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HOUSE BILL 80

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

INTRODUCED BY

Daymon Ely

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; ALLOWING ADDITIONAL USES OF THE INTERLOCK DEVICE FUND.

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 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

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1 reinstatement of any license or registration.

2 B. If a driver's license was revoked for driving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

7 (1) an additional fee of seventy-five dollars
8 (\$75.00);

9 (2) completion of the license revocation
10 period;

11 (3) satisfaction of any court-ordered ignition
12 interlock requirements;

13 (4) a minimum of six months of driving with an
14 ignition interlock license with no attempts to circumvent,
15 remove or tamper with the ignition interlock device;

16 (5) evidence that the ignition interlock
17 device has not recorded two vehicle lockouts; ~~and~~

18 (6) evidence of verified active usage as that
19 phrase is defined by the bureau; and

20 (7) one of the following:

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

25 (b) a police report of the theft of the

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1 ignition interlock device made within sixty days from the most
2 recently scheduled service appointment of the ignition
3 interlock device; or

4 (c) nine hundred seventy-five dollars
5 (\$975) paid to the ignition interlock installer for replacement
6 of the ignition interlock device.

7 C. A bureau-approved ignition interlock installer
8 shall immediately provide written confirmation of receipt to a
9 person who provided the installer with one of the following:

10 (1) the return of ignition interlock device as
11 defined in the Ignition Interlock Licensing Act to the
12 bureau-approved ignition interlock installer that installed the
13 ignition interlock device;

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

18 (3) nine hundred seventy-five dollars (\$975)
19 for replacement of the ignition interlock device.

20 [~~G-~~] D. A person whose driver's license
21 reinstatement is denied may file an appeal pursuant to the
22 provisions of Section 39-3-1.1 NMSA 1978.

23 [~~D-~~] E. The department may reinstate the driving
24 privileges of an out-of-state resident without the requirement
25 that the person obtain an ignition interlock license for a

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1 minimum of six months, if the following conditions are met:

2 (1) the license revocation period is
3 completed;

4 (2) satisfactory proof is presented to the
5 department that the person is no longer a resident of New
6 Mexico; and

7 (3) the license reinstatement fee is paid.

8 [~~E-~~] F. Fees collected pursuant to Subsection B of
9 this section are appropriated to the local governments road
10 fund. The department shall maintain an accounting of the fees
11 collected and shall report that amount upon request to the
12 legislature.

13 [~~F-~~] G. For the purposes of this section, "vehicle
14 lockout" means a driver has failed:

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

17 (2) initial breath tests or random breath re-
18 tests ten times within a period of thirty days."

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

21 "66-8-102.3. IMPOSING A FEE--INTERLOCK DEVICE FUND
22 CREATED.--

23 A. A fee is imposed on a person convicted of
24 driving under the influence of intoxicating liquor or drugs in
25 violation of Section 66-8-102 NMSA 1978 or adjudicated as a

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1 delinquent on the basis of Subparagraph (a) of Paragraph (1) of
2 Subsection A of Section 32A-2-3 NMSA 1978 or a person whose
3 driver's license is revoked pursuant to the provisions of the
4 Implied Consent Act, in an amount determined by rule of the
5 [~~traffic safety~~] bureau [~~of the department of transportation~~]
6 not to exceed one hundred dollars (\$100) but not less than
7 fifty dollars (\$50.00) for each year the person is required to
8 operate only vehicles equipped with an ignition interlock
9 device in order to ensure the solvency of the interlock device
10 fund. The fee shall not be imposed on an indigent person.

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

16 C. All money in the interlock device fund is
17 appropriated to the [~~traffic safety~~] bureau [~~of the department~~
18 ~~of transportation~~] to cover part of the costs of installing,
19 removing, [~~and~~] leasing and replacing ignition interlock
20 devices for indigent people who are required, pursuant to
21 convictions under Section 66-8-102 NMSA 1978 or adjudications
22 on the basis of Subparagraph (a) of Paragraph (1) of Subsection
23 A of Section 32A-2-3 NMSA 1978 or driver's license revocations
24 pursuant to the provisions of the Implied Consent Act or as a
25 condition of parole, to install those devices in their

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1 vehicles. Provided that money is available in the interlock
2 device fund, the [~~traffic safety~~] bureau shall pay, for one
3 vehicle per offender, up to fifty dollars (\$50.00) for the cost
4 of installation, up to fifty dollars (\$50.00) for the cost of
5 removal, [~~and~~] up to thirty dollars (\$30.00) monthly for
6 verified active usage and up to nine hundred seventy-five
7 dollars (\$975) for the cost of replacement of the interlock
8 device. The [~~traffic safety~~] bureau shall not pay any amount
9 above what an offender would be required to pay for the
10 installation, removal, [~~or~~] usage or replacement of an
11 interlock device.

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

- 15 (1) temporary assistance for needy families;
- 16 (2) general assistance;
- 17 (3) the supplemental [~~nutritional~~] nutrition
18 assistance program, also known as "food stamps";
- 19 (4) supplemental security income;
- 20 (5) the federal food distribution program on
21 Indian reservations; or
- 22 (6) other criteria approved by the [~~traffic~~
23 ~~safety~~] bureau.

24 E. Any balance remaining in the interlock device
25 fund shall not revert to the general fund at the end of any

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