

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 30

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Brian Egolf

AN ACT

RELATING TO ALCOHOLIC BEVERAGE SALES; PERMITTING THE MOTOR VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT OR A COURT TO PROHIBIT THE POSSESSOR OF AN IGNITION INTERLOCK LICENSE FROM PURCHASING ALCOHOL; REQUIRING IGNITION INTERLOCK LICENSES AND CERTAIN IDENTIFICATION CARDS TO INDICATE WHEN THE PURCHASE OF ALCOHOLIC BEVERAGES IS PROHIBITED.

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

SECTION 1. Section 66-5-405 NMSA 1978 (being Laws 1978, Chapter 35, Section 332, as amended) is amended to read:

"66-5-405. CONTENTS OF CARD.--

A. The identification card shall adequately describe the registrant and bear ~~[his]~~ the registrant's picture that shall show a full face or front view for all registrants and indicate donor status. ~~[All identification cards of~~

.198074.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 ~~persons under the age of twenty-one years shall have a printed~~
2 ~~legend indicating that the person is under twenty-one.]~~ The
3 identification card shall bear the following statement:

4 "STATE OF NEW MEXICO IDENTIFICATION

5 CARD NO. _____

6 This card is provided solely for the purpose of establishing
7 that the bearer described on the card was not the holder of a
8 New Mexico driver's license as of the date of issuance of this
9 card. This identification card is not a license. ISSUED FOR
10 IDENTIFICATION PURPOSES ONLY".

11 B. An identification card of a person under the age
12 of twenty-one years shall have a printed legend indicating that
13 the person is under twenty-one.

14 C. An identification card of a person whose
15 driver's license is revoked for driving under the influence of
16 intoxicating liquor or drugs or for a violation of the Implied
17 Consent Act shall have a printed legend, displayed in such a
18 manner as to be easily read by any person inspecting the
19 license, indicating that the person is prohibited from
20 purchasing alcoholic beverages, if the person is prohibited
21 from purchasing alcoholic beverages by the division or a
22 court."

23 SECTION 2. Section 66-5-503 NMSA 1978 (being Laws 2003,
24 Chapter 239, Section 3, as amended) is amended to read:

25 "66-5-503. IGNITION INTERLOCK LICENSE--REQUIREMENTS.--

.198074.1

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

1 A. A person whose driving privilege or driver's
2 license has been revoked or denied or who has not met the
3 ignition interlock license requirement as a condition of
4 reinstatement pursuant to Section 66-5-33.1 NMSA 1978 may apply
5 for an ignition interlock license from the division.

6 B. An applicant for an ignition interlock license
7 shall:

8 (1) provide proof of installation of the
9 ignition interlock device by a traffic safety bureau-approved
10 ignition interlock installer on any vehicle the applicant
11 drives; and

12 (2) sign an affidavit acknowledging that:

13 (a) operation by the applicant of any
14 vehicle that is not equipped with an ignition interlock device
15 is subject to penalties for driving with a revoked license;

16 (b) tampering or interfering with the
17 proper and intended operation of an ignition interlock device
18 may subject the applicant to penalties for driving with a
19 license that was revoked for driving under the influence of
20 intoxicating liquor or drugs or a violation of the Implied
21 Consent Act; and

22 (c) the applicant shall maintain the
23 ignition interlock device and keep up-to-date records in the
24 motor vehicle showing required service and calibrations and be
25 able to provide the records upon request.

.198074.1

underscored material = new
[bracketed material] = delete

1 C. The division may, upon a showing by its records
2 or other sufficient evidence, including information provided to
3 the state pursuant to an intergovernmental agreement authorized
4 by Section 66-5-27.1 NMSA 1978, prohibit the purchase of
5 alcoholic beverages by the person to whom an ignition interlock
6 license is issued.

7 D. An ignition interlock license shall be clearly
8 marked to distinguish it from other driver's licenses and shall
9 have a printed legend, displayed in such a manner as to be
10 easily read upon inspection of the license, indicating that the
11 person is prohibited from purchasing alcoholic beverages, if
12 the person is prohibited from purchasing alcoholic beverages by
13 the division or a court.

14 ~~[G-]~~ E. A person who has been convicted of homicide
15 by vehicle or great bodily harm by vehicle while under the
16 influence of intoxicating liquor or drugs, as provided in
17 Section 66-8-101 NMSA 1978, shall not be issued an ignition
18 interlock license unless the person has completed serving the
19 sentence for that crime, including any period of probation and
20 parole."

21 SECTION 3. Section 66-8-102 NMSA 1978 (being Laws 1953,
22 Chapter 139, Section 54, as amended) is amended to read:

23 "66-8-102. DRIVING UNDER THE INFLUENCE OF INTOXICATING
24 LIQUOR OR DRUGS--AGGRAVATED DRIVING UNDER THE INFLUENCE OF
25 INTOXICATING LIQUOR OR DRUGS--PENALTIES.--

.198074.1

1 A. It is unlawful for a person who is under the
2 influence of intoxicating liquor to drive a vehicle within this
3 state.

4 B. It is unlawful for a person who is under the
5 influence of any drug to a degree that renders the person
6 incapable of safely driving a vehicle to drive a vehicle within
7 this state.

8 C. It is unlawful for:

9 (1) a person to drive a vehicle in this state
10 if the person has an alcohol concentration of eight one
11 hundredths or more in the person's blood or breath within three
12 hours of driving the vehicle and the alcohol concentration
13 results from alcohol consumed before or while driving the
14 vehicle; or

15 (2) a person to drive a commercial motor
16 vehicle in this state if the person has an alcohol
17 concentration of four one hundredths or more in the person's
18 blood or breath within three hours of driving the commercial
19 motor vehicle and the alcohol concentration results from
20 alcohol consumed before or while driving the vehicle.

21 D. Aggravated driving under the influence of
22 intoxicating liquor or drugs consists of:

23 (1) driving a vehicle in this state with an
24 alcohol concentration of sixteen one hundredths or more in the
25 driver's blood or breath within three hours of driving the

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

1 vehicle and the alcohol concentration results from alcohol
2 consumed before or while driving the vehicle;

3 (2) causing bodily injury to a human being as
4 a result of the unlawful operation of a motor vehicle while
5 driving under the influence of intoxicating liquor or drugs; or

6 (3) refusing to submit to chemical testing, as
7 provided for in the Implied Consent Act, and in the judgment of
8 the court, based upon evidence of intoxication presented to the
9 court, the driver was under the influence of intoxicating
10 liquor or drugs.

11 E. A first conviction pursuant to this section
12 shall be punished, notwithstanding the provisions of Section
13 31-18-13 NMSA 1978, by imprisonment for not more than ninety
14 days or by a fine of not more than five hundred dollars (\$500),
15 or both; provided that if the sentence is suspended in whole or
16 in part or deferred, the period of probation may extend beyond
17 ninety days but shall not exceed one year. Upon a first
18 conviction pursuant to this section, an offender shall be
19 sentenced to not less than twenty-four hours of community
20 service. In addition, the offender may be required to pay a
21 fine of three hundred dollars (\$300). The offender shall be
22 ordered by the court to participate in and complete a screening
23 program described in Subsection K of this section and to attend
24 a driver rehabilitation program for alcohol or drugs, also
25 known as a "DWI school", approved by the bureau and also may be

.198074.1

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

1 required to participate in other rehabilitative services as the
2 court shall determine to be necessary. In addition to those
3 penalties, when an offender commits aggravated driving under
4 the influence of intoxicating liquor or drugs, the offender
5 shall be sentenced to not less than forty-eight consecutive
6 hours in jail. If an offender fails to complete, within a time
7 specified by the court, any community service, screening
8 program, treatment program or DWI school ordered by the court
9 or fails to comply with any other condition of probation, the
10 offender shall be sentenced to not less than an additional
11 forty-eight consecutive hours in jail. Any jail sentence
12 imposed pursuant to this subsection for failure to complete,
13 within a time specified by the court, any community service,
14 screening program, treatment program or DWI school ordered by
15 the court or for aggravated driving under the influence of
16 intoxicating liquor or drugs shall not be suspended, deferred
17 or taken under advisement. On a first conviction pursuant to
18 this section, any time spent in jail for the offense prior to
19 the conviction for that offense shall be credited to any term
20 of imprisonment fixed by the court. A deferred sentence
21 pursuant to this subsection shall be considered a first
22 conviction for the purpose of determining subsequent
23 convictions.

24 F. A second or third conviction pursuant to this
25 section shall be punished, notwithstanding the provisions of

.198074.1

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

1 Section 31-18-13 NMSA 1978, by imprisonment for not more than
2 three hundred sixty-four days or by a fine of not more than one
3 thousand dollars (\$1,000), or both; provided that if the
4 sentence is suspended in whole or in part, the period of
5 probation may extend beyond one year but shall not exceed five
6 years. Notwithstanding any provision of law to the contrary
7 for suspension or deferment of execution of a sentence:

8 (1) upon a second conviction, an offender
9 shall be sentenced to a jail term of not less than ninety-six
10 consecutive hours, not less than forty-eight hours of community
11 service and a fine of five hundred dollars (\$500). In addition
12 to those penalties, when an offender commits aggravated driving
13 under the influence of intoxicating liquor or drugs, the
14 offender shall be sentenced to a jail term of not less than
15 ninety-six consecutive hours. If an offender fails to
16 complete, within a time specified by the court, any community
17 service, screening program or treatment program ordered by the
18 court, the offender shall be sentenced to not less than an
19 additional seven consecutive days in jail. A penalty imposed
20 pursuant to this paragraph shall not be suspended or deferred
21 or taken under advisement; and

22 (2) upon a third conviction, an offender shall
23 be sentenced to a jail term of not less than thirty consecutive
24 days, not less than ninety-six hours of community service and a
25 fine of seven hundred fifty dollars (\$750). In addition to

.198074.1

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

1 those penalties, when an offender commits aggravated driving
2 under the influence of intoxicating liquor or drugs, the
3 offender shall be sentenced to a jail term of not less than
4 sixty consecutive days. If an offender fails to complete,
5 within a time specified by the court, any community service,
6 screening program or treatment program ordered by the court,
7 the offender shall be sentenced to not less than an additional
8 sixty consecutive days in jail. A penalty imposed pursuant to
9 this paragraph shall not be suspended or deferred or taken
10 under advisement.

11 G. Upon a fourth conviction pursuant to this
12 section, an offender is guilty of a fourth degree felony and,
13 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
14 shall be sentenced to a term of imprisonment of eighteen
15 months, six months of which shall not be suspended, deferred or
16 taken under advisement.

17 H. Upon a fifth conviction pursuant to this
18 section, an offender is guilty of a fourth degree felony and,
19 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
20 shall be sentenced to a term of imprisonment of two years, one
21 year of which shall not be suspended, deferred or taken under
22 advisement.

23 I. Upon a sixth conviction pursuant to this
24 section, an offender is guilty of a third degree felony and,
25 notwithstanding the provisions of Section 31-18-15 NMSA 1978,

.198074.1

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

1 shall be sentenced to a term of imprisonment of thirty months,
2 eighteen months of which shall not be suspended, deferred or
3 taken under advisement.

4 J. Upon a seventh or subsequent conviction pursuant
5 to this section, an offender is guilty of a third degree felony
6 and, notwithstanding the provisions of Section 31-18-15 NMSA
7 1978, shall be sentenced to a term of imprisonment of three
8 years, two years of which shall not be suspended, deferred or
9 taken under advisement.

10 K. Upon any conviction pursuant to this section, an
11 offender shall be required to participate in and complete,
12 within a time specified by the court, an alcohol or drug abuse
13 screening program approved by the department of finance and
14 administration and, if necessary, a treatment program approved
15 by the court. The requirement imposed pursuant to this
16 subsection shall not be suspended, deferred or taken under
17 advisement.

18 L. Upon a second or third conviction pursuant to
19 this section, an offender shall be required to participate in
20 and complete, within a time specified by the court:

21 (1) not less than a twenty-eight-day
22 inpatient, residential or in-custody substance abuse treatment
23 program approved by the court;

24 (2) not less than a ninety-day outpatient
25 treatment program approved by the court;

.198074.1

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

1 (3) a drug court program approved by the
2 court; or

3 (4) any other substance abuse treatment
4 program approved by the court.

5 The requirement imposed pursuant to this subsection shall
6 not be suspended, deferred or taken under advisement.

7 M. Upon a felony conviction pursuant to this
8 section, the corrections department shall provide substance
9 abuse counseling and treatment to the offender in its custody.
10 While the offender is on probation or parole under its
11 supervision, the corrections department shall also provide
12 substance abuse counseling and treatment to the offender or
13 shall require the offender to obtain substance abuse counseling
14 and treatment.

15 N. Upon a conviction pursuant to this section, an
16 offender shall be required to obtain an ignition interlock
17 license and have an ignition interlock device installed and
18 operating on all motor vehicles driven by the offender,
19 pursuant to rules adopted by the [~~traffic safety~~] bureau.
20 Unless determined by the bureau to be indigent, the offender
21 shall pay all costs associated with having an ignition
22 interlock device installed on the appropriate motor vehicles.
23 The offender shall operate only those vehicles equipped with
24 ignition interlock devices for:

25 (1) a period of one year, for a first

.198074.1

underscored material = new
[bracketed material] = delete

1 offender;

2 (2) a period of two years, for a second
3 conviction pursuant to this section;

4 (3) a period of three years, for a third
5 conviction pursuant to this section; or

6 (4) the remainder of the offender's life, for
7 a fourth or subsequent conviction pursuant to this section.

8 O. A court or the division may prohibit a person
9 required to obtain an ignition interlock device from purchasing
10 alcoholic beverages for the period the person is required to
11 use an ignition interlock license.

12 [~~Θ-~~] P. Five years from the date of conviction and
13 every five years thereafter, a fourth or subsequent offender
14 may apply to a district court for removal of the ignition
15 interlock device requirement provided in this section and for
16 restoration of a driver's license. A district court may, for
17 good cause shown, remove the ignition interlock device
18 requirement and order restoration of the license; provided that
19 the offender has not been subsequently convicted of driving a
20 motor vehicle under the influence of intoxicating liquor or
21 drugs. Good cause may include an alcohol screening and proof
22 from the interlock vendor that the person has not had
23 violations of the interlock device.

24 [~~P-~~] Q. An offender who obtains an ignition
25 interlock license and installs an ignition interlock device

.198074.1

underscored material = new
[bracketed material] = delete

1 prior to conviction shall be given credit at sentencing for the
2 time period the ignition interlock device has been in use.

3 [Q-] R. In the case of a first, second or third
4 offense under this section, the magistrate court has concurrent
5 jurisdiction with district courts to try the offender.

6 [R-] S. A conviction pursuant to a municipal or
7 county ordinance in New Mexico or a law of any other
8 jurisdiction, territory or possession of the United States or
9 of a tribe, when that ordinance or law is equivalent to New
10 Mexico law for driving under the influence of intoxicating
11 liquor or drugs, and prescribes penalties for driving under the
12 influence of intoxicating liquor or drugs, shall be deemed to
13 be a conviction pursuant to this section for purposes of
14 determining whether a conviction is a second or subsequent
15 conviction.

16 [S-] T. In addition to any other fine or fee that
17 may be imposed pursuant to the conviction or other disposition
18 of the offense under this section, the court may order the
19 offender to pay the costs of any court-ordered screening and
20 treatment programs.

21 [T-] U. With respect to this section and
22 notwithstanding any provision of law to the contrary, if an
23 offender's sentence was suspended or deferred in whole or in
24 part and the offender violates any condition of probation, the
25 court may impose any sentence that the court could have

.198074.1

underscored material = new
[bracketed material] = delete

1 originally imposed and credit shall not be given for time
2 served by the offender on probation.

3 ~~[U-]~~ V. As used in this section:

4 (1) "bodily injury" means an injury to a
5 person that is not likely to cause death or great bodily harm
6 to the person, but does cause painful temporary disfigurement
7 or temporary loss or impairment of the functions of any member
8 or organ of the person's body; and

9 (2) "commercial motor vehicle" means a motor
10 vehicle or combination of motor vehicles used in commerce to
11 transport passengers or property if the motor vehicle:

12 (a) has a gross combination weight
13 rating of more than twenty-six thousand pounds inclusive of a
14 towed unit with a gross vehicle weight rating of more than ten
15 thousand pounds;

16 (b) has a gross vehicle weight rating of
17 more than twenty-six thousand pounds;

18 (c) is designed to transport sixteen or
19 more passengers, including the driver; or

20 (d) is of any size and is used in the
21 transportation of hazardous materials, which requires the motor
22 vehicle to be placarded under applicable law."

23 **SECTION 4. EFFECTIVE DATE.**--The effective date of the
24 provisions of this act is July 1, 2015.