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HOUSE BILL 463

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO MOTOR VEHICLES; PREVENTING SUSPENSION OF A PERSON'S
NEW MEXICO DRIVER'S LICENSE BASED ON THE PERSON'S FAILURE TO
APPEAR IN COURT.

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

SECTION 1. Section 66-5-25 NMSA 1978 (being Laws 1978,
Chapter 35, Section 247, as amended) is amended to read:

"66-5-25. SUSPENDING PRIVILEGES OF NONRESIDENTS--
REPORTING CONVICTIONS--FAILURES TO APPEAR--FAILURES TO PAY.--

A. Except as provided in Sections 66-5-26 and
66-5-32 NMSA 1978, the privilege of driving a motor vehicle on
the highways of this state given to a nonresident shall be
subject to suspension or revocation by the division in like
manner and for like cause as a driver's license may be
suspended or revoked.

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1 B. The division is further authorized, upon
2 receiving a record of the conviction in this state of a
3 nonresident driver of a motor vehicle of any offense under the
4 motor vehicle laws of this state, or of notice of failure to
5 appear or upon determination by the division of failure to pay
6 a penalty assessment, to forward the record to the motor
7 vehicle administrator in the state wherein the person so
8 convicted is a resident.

9 C. Upon a request by a tribe, the division is
10 authorized to forward to a tribal court or other authority, as
11 specified in an applicable intergovernmental agreement, the
12 record of the conviction in this state of a resident driver of
13 a motor vehicle, who is subject to the jurisdiction of the
14 tribe, of any offense under the Motor Vehicle Code or of notice
15 of failure to appear or upon determination by the division of a
16 failure to pay a penalty assessment."

17 SECTION 2. Section 66-5-26 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 248, as amended) is amended to read:

19 "66-5-26. SUSPENDING RESIDENT'S LICENSE--CONVICTION--
20 [~~FAILURE TO APPEAR~~] FAILURE TO PAY IN ANOTHER STATE OR TRIBAL
21 JURISDICTION.--

22 A. The division is authorized to suspend or revoke
23 the license of a resident of this state or the privilege of a
24 nonresident to drive a motor vehicle in this state upon
25 receiving notice of the conviction of such person in another

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1 state or by a tribe of an offense that, if committed within the
2 jurisdiction of this state, would be grounds for the suspension
3 or revocation of the license of a driver.

4 B. In addition, the division is authorized to
5 suspend the [~~license of a resident of this state, or the~~]
6 privilege of a nonresident to drive a motor vehicle in this
7 state, upon receiving notice of failure to appear or pay a
8 penalty assessment imposed by a tribe or imposed in another
9 state that is a signatory of the Nonresident Violator Compact
10 with New Mexico.

11 C. In addition, the division is authorized to
12 suspend the license of a resident of this state upon receiving
13 notice of failure to pay a penalty assessment imposed by a
14 tribe or imposed in another state that is a signatory of the
15 Nonresident Violator Compact with New Mexico."

16 SECTION 3. Section 66-5-30 NMSA 1978 (being Laws 1978,
17 Chapter 35, Section 252, as amended) is amended to read:

18 "66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE
19 LICENSE.--

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

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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~~

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

3 ~~(10)]~~ (9) has failed to pay a penalty
4 assessment within thirty days of the date of issuance by the
5 state or a tribe; or

6 [~~(11)]~~ (10) has accumulated seven points, but
7 less 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 B. Upon suspending the license of a person as
11 authorized in this section, the division shall immediately
12 notify the licensee in writing and, upon [~~his~~] the licensee's
13 request, shall afford [~~him~~] the licensee an opportunity for a
14 hearing as early as practicable within not to exceed twenty
15 days, not counting Saturdays, Sundays and legal holidays, after
16 receipt of the request in the county wherein the licensee
17 resides unless the division and the licensee agree that the
18 hearing may be held in some other county; provided that the
19 hearing request is received within twenty days from the date
20 that the suspension was deposited in the United States mail.
21 The director may, in [~~his~~] the director's discretion, extend
22 the twenty-day period. Upon the hearing, the director or [~~his~~]
23 the director's duly authorized agent may administer oaths and
24 may issue subpoenas for the attendance of witnesses and the
25 production of relevant books and papers and may require a

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1 re-examination of the licensee. Upon the hearing, the division
2 shall either rescind its order of suspension or, good cause
3 appearing therefor, may continue, modify or extend the
4 suspension of the license or revoke the license."

5 SECTION 4. Section 66-5-32 NMSA 1978 (being Laws 1978,
6 Chapter 35, Section 254, as amended by Laws 2005, Chapter 241,
7 Section 3 and by Laws 2005, Chapter 269, Section 3) is amended
8 to read:

9 "66-5-32. PERIOD OF SUSPENSION OR REVOCATION.--

10 A. The division shall not suspend a driver's
11 license or privilege to drive a motor vehicle on the public
12 highways for a period of more than one year except as permitted
13 under Subsection C of this section and Sections 66-5-5 and
14 66-5-39 NMSA 1978.

15 B. Except as provided in the Ignition Interlock
16 Licensing Act, a person whose license or privilege to drive a
17 motor vehicle on the public highways has been revoked shall not
18 be entitled to have the license or privilege renewed or
19 restored unless the revocation was for a cause that has been
20 removed, except that after the expiration of the periods
21 specified in Subsections B and C of Section 66-5-29 NMSA 1978
22 from the date on which the revoked license was surrendered to
23 and received by the division, the person may make application
24 for a new license as provided by law.

25 C. The suspension period for failure to appear for

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1 nonresidents of New Mexico or failure to remit the penalty
2 assessment shall, at the discretion of the director, be
3 extended indefinitely subject to the provisions of Subsection B
4 of Section 66-5-30 NMSA 1978."

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