

HOUSE BILL 61

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING THE RETURN OF AN IGNITION INTERLOCK DEVICE OR A POLICE REPORT OF THE THEFT OF AN IGNITION INTERLOCK DEVICE PRIOR TO REINSTATEMENT OF A DRIVER'S LICENSE

Hf1→;←Hf1 Hf1→.←Hf1 Hf1→~~ALLOWING ADDITIONAL USES OF THE INTERLOCK DEVICE FUND.~~←Hf1

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

SECTION 1. Section 66-5-33.1 NMSA 1978 (being Laws 1985, Chapter 47, Section 1, as amended) is amended to read:

"66-5-33.1. REINSTATEMENT OF DRIVER'S LICENSE OR

.216295.2AIC February 16, 2020 (1:52pm)

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REGISTRATION--IGNITION INTERLOCK--FEE.--

A. Whenever a driver's license or registration is suspended or revoked and an application has been made for its reinstatement, compliance with all appropriate provisions of the Motor Vehicle Code and the payment of a fee of twenty-five dollars (\$25.00) [~~is a prerequisite~~] are prerequisites to the reinstatement of any license or registration.

B. If a driver's license was revoked for driving while under the influence of intoxicating liquor or drugs, for aggravated driving while under the influence of intoxicating liquor or drugs or pursuant to the Implied Consent Act, the following are required to reinstate the driver's license:

- (1) an additional fee of seventy-five dollars (\$75.00);
- (2) completion of the license revocation period;
- (3) satisfaction of any court-ordered ignition interlock requirements;
- (4) a minimum of six months of driving with an ignition interlock license with no attempts to circumvent, remove or tamper with the ignition interlock device;
- (5) evidence that the ignition interlock device has not recorded two vehicle lockouts; [~~and~~]
- (6) evidence of verified active usage as that phrase is defined by the bureau; and

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(7) Hfl→except as provided in Subsection C of this section,←Hfl one of the following:

(a) the return of the ignition interlock device as defined in the Ignition Interlock Licensing Act to the bureau-approved ignition interlock installer that installed the ignition interlock device;

(b) a police report of the theft of the ignition interlock device made within sixty days from the most recently scheduled service appointment of the ignition interlock device; or

(c) Hfl→~~nine hundred seventy-five dollars (\$975)~~←Hfl Hfl→the current retail value of an ignition interlock device←Hfl paid to the ignition interlock installer Hfl→~~for replacement of the ignition interlock device~~←Hfl.

Hfl→C. Pursuant to a court order or an affidavit provided by the bureau-approved ignition interlock installer that installed the ignition interlock device, the department may reinstate the driver's license of a person who fails to return an ignition interlock device to the bureau-approved ignition interlock installer.←Hfl

Hfl→~~C.~~←Hfl Hfl→D.←Hfl A bureau-approved ignition interlock installer shall immediately provide written confirmation of receipt to a person who provided the installer with one of the following:

(1) the return of ignition interlock device as

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defined in the Ignition Interlock Licensing Act to the bureau-approved ignition interlock installer that installed the ignition interlock device;

(2) a police report of the theft of the ignition interlock device made within sixty days from the most recently scheduled service appointment of the ignition interlock device; or

(3) Hfl→~~nine hundred seventy-five dollars~~ (\$975) for replacement of the←Hfl Hfl→the current retail value of an←Hfl ignition interlock device.

[G.] Hfl→D.←Hfl Hfl→E.←Hfl A person whose driver's license reinstatement is denied may file an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

[D.] Hfl→E.←Hfl Hfl→F.←Hfl The department may reinstate the driving privileges of an out-of-state resident without the requirement that the person obtain an ignition interlock license for a minimum of six months, if the following conditions are met:

- (1) the license revocation period is completed;
- (2) satisfactory proof is presented to the department that the person is no longer a resident of New Mexico; and
- (3) the license reinstatement fee is paid.

[E.] Hfl→F.←Hfl Hfl→G.←Hfl Fees collected

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pursuant to Subsection B of this section are appropriated to the local governments road fund. The department shall maintain an accounting of the fees collected and shall report that amount upon request to the legislature.

[F.] Hf1→G.←Hf1 Hf1→H.←Hf1 For the purposes of this section, "vehicle lockout" means a driver has failed:

(1) a breath test six times within a period of three hours; or

(2) initial breath tests or random breath retests ten times within a period of thirty days."

Hf1→SECTION 2. ~~Section 66-8-102.3 NMSA 1978 (being Laws 2002, Chapter 82, Section 2, as amended) is amended to read:~~

~~"66-8-102.3. IMPOSING A FEE--INTERLOCK DEVICE FUND CREATED.--~~

~~A. A fee is imposed on a person convicted of driving under the influence of intoxicating liquor or drugs in violation of Section 66-8-102 NMSA 1978 or adjudicated as a delinquent on the basis of Subparagraph (a) of Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978 or a person whose driver's license is revoked pursuant to the provisions of the Implied Consent Act, in an amount determined by rule of the [traffic safety] bureau [of the department of transportation] not to exceed one hundred dollars (\$100) but not less than fifty dollars (\$50.00) for each year the person is required to~~

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~~operate only vehicles equipped with an ignition interlock device in order to ensure the solvency of the interlock device fund. The fee shall not be imposed on an indigent person.~~

~~B. The "interlock device fund" is created in the state treasury. The fee imposed pursuant to Subsection A of this section shall be collected by the [motor vehicle] division [of the taxation and revenue department] and deposited in the interlock device fund.~~

~~C. All money in the interlock device fund is appropriated to the [traffic safety] bureau [of the department of transportation] to cover part of the costs of installing, removing, [and] leasing and replacing ignition interlock devices for indigent people who are required, pursuant to convictions under Section 66-8-102 NMSA 1978 or adjudications on the basis of Subparagraph (a) of Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978 or driver's license revocations pursuant to the provisions of the Implied Consent Act or as a condition of parole, to install those devices in their vehicles. Provided that money is available in the interlock device fund, the [traffic safety] bureau shall pay, for one vehicle per offender, up to fifty dollars (\$50.00) for the cost of installation, up to fifty dollars (\$50.00) for the cost of removal, [and] up to thirty dollars (\$30.00) monthly for verified active usage and up to nine hundred seventy-five~~

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~~dollars (\$975) for the cost of replacement of the interlock device. The [traffic safety] bureau shall not pay any amount above what an offender would be required to pay for the installation, removal, [or] usage or replacement of an interlock device.~~

~~D. Indigency shall be determined by the [traffic safety] bureau based on proof of enrollment in one or more of the following types of public assistance:~~

~~(1) temporary assistance for needy families;~~

~~(2) general assistance;~~

~~(3) the supplemental [nutritional] nutrition assistance program, also known as "food stamps";~~

~~(4) supplemental security income;~~

~~(5) the federal food distribution program on Indian reservations; or~~

~~(6) other criteria approved by the [traffic safety] bureau.~~

~~E. Any balance remaining in the interlock device fund shall not revert to the general fund at the end of any fiscal year.~~

~~F. The interlock device fund shall be administered by the [traffic safety] bureau [of the department of transportation]. No more than ten percent of the money in the interlock device fund in any fiscal year shall be expended by~~

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~~the [traffic safety] bureau [of the department of  
transportation] for the purpose of administering the fund."~~←Hf1

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