

FIFTY-THIRD LEGISLATURE  
SECOND SESSION

February 2, 2018

HOUSE FLOOR AMENDMENT number   2   to HOUSE JUDICIARY COMMITTEE  
SUBSTITUTE FOR HOUSE BILLS  
19, 215, 217, 266 & 271

Amendment sponsored by Representative Gail Chasey

1. On page 82, strike lines 1 through 5.
2. On pages 83 through 90, strike Sections 56 through 60 and insert in lieu thereof the following new section:

"SECTION 56. Section 66-12-23 NMSA 1978 (being Laws 1963, Chapter 45, Section 9, as amended) is amended to read:

"66-12-23. PENALTIES.--

A. Except for penalty provisions provided in Subsections B through M of this section, a person who violates a provision of the Boat Act or a rule of the [~~state parks~~] division [~~of the energy, minerals and natural resources department~~] promulgated pursuant to that act is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

B. As used in Chapter 66, Article 12 NMSA 1978, "penalty assessment misdemeanor" means a violation of Section 66-12-6.5, 66-12-7, 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or a rule of the division promulgated pursuant to those sections.

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

D. Whenever a person is arrested for violation of a

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penalty assessment misdemeanor, the arresting officer shall advise the person of the option either to accept the penalty assessment and pay it to the court or to appear in court. The arresting officer, using a uniform non-traffic citation, shall complete the information section, prepare the penalty assessment and prepare a notice to appear in court specifying the time and place to appear. The arresting officer shall have the person sign the citation as a promise either to pay the penalty assessment as prescribed or to appear in court as specified, give a copy of the citation to the person and release the person from custody. An officer shall not accept custody of payment of any penalty assessment.

E. The arresting officer may issue a warning notice, but shall fill in the information section of the citation and give a copy to the arrested person after requiring a signature on the warning notice as an acknowledgment of receipt. No warning notice issued under this section shall be used as evidence of conviction for purposes of Subsection M of this section.

F. In order to secure release, the arrested person must give a written promise to appear in court or to pay the penalty assessment prescribed or to acknowledge receipt of a warning notice.

G. The magistrate court or metropolitan court in the county where the alleged violation occurred has jurisdiction for any case arising from a penalty assessment misdemeanor [~~issued for violation of Section 66-12-7, 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or a rule of the division promulgated pursuant to those sections~~].

H. A penalty assessment citation issued by a law enforcement officer shall be submitted to the appropriate magistrate or metropolitan court within three business days of issuance. If the citation is not submitted within three business days, it may be dismissed with prejudice.

I. It is a misdemeanor for any person to violate a written

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promise to pay the penalty assessment or to appear in court given to an officer upon issuance of a citation regardless of the disposition of the charge for which the citation was issued.

J. A citation with a written promise to appear in court or to pay the penalty assessment is a summons. If a person fails to appear or to pay the penalty assessment by the appearance date, a warrant for failure to appear may be issued.

K. A written promise to appear in court may be complied with by appearance of counsel.

L. When an alleged violator of a penalty assessment misdemeanor elects to appear in court rather than to pay the penalty assessment to the court, no fine imposed upon later conviction shall exceed the penalty assessment established for the particular penalty assessment misdemeanor.

M. The penalty assessment for a first [~~violation of Section 66-12-7, 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or any rule of the division promulgated pursuant to those sections~~] penalty assessment misdemeanor is thirty dollars (\$30.00). This penalty assessment is in addition to any magistrate or metropolitan court costs as provided in Subsection B of Section 35-6-4 NMSA 1978. Upon a second conviction or acceptance of a notice of penalty assessment for [~~violation of Section 66-12-7, 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or any rule of the division promulgated pursuant to those sections~~] a penalty assessment misdemeanor, the penalty assessment shall be fifty dollars (\$50.00). Upon a third or subsequent conviction or acceptance of a notice of penalty assessment, the penalty assessment shall be one hundred fifty dollars (\$150)."

3. Renumber the succeeding sections accordingly.

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\_\_\_\_\_  
Gail Chasey

Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

Date \_\_\_\_\_