

1 SENATE BILL 36

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Richard C. Martinez

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8 ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

9
10 AN ACT

11 RELATING TO MOTOR VEHICLES; PROVIDING PENALTY ASSESSMENTS FOR
12 CERTAIN MOTOR VEHICLE CODE VIOLATIONS; REQUIRING THE COURTS TO
13 NOTIFY THE TAXATION AND REVENUE DEPARTMENT IF A DEFENDANT FAILS
14 TO APPEAR ON A CHARGE OF VIOLATING THE MOTOR VEHICLE CODE.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 66-8-116 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 524, as amended) is amended to read:

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

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

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1	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY
2			ASSESSMENT
3	<u>Improper display of</u>		
4	<u>registration plate</u>	<u>66-3-18</u>	<u>\$ 25.00</u>
5	<u>Failure to notify of</u>		
6	<u>change of name or address</u>	<u>66-3-23</u>	<u>25.00</u>
7	<u>Lost or damaged registration,</u>		
8	<u>plate or title</u>	<u>66-3-24</u>	<u>20.00</u>
9	Permitting [unlicensed] <u>unauthorized</u>		
10	minor to drive	66-5-40	[\$ 10.00]
11			<u>50.00</u>
12	<u>Permitting unauthorized</u>		
13	<u>person to drive</u>	<u>66-5-41</u>	<u>25.00</u>
14	Failure to obey sign	66-7-104	10.00
15	Failure to obey signal	66-7-105	10.00
16	Speeding	66-7-301	
17	(1) up to and including		
18	ten miles an hour		
19	over the speed limit		15.00
20	(2) from eleven up to		
21	and including fifteen		
22	miles an hour		
23	over the speed limit		30.00
24	(3) from sixteen up to		
25	and including twenty		

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1	miles an hour over the		
2	speed limit		65.00
3	(4) from twenty-one up to		
4	and including twenty-five		
5	miles an hour		
6	over the speed limit		100.00
7	(5) from twenty-six up to		
8	and including thirty		
9	miles an hour over the		
10	speed limit		125.00
11	(6) from thirty-one up to		
12	and including thirty-five		
13	miles an hour over the		
14	speed limit		150.00
15	(7) more than thirty-five		
16	miles an hour over the		
17	speed limit		200.00
18	Unfastened safety belt	66-7-372	25.00
19	Child not in restraint device		
20	or seat belt	66-7-369	25.00
21	Minimum speed	66-7-305	10.00
22	Speeding	66-7-306	15.00
23	Improper starting	66-7-324	10.00
24	Improper backing	66-7-354	10.00
25	Improper lane	66-7-308	10.00

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1	Improper lane	66-7-313	10.00
2	Improper lane	66-7-316	10.00
3	Improper lane	66-7-317	10.00
4	Improper lane	66-7-319	10.00
5	Improper passing	66-7-309 through 66-7-312	10.00
6	Improper passing	66-7-315	10.00
7	Controlled access		
8	violation	66-7-320	10.00
9	Controlled access		
10	violation	66-7-321	10.00
11	Improper turning	66-7-322	10.00
12	Improper turning	66-7-323	10.00
13	Improper turning	66-7-325	10.00
14	Following too closely	66-7-318	10.00
15	Failure to yield	66-7-328 through 66-7-331	10.00
16	Failure to yield	66-7-332	50.00
17	Failure to yield	66-7-332.1	25.00
18	Pedestrian violation	66-7-333	10.00
19	Pedestrian violation	66-7-340	10.00
20	Failure to stop	66-7-342 and 66-7-344	
21		through 66-7-346	10.00
22	Railroad-highway grade		
23	crossing violation	66-7-341 and 66-7-343	150.00
24	Passing school bus	66-7-347	100.00
25	Failure to signal	66-7-325 through 66-7-327	10.00

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1	Failure to secure load	66-7-407	100.00
2	Operation without oversize-		
3	overweight permit	66-7-413	50.00
4	Transport of reducible		
5	load with special		
6	permit more than six miles		
7	from a border crossing	66-7-413	100.00
8	Improper equipment	66-3-801	[10.00]
9		<u>through 66-3-851</u>	<u>25.00</u>
10	Improper equipment	66-3-901	20.00
11	Improper emergency		
12	signal	66-3-853 through 66-3-857	10.00
13	<u>Minor on motorcycle</u>		
14	<u>without helmet</u>	<u>66-7-356</u>	<u>300.00</u>
15	Operation interference	66-7-357	[5.00]
16			<u>50.00</u>
17	<u>Television within view</u>		
18	<u>of driver</u>	<u>66-7-358</u>	<u>50.00</u>
19	Littering	66-7-364	300.00
20	Improper parking	66-7-349 through 66-7-352	
21		and 66-7-353	5.00
22	Improper parking	66-3-852	5.00
23	Failure to dim lights	66-3-831	10.00
24	Riding in or towing		
25	occupied house trailer	66-7-366	5.00

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1 Improper opening of doors 66-7-367 5.00
2 No slow-moving vehicle
3 emblem or flashing
4 amber light 66-3-887 5.00
5 Open container - first
6 violation 66-8-138 25.00.

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

10 C. When an alleged violator of a penalty assessment
11 misdemeanor elects to accept a notice to appear in lieu of a
12 notice of penalty assessment, a fine imposed upon later
13 conviction shall not exceed the penalty assessment established
14 for the particular penalty assessment misdemeanor and probation
15 imposed upon a suspended or deferred sentence shall not exceed
16 ninety days.

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

22 E. Upon a second conviction for operation without a
23 permit for excessive size or weight pursuant to Section
24 66-7-413 NMSA 1978, the penalty assessment shall be two hundred
25 fifty dollars (\$250). Upon a third or subsequent conviction,

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1 the penalty assessment shall be five hundred dollars (\$500).

2 F. Upon a second conviction for transport of a
3 reducible load with a permit for excessive size or weight
4 pursuant to Subsection N of Section 66-7-413 NMSA 1978 more
5 than six miles from a port-of-entry facility on the border with
6 Mexico, the penalty assessment shall be five hundred dollars
7 (\$500). Upon a third or subsequent conviction, the penalty
8 assessment shall be one thousand dollars (\$1,000)."

9 SECTION 2. Section 66-8-135 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 543, as amended) is amended to read:

11 "66-8-135. RECORD OF TRAFFIC CASES.--

12 A. Every trial court judge shall keep a record of
13 every traffic complaint, uniform traffic citation and other
14 form of traffic charge filed in the judge's court or its
15 traffic violations bureau and every official action and
16 disposition of the charge by that court.

17 B. The court shall notify the department if a
18 defendant fails to appear on a charge of violating the Motor
19 Vehicle Code or other law or ordinance relating to motor
20 vehicles.

21 ~~[B.]~~ C. Within ten days of the later of entry of
22 ~~[judgment and sentence or failure to appear on a charge of~~
23 ~~violating]~~ a final disposition on a conviction for violation of
24 the Motor Vehicle Code or other law or ordinance relating to
25 motor vehicles or the final decision of any higher court that

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1 reviews the matter and from which no appeal or review is
2 successfully taken, every trial court judge, including
3 children's court judges, or the clerk of the court in which the
4 entry of ~~[judgment and sentence or failure to appear]~~ the final
5 disposition occurred shall prepare and forward to the
6 department an abstract of the record containing:

7 (1) the name and address of the defendant;

8 (2) the specific section number and common name
9 of the provision of the NMSA 1978 or local law, ordinance or
10 regulation under which the defendant was tried;

11 (3) the plea, finding of the court and
12 disposition of the charge, including a fine or jail sentence or
13 both ~~[forfeiture of bail or dismissal of the charge]~~;

14 (4) ~~[an itemization of]~~ total costs assessed to
15 the defendant;

16 (5) the date of the hearing;

17 (6) the court's name and address; and

18 (7) whether the defendant was a first or
19 subsequent offender. ~~[and~~

20 ~~(8) whether the defendant was represented by~~
21 ~~counsel or waived the right to counsel and, if represented, the~~
22 ~~name and address of counsel.~~

23 G.] D. The abstract of record prepared and forwarded
24 under Subsection [B] C of this section shall be certified as
25 correct by the person required to prepare it. With the prior

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1 approval of the department, the information required by
2 Subsection [~~B~~] C of this section may be transmitted
3 electronically to the department. A report need not be made of
4 any disposition of a charge of illegal parking or standing of a
5 vehicle except when the uniform traffic citation is used.

6 [~~D~~] E. When the uniform traffic citation is used,
7 the court shall provide the information required by Subsection
8 [~~B~~] C of this section in the manner prescribed by the
9 department.

10 [~~E~~] F. Every court of record shall also forward a
11 like report to the department upon conviction of any person of
12 any felony if a motor vehicle was used in the commission. With
13 the prior approval of the department, the information required
14 by this subsection may be submitted electronically to the
15 department. The report shall be forwarded to the department
16 within ten days of the final decision of the court or of any
17 higher court that reviews the matter and from which the
18 decision of no appeal or review is successfully taken.

19 [~~F~~] G. The willful failure or refusal of any
20 judicial officer to comply with this section is misconduct in
21 office and grounds for removal.

22 [~~G~~] H. Except as set forth in Subsection [~~H~~] I of
23 this section for records of a person holding a commercial
24 driver's license, the department shall keep records received on
25 motorists licensed in this state at its main office. Records

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1 showing a record of conviction by a court of law shall be open
2 to public inspection during business hours for three years from
3 the date of their receipt, after which they shall be destroyed
4 by the department except for records of convictions under
5 Sections 66-8-101 through 66-8-112 NMSA 1978, which may not be
6 destroyed until fifty-five years from the date of their
7 receipt. Any record received on a motorist licensed in another
8 state or country shall be forwarded to the licensing authority
9 of that state or country.

10 ~~[H.]~~ I. The department shall keep records received on
11 a person holding a commercial driver's license or an individual
12 driving a commercial motor vehicle who was required to have a
13 commercial driver's license but was driving a commercial motor
14 vehicle without the appropriate license in its main office.
15 Records showing a record of conviction by a court of law shall
16 be open to public inspection during business hours for fifty-
17 five years from the date of their receipt. Any record received
18 on a person holding a commercial driver's license licensed in
19 another state or country shall be forwarded to the licensing
20 authority of that state or country."

21 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
22 provisions of this act is July 1, 2013.

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