7-315	10.00
22	Controlled access		
23	violation	66-7-320	10.00
24	Controlled access		
25	violation	66-7-321	10.00

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1	Improper turning	66-7-322	10.00
2	Improper turning	66-7-323	10.00
3	Improper turning	66-7-325	10.00
4	Following too closely	66-7-318	10.00
5	Failure to yield	66-7-328 through 66-7-331	10.00
6	Failure to yield	66-7-332	50.00
7	Failure to yield	66-7-332.1	25.00
8	Pedestrian violation	66-7-333	10.00
9	Pedestrian violation	66-7-340	10.00
10	Failure to stop	66-7-342 and 66-7-344	
11		through 66-7-346	10.00
12	Railroad-highway grade		
13	crossing violation	66-7-341 and 66-7-343	150.00
14	Passing school bus	66-7-347	100.00
15	Failure to signal	66-7-325 through 66-7-327	10.00
16	Failure to secure load	66-7-407	100.00
17	Operation without oversize-		
18	overweight permit	66-7-413	50.00
19	Improper equipment	66-3-801	10.00
20	Improper equipment	66-3-901	20.00
21	Improper emergency		
22	signal	66-3-853 through 66-3-857	10.00
23	Operation interference	66-7-357	5.00
24	Littering	66-7-364	300.00
25	Improper parking	66-7-349 through 66-7-352	

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1		and 66-7-353	5.00
2	Improper parking	66-3-852	5.00
3	Failure to dim lights	66-3-831	10.00
4	Riding in or towing		
5	occupied house trailer	66-7-366	5.00
6	Improper opening of doors	66-7-367	5.00
7	No slow-moving vehicle		
8	emblem or flashing		
9	amber light	66-3-887	5.00
10	Open container - first		
11	violation	66-8-138	25.00
12	<u>Prohibited text-based</u>		
13	<u>communication - first</u>		
14	<u>violation</u>	<u>66-7-358.1</u>	<u>50.00</u>
15	<u>Prohibited text-based</u>		
16	<u>communication - second</u>		
17	<u>and subsequent</u>		
18	<u>violations</u>	<u>66-7-358.1</u>	<u>100.00.</u>

19 B. The term "penalty assessment misdemeanor" does not
20 include a violation that has caused or contributed to the cause
21 of an accident resulting in injury or death to a person.

22 C. When an alleged violator of a penalty assessment
23 misdemeanor elects to accept a notice to appear in lieu of a
24 notice of penalty assessment, a fine imposed upon later
25 conviction shall not exceed the penalty assessment established

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1 for the particular penalty assessment misdemeanor and probation
2 imposed upon a suspended or deferred sentence shall not exceed
3 ninety days.

4 D. The penalty assessment for speeding in violation
5 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978
6 is twice the penalty assessment established in Subsection A of
7 this section for the equivalent miles per hour over the speed
8 limit.

9 E. Upon a second conviction for operation without a
10 permit for excessive size or weight pursuant to Section
11 66-7-413 NMSA 1978, the penalty assessment shall be two
12 hundred fifty dollars (\$250). Upon a third or subsequent
13 conviction, the penalty assessment shall be five hundred
14 dollars (\$500)."

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