

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 3

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

AN ACT

RELATING TO CHEMICAL TESTS; PROVIDING THAT CERTAIN MEDICAL PROFESSIONALS ARE AUTHORIZED TO WITHDRAW BLOOD IN THE PERFORMANCE OF A CHEMICAL BLOOD TEST FOR DRIVING A MOTOR VEHICLE OR OPERATING A MOTORBOAT UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; CLARIFYING THAT THE CHEMICAL 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 or certified phlebotomist or a technologist employed by a hospital or

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underscored material = new  
[bracketed material] = delete

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11 hospital wherein blood is withdrawn in the performance of ~~[such~~  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

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

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

1 duties and as otherwise authorized by law."

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

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

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

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

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1 or criminal liability for assault, battery, false imprisonment  
2 or any conduct of a law enforcement officer, except for  
3 negligence."

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

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