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SENATE BILL 3

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

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO DRIVING OR OPERATING A MOTORBOAT UNDER THE  
INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; PROVIDING THAT  
CERTAIN MEDICAL PROFESSIONALS ARE AUTHORIZED TO WITHDRAW BLOOD  
IN THE PERFORMANCE OF A CHEMICAL BLOOD TEST; CLARIFYING THAT  
THE BLOOD TEST MAY BE FOR DRUGS OR ALCOHOL.

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

SECTION 1. Section 66-8-103 NMSA 1978 (being Laws 1967,  
Chapter 160, Section 1) is amended to read:

"66-8-103. CHEMICAL BLOOD TESTS--PERSONS QUALIFIED TO  
PERFORM TESTS--RELIEF FROM LIABILITY.--Only a physician,  
licensed professional or practical nurse, [~~or laboratory  
technician~~] emergency medical technician, certified  
phlebotomist or a technologist employed by a hospital or  
physician shall withdraw blood from [~~any~~] a person in the

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underscoring material = new  
~~[bracketed material] = delete~~

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1 performance of a [~~blood-alcohol~~] chemical blood test. No such  
2 physician, nurse, technician, phlebotomist or technologist who  
3 withdraws blood from any person in the performance of a [~~blood-~~  
4 ~~alcohol~~] chemical blood test that has been directed by [~~any~~] a  
5 police officer or by [~~any~~] a judicial or probation officer  
6 shall be held liable in any civil or criminal action for  
7 assault, battery, false imprisonment or any conduct of [~~any~~] a  
8 police officer except for negligence, nor shall [~~any~~] a person  
9 assisting in the performance of [~~such a~~] the test or [~~any~~] a  
10 hospital wherein blood is withdrawn in the performance of [~~such~~  
11 ~~a~~] the test be subject to civil or criminal liability for  
12 assault, battery, false imprisonment or any conduct of [~~any~~] a  
13 police officer except for negligence."

14 SECTION 2. Section 66-8-104 NMSA 1978 (being Laws 1978,  
15 Chapter 35, Section 512) is amended to read:

16 "66-8-104. [~~BLOOD-ALCOHOL~~] CHEMICAL BLOOD TESTS--[~~POLICE,~~  
17 ~~JUDICIAL OR PROBATION~~] OFFICER UNAUTHORIZED TO MAKE ARREST OR  
18 DIRECT TEST EXCEPT IN PERFORMANCE OF OFFICIAL DUTIES  
19 [~~AUTHORIZED BY LAW~~].--Nothing in [~~Sections 64-8-103 or 64-8-104~~  
20 ~~NMSA 1953~~] Section 66-8-103 NMSA 1978 or this section is  
21 intended to authorize [~~any~~] a police officer or [~~any~~] a  
22 judicial or probation officer to make [~~any~~] an arrest or to  
23 direct the performance of a [~~blood-alcohol~~] chemical blood test  
24 except in the performance of [~~his~~] that person's official  
25 duties and as otherwise authorized by law."

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underscoring material = new  
[bracketed material] = delete

1           SECTION 3. Section 66-13-1 NMSA 1978 (being Laws 2003,  
2 Chapter 241, Section 1) is amended to read:

3           "66-13-1. SHORT TITLE.--~~[Sections 1 through 13 of this~~  
4 ~~act]~~ Chapter 66, Article 13 NMSA 1978 may be cited as the  
5 "Boating While Intoxicated Act"."

6           SECTION 4. Section 66-13-6 NMSA 1978 (being Laws 2003,  
7 Chapter 241, Section 6) is amended to read:

8           "66-13-6. [~~BLOOD-ALCOHOL~~] CHEMICAL BLOOD TESTS--PERSONS  
9 QUALIFIED TO PERFORM TESTS--RELIEF FROM CIVIL AND CRIMINAL  
10 LIABILITY.--Only a physician, licensed professional or  
11 practical nurse, [~~or laboratory technician~~] emergency medical  
12 technician, certified phlebotomist or a technologist employed  
13 by a hospital or physician shall withdraw blood from a person  
14 in the performance of a [~~blood-alcohol or drug~~] chemical blood  
15 test. A physician, nurse, technician, phlebotomist or  
16 technologist who withdraws blood from a person in the  
17 performance of a [~~blood-alcohol or drug~~] chemical blood test  
18 that has been directed by a law enforcement officer, or by a  
19 judicial or probation officer, shall not be held liable in a  
20 civil or criminal action for assault, battery, false  
21 imprisonment or any conduct of a law enforcement officer,  
22 except for negligence, nor shall a person assisting in the  
23 performance of the test, or a hospital wherein blood is  
24 withdrawn in the performance of the test, be subject to civil  
25 or criminal liability for assault, battery, false imprisonment

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1 or any conduct of a law enforcement officer, except for  
2 negligence."

3 SECTION 5. Section 66-13-7 NMSA 1978 (being Laws 2003,  
4 Chapter 241, Section 7) is amended to read:

5 "66-13-7. [~~BLOOD-ALCOHOL~~] CHEMICAL BLOOD TEST--[~~LAW~~  
6 ~~ENFORCEMENT, JUDICIAL OR PROBATION~~] OFFICER UNAUTHORIZED TO  
7 MAKE ARREST OR DIRECT TEST EXCEPT IN PERFORMANCE OF OFFICIAL  
8 DUTIES [~~AUTHORIZED BY LAW~~].--Nothing in the Boating While  
9 Intoxicated Act is intended to authorize a law enforcement  
10 officer, or a judicial or probation officer, to make an  
11 arrest or direct the performance of a [~~blood-alcohol-or-drug~~]  
12 chemical blood test, except in the performance of [~~his~~] that  
13 person's official duties or as otherwise authorized by law."

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