

SENATE BILL 190

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Daniel A. Ivey-Soto and Craig W. Brandt and Dayan Hochman-Vigil  
and Andrea Reeb and William "Bill" R. Rehm

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; CREATING THE DWI ACT; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE MOTOR VEHICLE CODE.

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

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

"66-1-1. SHORT TITLE.-- ~~[Articles 1 through 8 of Chapter 64 NMSA 1953]~~ Chapter 66 NMSA 1978 may be cited as the "Motor

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Vehicle Code".

SECTION 2. Section 66-1-4.3 NMSA 1978 (being Laws 1990, Chapter 120, Section 4, as amended) is amended to read:

"66-1-4.3. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "camping body" means a vehicle body primarily designed or converted for use as temporary living quarters for recreational, camping or travel activities excluding recreational vehicles unless used in commerce;

B. "camping trailer" means a camping body, mounted on a chassis, or frame with wheels, designed to be drawn by another vehicle and that has collapsible partial side walls that fold for towing and unfold at the campsite;

C. "cancellation" means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to the license, but cancellation of a license is without prejudice, and application for a new license may be made at any time after cancellation;

D. "casual sale" means the sale of a motor vehicle by the registered owner of the vehicle if the owner has not sold more than four vehicles in that calendar year;

E. "chassis" means the complete motor vehicle, including standard factory equipment, exclusive of the body and cab;

F. "collector" means a person who is the owner of

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one or more vehicles of historic or special interest who collects, purchases, acquires, trades or disposes of these vehicles or parts thereof for the person's own use in order to preserve, restore and maintain a similar vehicle for hobby purposes;

G. "combination" means any connected assemblage of a motor vehicle and one or more semitrailers, trailers or semitrailers converted to trailers by means of a converter gear;

H. "combination gross vehicle weight" means the sum total of the gross vehicle weights of all units of a combination;

I. "commerce" means the transportation of persons, property or merchandise for hire, compensation, profit or in the furtherance of a commercial enterprise in this state or between New Mexico and a place outside New Mexico, including a place outside the United States;

J. "commercial motor vehicle" means a self-propelled or towed motor vehicle [~~other than special mobile equipment~~] used on [~~public highways in commerce~~] a highway to transport passengers or property when the vehicle:

(1) [~~is operated interstate and~~] has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of four thousand five hundred thirty-six kilograms, or ten thousand one

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pounds or more, [~~or is operated only in intrastate commerce and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of twenty-six thousand one or more pounds~~] whichever is greater;

(2) is designed or used to transport more than eight passengers, including the driver, and is used to transport passengers for compensation;

(3) is designed or used to transport [~~sixteen or~~] more than fifteen passengers, including the driver, and is not used to transport passengers for compensation; or

(4) is used [~~to transport hazardous materials of the type or quantity requiring placarding under rules prescribed by applicable federal or state law~~] in transporting material found by the United States secretary of transportation to be hazardous under 49 U.S.C. Section 5103 and transported in a quantity requiring placarding under regulations prescribed by the United States secretary of transportation under 49 C.F.R. Subtitle B, Chapter 1, Subchapter C;

K. "controlled-access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street or roadway except at those points only and in the manner as may be determined by the public authority having jurisdiction over the highway, street or roadway;

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L. "controlled substance" means any substance defined in Section 30-31-2 NMSA 1978 as a controlled substance;

M. "converter gear" means any assemblage of one or more axles with a fifth wheel mounted thereon, designed for use in a combination to support the front end of a semitrailer but not permanently attached thereto. A converter gear shall not be considered a vehicle, as that term is defined in Section 66-1-4.19 NMSA 1978, but weight attributable thereto shall be included in declared gross weight;

N. "conviction":

(1) means:

(a) a finding of guilt in the trial court in regard to which the violator has waived or exhausted all rights to appeal;

(b) a plea of guilty or nolo contendere accepted by the court;

(c) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court; or

(d) the promise to mail a payment on a penalty assessment; and

(2) does not include a conditional discharge as provided in Section 31-20-13 NMSA 1978 or a deferred sentence when the terms of the deferred sentence are met;

O. "crosswalk" means:

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(1) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; and

(2) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface; and

P. "curb cut" means a short ramp through a curb or built up to the curb."

**SECTION 3.** Section 66-1-4.11 NMSA 1978 (being Laws 1990, Chapter 120, Section 12, as amended) is amended to read:

"66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "mail" means any item properly addressed with postage prepaid delivered by the United States postal service or any other public or private enterprise primarily engaged in the transport and delivery of letters, packages and other parcels;

B. "manufactured home" means a movable or portable housing structure that exceeds either a width of eight feet or a length of forty feet, constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy;

C. "manufacturer" means every person engaged in the

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business of constructing or assembling vehicles of a type required to be registered under the Motor Vehicle Code;

D. "manufacturer's certificate of origin" means a certification, on a form supplied by or approved by the department, signed by the manufacturer that the new vehicle or boat described in the certificate has been transferred to the New Mexico dealer or distributor named in the certificate or to a dealer duly licensed or recognized as such in another state, territory or possession of the United States and that such transfer is the first transfer of the vehicle or boat in ordinary trade and commerce;

E. "moped" means a two-wheeled or three-wheeled vehicle with an automatic transmission and a motor having a piston displacement of less than fifty cubic centimeters, that is capable of propelling the vehicle at a maximum speed of not more than thirty miles an hour on level ground, at sea level;

F. "motorboat" means any boat, personal watercraft or other type of vessel propelled by machinery, whether or not machinery is the principal source of propulsion. "Motorboat" includes a vessel propelled or designed to be propelled by a sail, but does not include a sailboard or a windsurf board. "Motorboat" does not include a houseboat or any other vessel that is moored on the water, but not moving on the water;

[F-] G. "motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed

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to travel on not more than three wheels in contact with the ground, including autocycles and excluding a tractor;

[G.] H. "motor home" means a camping body built on a self-propelled motor vehicle chassis so designed that seating for driver and passengers is within the body itself;

[H.] I. "motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails, including an electric mobility device, but does not include an electric-assisted bicycle; for the purposes of the Mandatory Financial Responsibility Act, "motor vehicle" does not include "special mobile equipment"; and

[I.] J. "motor vehicle insurance policy" means a policy of vehicle insurance that covers self-propelled vehicles of a kind required to be registered pursuant to New Mexico law for use on the public streets and highways. A "motor vehicle insurance policy":

(1) shall include:

(a) motor vehicle bodily injury and property damage liability coverages in compliance with the Mandatory Financial Responsibility Act; and

(b) uninsured motorist coverage, subject to the provisions of Section 66-5-301 NMSA 1978 permitting the insured to reject such coverage; and



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(2) may include:

- (a) physical damage coverage;
- (b) medical payments coverage; and
- (c) other coverages that the insured and the insurer agree to include within the policy."

SECTION 4. Section 66-3-1010.3 NMSA 1978 (being Laws 2005, Chapter 325, Section 11, as amended) is amended to read:

"66-3-1010.3. OPERATION AND EQUIPMENT--SAFETY REQUIREMENTS.--

A. A person shall not operate an off-highway motor vehicle:

(1) in a careless, reckless or negligent manner so as to endanger the person or property of another;

(2) while under the influence of intoxicating liquor or drugs as provided by Section [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978;

(3) while in pursuit of and with intent to hunt or take a species of animal or bird protected by law unless otherwise authorized by the state game commission;

(4) in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition;

(5) on or within an earthen tank or other structure meant to water livestock or wildlife, unless the off-highway motor vehicle is on a route designated by the

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landowner or land management agency as an off-highway motor vehicle route;

(6) in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices;

(7) in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling, unless the person operates the vehicle on a closed course or track or a public roadway;

(8) unless in possession of the person's registration certificate or nonresident permit;

(9) unless the vehicle is equipped with a spark arrester approved by the United States forest service; provided that a snowmobile is exempt from this provision;

(10) when conditions such as darkness limit visibility to five hundred feet or less, unless the vehicle is equipped with:

(a) one or more headlights of sufficient candlepower to light objects at a distance of one hundred fifty feet; and

(b) at least one taillight of sufficient intensity to exhibit a red or amber light at a distance of two hundred feet under normal atmospheric conditions;

(11) that produces noise that exceeds ninety-

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six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287; or

(12) where off-highway motor vehicle traffic is prohibited under local, state or federal rules or regulations.

B. A person under the age of eighteen shall not operate an off-highway motor vehicle:

(1) or ride upon an off-highway motor vehicle without wearing eye protection and a safety helmet that is securely fastened in a normal manner as headgear and that meets the standards established by the department;

(2) without an off-highway motor vehicle safety permit; or

(3) while carrying a passenger.

C. A person under the age of eighteen but at least ten years of age shall not operate an off-highway motor vehicle unless the person is visually supervised at all times by a parent, legal guardian or a person over the age of eighteen who has a valid driver's license. This subsection shall not apply to a person who is at least:

(1) thirteen years of age and has a valid motorcycle license and off-highway motor vehicle safety permit; or

(2) fifteen years of age and has a valid

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driver's license, instructional permit or provisional license and off-highway motor vehicle safety permit.

D. A person under the age of ten shall not operate an off-highway motor vehicle unless:

(1) the all-terrain vehicle or recreational off-highway vehicle is an age-appropriate size-fit vehicle established by rule of the department; and

(2) the person is visually supervised at all times by a parent, legal guardian or instructor of a safety training course certified by the department.

E. An off-highway motor vehicle shall not be sold or offered for sale if the vehicle produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287. This subsection shall not apply to an off-highway motor vehicle that is sold or offered for sale only for organized competition."

SECTION 5. Section 66-5-1.1 NMSA 1978 (being Laws 1999, Chapter 175, Section 1, as amended) is amended to read:

"66-5-1.1. DEFINITION.--As used in Sections 66-5-8 and 66-5-9 NMSA 1978, "traffic violation" means:

A. failure to obey traffic-control devices, as provided in Section 66-7-104 NMSA 1978;

B. failure to obey traffic-control signals, as provided in Section 66-7-105 NMSA 1978;

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C. speeding, as provided in Section 66-7-301 NMSA 1978;

D. failure to yield, as provided in Sections 66-7-328 through 66-7-332.1 NMSA 1978;

E. child not in restraint device or seat belt, as provided in Section 66-7-369 NMSA 1978;

F. failure to properly fasten safety belt, as provided in Section 66-7-372 NMSA 1978;

G. homicide by vehicle, as provided in Section ~~[66-8-101]~~ 66-14-15 NMSA 1978;

H. injury to pregnant ~~[woman]~~ person by vehicle, as provided in Section ~~[66-8-101.1]~~ 66-14-14 NMSA 1978;

I. driving while under the influence of intoxicating liquor or drugs, as provided in Section ~~[66-8-102]~~ 66-14-2 or 66-14-3 NMSA 1978;

J. refusal to submit to chemical tests, as provided in Section ~~[66-8-111]~~ 66-14-47 NMSA 1978;

K. reckless driving, as provided in Section 66-8-113 NMSA 1978;

L. careless driving, as provided in Section 66-8-114 NMSA 1978;

M. racing on highways, as provided in Section 66-8-115 NMSA 1978;

N. using a mobile communication device while driving a motor vehicle, unless the driver holds a valid

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amateur radio operator license issued by the federal communications commission and is operating an amateur radio.

As used in this subsection:

(1) "driving" means being in actual physical control of a motor vehicle on a highway or street, except that "driving" does not include being lawfully parked; and

(2) "mobile communication device" means a wireless communication device that is designed to receive and transmit voice, text or image communication; or

0. buying, attempting to buy, receiving, possessing or permitting oneself to be served alcoholic beverages, as provided in Subsection C of Section 60-7B-1 NMSA 1978."

SECTION 6. Section 66-5-1.2 NMSA 1978 (being Laws 2003, Chapter 164, Section 4) is amended to read:

"66-5-1.2. DEFINITION--TRIBE.--As used in Sections 66-5-25, 66-5-26 and 66-5-30 [~~and 66-8-102~~] NMSA 1978, "tribe" or "tribal" means an Indian nation, tribe or pueblo that is located wholly or partially in New Mexico and that has executed an intergovernmental agreement with the state pursuant to Section 66-5-27.1 NMSA 1978."

SECTION 7. Section 66-5-29 NMSA 1978 (being Laws 1978, Chapter 35, Section 251, as amended) is amended to read:

"66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION.--

A. The division shall immediately revoke the driving privilege or driver's license of a driver upon

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receiving a record of the driver's adjudication as a delinquent for or conviction of any of the following offenses, whether the offense is under any state law or local ordinance, when the conviction or adjudication has become final:

- (1) manslaughter or negligent homicide resulting from the operation of a motor vehicle;
- (2) any offense rendering a person a "first offender" as defined in the Motor Vehicle Code;
- (3) any offense rendering a person a "subsequent offender" as defined in the Motor Vehicle Code;
- (4) any felony in the commission of which a motor vehicle is used;
- (5) failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;
- (6) perjury or the making of a false affidavit or statement under oath to the division under the Motor Vehicle Code or under any other law relating to the ownership or operation of motor vehicles; or
- (7) conviction or forfeiture of bail not vacated upon three charges of reckless driving committed within a period of twelve months.

B. Except as provided in the Ignition Interlock Licensing Act and in Subsection C, D, E or F of this section, a person whose driving privilege or driver's license has been

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revoked under this section shall not be entitled to apply for or receive a new license until one year from the date that the conviction is final and all rights to an appeal have been exhausted.

C. A person who upon adjudication as a delinquent for driving while under the influence of intoxicating liquor or drugs or a conviction pursuant to Section ~~[66-8-102]~~ 66-14-2 or 66-14-3 NMSA 1978 is subject to revocation of the driving privilege or driver's license under this section for an offense pursuant to which the person was also subject to revocation of the driving privilege or driver's license pursuant to Section ~~[66-8-111]~~ 66-14-47 NMSA 1978 shall have the person's driving privilege or driver's license revoked for that offense for a combined period of time equal to:

- (1) one year for a first offender; or
- (2) for a subsequent offender:
  - (a) two years for a second conviction;
  - (b) three years for a third conviction;

or

(c) the remainder of the offender's life for a fourth or subsequent conviction, subject to a five-year review, as provided in Sections 66-5-5 and ~~[66-8-102]~~ 66-14-50 NMSA 1978.

D. The division shall apply the license revocation provisions of Subsection C of this section and the provisions



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of Subsection D of Section 66-5-5 NMSA 1978 to a person who was three or more times convicted of driving a motor vehicle under the influence of intoxicating liquor or drugs and who has a driver's license revocation pursuant to the law in effect prior to June 17, 2005, upon the request of the person and if the person has had an ignition interlock license for three years or more and has proof from the ignition interlock vendor of no violations of the ignition interlock device in the previous six months.

E. Upon receipt of an order from a court pursuant to Section 32A-2-19 NMSA 1978 or Subsection G of Section 32A-2-22 NMSA 1978, the division shall revoke the driver's license or driving privileges for a period of time in accordance with these provisions.

F. Upon receipt from a district court of a record of conviction for the offense of shooting at or from a motor vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978 or of a conviction for a conspiracy or an attempt to commit that offense, the division shall revoke the driver's license or driving privileges of the convicted person. A person whose driver's license or driving privilege has been revoked pursuant to the provisions of this subsection shall not be entitled to apply for or receive any new driver's license or driving privilege until one year from the date that the conviction is final and all rights to an appeal have been exhausted."

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SECTION 8. 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 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 pursuant to Section 66-14-2 or 66-14-3 NMSA 1978, for aggravated driving while under the influence of intoxicating liquor or drugs pursuant to Section 66-14-2 or 66-14-3 NMSA 1978 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)~~] (1) completion of the license revocation period;

[~~(3)~~] (2) satisfaction of any court-ordered ignition interlock requirements;

[~~(4)~~] (3) a minimum of six months of driving with an ignition interlock license with no attempts to

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circumvent, remove or tamper with the ignition interlock device;

~~[(5)]~~ (4) evidence that the ignition interlock device has not recorded two vehicle lockouts; and

~~[(6)]~~ (5) evidence of verified active usage as that phrase is defined by the bureau.

C. 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. 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; and

(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. Fees collected 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.]~~ E. For the purposes of this section, "vehicle

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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."

**SECTION 9.** Section 66-5-35 NMSA 1978 (being Laws 1978, Chapter 35, Section 257, as amended) is amended to read:

"66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR REVOCATION.--

A. Upon suspension or revocation of a person's driving privilege or driver's license following conviction or adjudication as a delinquent under any law, ordinance or rule relating to motor vehicles, the person may apply to the department for a driver's license, provisional license or instruction permit to drive, limited to use allowing the person to engage in gainful employment, to attend school or to attend a court-ordered treatment program, except that the person shall not be eligible to apply:

(1) for a limited commercial driver's license or an ignition interlock license in lieu of a revoked or suspended commercial driver's license;

(2) for a limited license when the person's driver's license was revoked pursuant to the provisions of the Implied Consent Act, except as provided in the Ignition Interlock Licensing Act;

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(3) for a limited license when the person's driver's license was revoked pursuant to the provisions of Section ~~[66-8-102]~~ 66-14-2 or 66-14-3 NMSA 1978, except as provided in the Ignition Interlock Licensing Act;

(4) for a limited license when the person's driver's license is denied pursuant to the provisions of Subsection D of Section 66-5-5 NMSA 1978, except as provided in the Ignition Interlock Licensing Act; or

(5) for a limited license when the person's driver's license was revoked pursuant to a conviction for committing homicide by vehicle, great bodily harm by vehicle or homicide by vehicle or great bodily harm by vehicle while under the influence of intoxicating liquor or drugs, as provided in Section ~~[66-8-101]~~ 66-14-15 NMSA 1978, except as provided in the Ignition Interlock Licensing Act.

B. Upon receipt of a fully completed application that complies with statutes and rules for a limited license or an ignition interlock license and payment of the fee specified in this subsection, the department shall issue a limited license, ignition interlock license or permit to the applicant showing the limitations specified in the approved application. For each limited license, ignition interlock license or permit to drive, the applicant shall pay to the department a fee of forty-five dollars (\$45.00), which shall be transferred to the department of transportation. All money collected under this

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subsection shall be used for DWI prevention and education programs for elementary and secondary school students. The department of transportation shall coordinate with the department of health to ensure that there is no program duplication. The limited license or permit to drive may be suspended as provided in Section 66-5-30 NMSA 1978."

**SECTION 10.** Section 66-5-54 NMSA 1978 (being Laws 1989, Chapter 14, Section 3, as amended) is amended to read:

"66-5-54. DEFINITIONS.--As used in the New Mexico Commercial Driver's License Act:

A. "commerce" means:

(1) trade, traffic or transportation within the jurisdiction of the United States between a place in New Mexico and a place outside of New Mexico, including a place outside of the United States; and

(2) trade, traffic or transportation in the United States that affects any trade, traffic or transportation described in Paragraph (1) of this subsection;

B. "commercial driver's license holder" means an individual to whom a license has been issued by a state or other jurisdiction, in accordance with the standards found in 49 CFR Part 383, as amended or renumbered, that authorizes the individual to operate a commercial motor vehicle;

C. "commercial driver's license information system" means the information system created pursuant to the federal

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Commercial Motor Vehicle Safety Act of 1986 that contains information pertaining to operators of commercial motor vehicles;

~~[D. "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:~~

~~(1) has a gross combination weight rating of more than twenty-six thousand pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds;~~

~~(2) has a gross vehicle weight rating of more than twenty-six thousand pounds;~~

~~(3) is designed to transport sixteen or more passengers, including the driver; or~~

~~(4) is of any size and is used in the transportation of hazardous materials, as provided in 49 CFR Part 383.5;~~

~~E.]~~ D. "conviction" means:

(1) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law by:

(a) a court of original jurisdiction; or  
(b) an authorized administrative tribunal;

(2) an unvacated forfeiture of bail or

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collateral deposited to secure a person's appearance in court;

(3) a plea of guilty or nolo contendere accepted by the court;

(4) the payment of a fine or court cost;

(5) a violation of a condition of release without bail, regardless of whether the payment is rebated, suspended or probated;

(6) an assignment to a diversion program or a driver improvement school; or

(7) a conditional discharge as provided in Section 31-20-13 NMSA 1978;

~~[F-]~~ E. "director" means the director of the motor vehicle division of the department;

~~[G-]~~ F. "disqualification" means:

(1) a suspension, revocation or cancellation of a commercial driver's license by the state or jurisdiction that issued the commercial driver's license;

(2) a withdrawal of a person's privileges to drive a commercial motor vehicle by a state or other jurisdiction as the result of a violation of state or local law relating to motor vehicle control other than a parking, vehicle weight or vehicle defect violation; and

(3) a determination by the federal motor carrier safety administration that a person is not qualified to operate a motor vehicle;

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[H.] G. "division" means the motor vehicle division of the department;

[I.] H. "driving a commercial motor vehicle while under the influence of alcohol" means:

(1) driving a commercial motor vehicle while the driver has an alcohol concentration in the driver's blood or breath of four one hundredths or more;

(2) driving a commercial motor vehicle while the driver is under the influence of intoxicating liquor; or

(3) refusal to submit to chemical tests administered pursuant to Section [~~66-8-107~~] 66-14-42 NMSA 1978;

[J.] I. "employee" means an operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers; and independent owner-operator contractors, while in the course of operating a commercial motor vehicle, who is either directly employed by or under lease to an employer;

[K.] J. "employer" means a person, including the United States, a state and a political subdivision of a state or their agencies or instrumentalities, that owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle;

[L.] K. "fatality" means the death of a person as a result of a motor vehicle accident;

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[M-] L. "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination vehicle. In the absence of a value specified by the manufacturer, gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit or units and any load thereon;

[N-] M. "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle;

[O-] N. "imminent hazard" means a condition that presents a substantial likelihood that death, serious illness, severe personal injury or a substantial endangerment to health, property or the environment will occur before the reasonable foreseeable completion date of a formal proceeding to lessen the risk of that death, illness, injury or endangerment;

[P-] O. "noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles that is not a commercial motor vehicle;

[Q-] P. "nonresident commercial driver's license" means a commercial driver's license issued by another state to a person domiciled in that state or by a foreign country to a person domiciled in that country;

[R-] Q. "out-of-service order" means a declaration by an authorized enforcement officer of a federal, state,

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Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle or a motor carrier operation is temporarily prohibited from operating;

[S-] R. "railroad-highway grade crossing violation" means a violation of a provision of Section 66-7-341 or 66-7-343 NMSA 1978 or a violation of federal or local law, ordinance or rule pertaining to stopping at or crossing a railroad-highway grade crossing;

[F-] S. "serious traffic violation" means conviction of any of the following if committed when operating a motor vehicle:

(1) speed of fifteen miles or more per hour above the posted limits;

(2) reckless driving as defined by Section 66-8-113 NMSA 1978 or a municipal ordinance or the law of another state;

(3) homicide by vehicle, as defined in Section [66-8-101] 66-14-15 NMSA 1978;

(4) injury to pregnant [~~women~~] person by vehicle as defined in Section [66-8-101.1] 66-14-14 NMSA 1978 or a municipal ordinance or the law of another state;

(5) any other violation of law relating to motor vehicle traffic control, other than a parking violation, that the secretary determines by regulation to be a serious traffic violation. "Serious traffic violation" does not

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include a vehicle weight or vehicle defect violation;

(6) improper or erratic lane changes in violation of Section 66-7-317 NMSA 1978;

(7) following another vehicle too closely in violation of Section 66-7-318 NMSA 1978;

(8) texting while driving in violation of Section 66-7-374 NMSA 1978 or a municipal ordinance;

(9) use of a handheld mobile communication device while driving a commercial motor vehicle in violation of Section [~~1 of this 2016 act~~] 66-7-375 NMSA 1978 or a municipal ordinance;

(10) directly or indirectly causing death or great bodily injury to a human being in the unlawful operation of a motor vehicle in violation of Section [~~66-8-101~~] 66-14-15 NMSA 1978;

(11) driving a commercial motor vehicle without possession of a commercial driver's license in violation of Section 66-5-59 NMSA 1978;

(12) driving a commercial motor vehicle without the proper class of commercial driver's license and endorsements pursuant to Section 66-5-65 NMSA 1978 and the Motor Carrier Safety Act for the specific vehicle group operated or for the passengers or type of cargo transported; or

(13) driving a commercial motor vehicle without obtaining a commercial driver's license in violation of

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Section 66-5-59 NMSA 1978; and

[U-] T. "state of domicile" means the state in which a person has a true, fixed and permanent home and principal residence and to which the person has the intention of returning whenever the person has been absent from that state."

**SECTION 11.** Section 66-5-68 NMSA 1978 (being Laws 1989, Chapter 14, Section 17, as amended) is amended to read:

"66-5-68. DISQUALIFICATION.--

A. The department shall disqualify a person from driving a commercial motor vehicle for at least thirty days if the federal motor carrier safety administration reports to the division that the person poses an imminent hazard.

B. The department shall disqualify a person who holds a commercial driver's license or who is required to hold a commercial driver's license or commercial driver's instruction permit from driving a commercial motor vehicle for a period of not less than one year, which shall run concurrently with any revocation or suspension action for the same offense, if the person:

(1) refuses to submit to a chemical test when requested pursuant to the provisions of the Implied Consent Act;

(2) is twenty-one years of age or more and submits to chemical testing pursuant to the Implied Consent Act

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and the test results indicate an alcohol concentration of eight one hundredths or more;

(3) submits to chemical testing pursuant to the Implied Consent Act and the test results indicate an alcohol concentration of four one hundredths or more if the person is driving a commercial motor vehicle;

(4) is less than twenty-one years of age and submits to chemical testing pursuant to the Implied Consent Act and the test results indicate an alcohol concentration of two one hundredths or more; or

(5) is convicted of a violation of:

(a) driving a motor vehicle while under the influence of intoxicating liquor or drugs in violation of Section [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978, an ordinance of a municipality of this state or the law of another state;

(b) leaving the scene of an accident involving a commercial motor vehicle driven by the person in violation of Section 66-7-201 NMSA 1978 or an ordinance of a municipality of this state or the law of another state;

(c) using a motor vehicle in the commission of a felony;

(d) driving a commercial motor vehicle after the driver's commercial driver's license, non-domiciled commercial driver's license, commercial driver's instruction permit or non-domiciled commercial driver's instruction permit

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is revoked, suspended, disqualified or canceled for violations while operating a commercial motor vehicle; or

(e) causing a fatality in the unlawful operation of a motor vehicle pursuant to Section [~~66-8-101~~] 66-14-15 NMSA 1978.

C. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than three years if any of the violations specified in Subsection B of this section occur while transporting a hazardous material required to be placarded.

D. The department shall disqualify a person from driving a commercial motor vehicle for life if convicted of two or more violations of any of the offenses specified in Subsection B of this section, or any combination of those offenses, arising from two or more separate incidents, but the secretary may issue rules establishing guidelines, including conditions, under which a disqualification for life under this subsection may be reduced to a period of not less than ten years. This subsection applies only to those offenses committed after July 1, 1989.

E. The department shall disqualify a person from driving a commercial motor vehicle for life if the person is convicted of using a motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or involving an act or practice of

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severe forms of trafficking in persons, as defined in federal law.

F. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations or one hundred twenty days if convicted of three serious traffic violations, if the violations were committed while driving a commercial motor vehicle, arising from separate incidents occurring within a three-year period.

G. The department shall disqualify a person from driving a commercial motor vehicle for a period of:

(1) not less than one hundred eighty days nor more than two years if the person is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded pursuant to the federal Hazardous Materials Transportation Act or while operating a motor vehicle designed to transport more than fifteen passengers, including the driver;

(2) not more than one year if the person is convicted of a first violation of an out-of-service order; or

(3) not less than three years nor more than five years if, during any ten-year period, the person is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded pursuant to that act or



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while operating a motor vehicle designed to transport more than fifteen passengers, including the driver.

H. The department shall disqualify a person from driving a commercial motor vehicle for sixty days if:

(1) the person has been convicted of two serious traffic violations in separate incidents within a three-year period; and

(2) the second conviction results in revocation, cancellation or suspension of the person's commercial driver's license, non-domiciled commercial driver's license, commercial driver's instruction permit or non-domiciled commercial driver's instruction permit or noncommercial motor vehicle driving privileges for sixty days.

I. The department shall disqualify a person from driving a commercial motor vehicle for one hundred twenty days, in addition to any other period of disqualification, if:

(1) the person has been convicted of more than two serious traffic violations within a three-year period; and

(2) the third or a subsequent conviction results in the revocation, cancellation or suspension of the person's commercial driver's license, non-domiciled commercial driver's license, commercial driver's instruction permit or non-domiciled commercial driver's instruction permit or noncommercial motor vehicle driving privileges.

J. When a person is disqualified from driving a

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commercial motor vehicle, any commercial driver's license held by that person is invalidated without a separate proceeding of any kind and the driver is not eligible to apply for a commercial driver's license until the period of time for which the driver was disqualified has elapsed.

K. The department shall disqualify a person from driving a commercial motor vehicle for not less than:

(1) sixty days if the person is convicted of a first violation of a railroad-highway grade crossing violation;

(2) one hundred twenty days if, during any three-year period, the person is convicted of a second railroad-highway grade crossing violation in a separate incident; and

(3) one year if, during any three-year period, the person is convicted of a third or subsequent railroad-highway grade crossing violation in a separate incident.

L. After disqualifying, suspending, revoking or canceling a commercial driver's license, the department shall, within ten days, update its records to reflect that action. After disqualifying, suspending, revoking or canceling a non-domiciled commercial driver's privileges, the department shall, within ten days, notify the licensing authority of the state that issued the commercial driver's license.

M. When disqualifying, suspending, revoking or canceling a commercial driver's license, the department shall

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treat a conviction received in another state in the same manner as if it was received in this state.

N. The department shall post and enforce any disqualification sent by the federal motor carrier safety administration to the department that indicates that a commercial motor vehicle driver poses an imminent hazard.

O. The federal transportation security administration of the department of homeland security shall provide for an appeal of a disqualification for a commercial driver's license hazardous materials endorsement on the basis of a background check, and the department shall provide to a hazardous materials applicant a copy of the procedures established by the transportation security administration, on request, at the time of application.

P. New Mexico shall conform to the federal transportation security administration of the department of homeland security rules and shall "look back" or review a maximum of seven years for a background check."

**SECTION 12.** Section 66-5-205.1 NMSA 1978 (being Laws 1989, Chapter 214, Section 1, as amended) is amended to read:

"66-5-205.1. UNINSURED MOTORIST CITATION--REQUIREMENTS TO BE FOLLOWED AT TIME OF ACCIDENT--SUBSEQUENT PROCEDURES--INSURER NOTIFICATION REQUIREMENTS--SUSPENSION PROCEDURES.--

A. When a law enforcement officer issues a driver who is involved in an accident a citation for failure to comply

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with the provisions of the Mandatory Financial Responsibility Act, the law enforcement officer shall at the same time:

(1) issue to the driver cited a temporary operation sticker, valid for thirty days after the date the sticker is issued, and forward by mail or delivery to the department a duplicate of the issued sticker; and

(2) remove the license plate from the vehicle and send it with the duplicate of the sticker to the department or, if it cannot be removed, permanently deface the plate.

B. The department shall return or replace, in its discretion, a license plate removed under the provisions of Paragraph (2) of Subsection A of this section or replace a license plate defaced under that paragraph when the person cited for failure to comply with the provisions of the Mandatory Financial Responsibility Act furnishes proof of compliance to the department and pays to the division a reinstatement fee of twenty-five dollars (\$25.00). If a person to whom the temporary operation sticker is issued furnishes to the department, within fifteen days after the issuance of the sticker, evidence of financial responsibility in compliance with the Mandatory Financial Responsibility Act and in effect on the date and at the time of the issuance of the sticker, the department shall replace or return the license plate and waive the twenty-five dollar (\$25.00) reinstatement fee.

C. The secretary shall adopt and promulgate rules

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prescribing the form and use of the sticker required to be issued under Subsection A of this section.

~~[D. The secretary shall adopt and promulgate rules requiring insurance carriers to report canceled, terminated and newly issued motor vehicle insurance policies each month to the department. Information pertaining to each motor vehicle shall be made a part of that vehicle file for one year.~~

~~E. Within ten days of notification by the insurance carrier of a termination or cancellation of a motor vehicle insurance policy, the department shall demand satisfactory evidence from the owner of the motor vehicle that he meets the requirements of the Mandatory Financial Responsibility Act. Failure to provide evidence of financial responsibility within twenty days after the department has mailed its demand for proof:~~

~~(1) constitutes reasonable grounds to believe that a person is operating a motor vehicle in violation of the provisions of Section 66-5-205 NMSA 1978; and~~

~~(2) requires the department to suspend the person's registration as provided in Section 66-5-236 NMSA 1978.~~

~~F. The department shall notify the superintendent of insurance if an insurance carrier fails to provide monthly reports to the department regarding motor vehicle insurance policy information as required by Subsection D of this~~

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~~section.]"~~

SECTION 13. Section 66-5-206 NMSA 1978 (being Laws 1983, Chapter 318, Section 7, as amended) is amended to read:

"66-5-206. REGISTRATION WITHOUT INSURANCE OR EVIDENCE OF FINANCIAL RESPONSIBILITY PROHIBITED--SUSPENSION REQUIRED.--

A. The department shall not issue or renew the registration for any motor vehicle not covered by a motor vehicle insurance policy or by evidence of financial responsibility currently valid meeting the requirements of the laws of New Mexico and of the secretary, unless specifically exempted from the Mandatory Financial Responsibility Act.

B. Upon a showing by its records or other sufficient evidence that the required insurance or evidence of financial responsibility has not been provided or maintained for a motor vehicle, the department shall suspend its registration of the motor vehicle.

C. The secretary shall adopt and promulgate rules requiring insurance carriers to report canceled, terminated and newly issued motor vehicle insurance policies each month to the department. Information pertaining to each motor vehicle shall be made a part of that vehicle file for one year.

D. Within ten days of notification by the insurance carrier of a termination or cancellation of a motor vehicle insurance policy, the department shall demand satisfactory evidence from the owner of the motor vehicle that the owner

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meets the requirements of the Mandatory Financial Responsibility Act. Failure to provide evidence of financial responsibility within twenty days after the department has mailed its demand for proof:

(1) constitutes reasonable grounds to believe that a person is operating a motor vehicle in violation of the provisions of Section 66-5-205 NMSA 1978; and

(2) requires the department to suspend the person's registration as provided in Section 66-5-236 NMSA 1978.

E. The department shall notify the superintendent of insurance if an insurance carrier fails to provide monthly reports to the department regarding motor vehicle insurance policy information as required by Subsection C of this section."

SECTION 14. Section 66-7-2 NMSA 1978 (being Laws 1978, Chapter 35, Section 372, as amended) is amended to read:

"66-7-2. REFERENCE TO VEHICLES UPON THE HIGHWAYS--  
EXCEPTIONS.--

A. The provisions of Chapter 66, Article 7 NMSA 1978 relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways, except where a different place is specifically referred to in a given section.

B. The provisions of Sections 66-7-201 through 66-7-215, 66-7-352.5, [~~66-8-102~~ and] 66-8-113, 66-14-2 and

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66-14-3 NMSA 1978 apply upon highways and elsewhere throughout the state."

SECTION 15. A new Section 66-14-1 NMSA 1978 is enacted to read:

"66-14-1. [NEW MATERIAL] DWI ACT--SHORT TITLE.--Sections 66-14-1 through 66-14-22 NMSA 1978 may be cited as the "DWI Act"."

SECTION 16. A new Section 66-14-2 NMSA 1978 is enacted to read:

"66-14-2. [NEW MATERIAL] DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR--AGGRAVATED DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR--UNLAWFUL ALCOHOL CONCENTRATIONS.--

A. Driving under the influence of intoxicating liquor consists of a person who is under the influence of intoxicating liquor driving a vehicle within this state.

B. It is unlawful for a person to drive:

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

(2) a commercial motor vehicle in this state if the person has an alcohol concentration of four one hundredths or more in the person's blood or breath within three hours of driving the commercial motor vehicle and the alcohol



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concentration results from alcohol consumed before or while driving the vehicle.

C. Aggravated driving under the influence of intoxicating liquor consists of a person:

(1) driving a vehicle in this state with an alcohol concentration of sixteen one hundredths or more in the driver's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle;

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

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

SECTION 17. A new Section 66-14-3 NMSA 1978 is enacted to read:

"66-14-3. [NEW MATERIAL] DRIVING UNDER THE INFLUENCE OF AN INTOXICATING DRUG--AGGRAVATED DRIVING UNDER THE INFLUENCE OF AN INTOXICATING DRUG.--

A. Driving under the influence of an intoxicating drug consists of a person:

(1) who is under the influence of a drug to a

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degree that renders the person incapable of safely driving a vehicle within this state; or

(2) who is under the influence of a combination of a drug and alcohol to a degree that renders the person incapable of safely driving a vehicle within this state.

B. Aggravated driving under the influence of an intoxicating drug consists of a person causing bodily injury to a human being as a result of unlawful operation of a motor vehicle while driving under the influence of an intoxicating drug."

SECTION 18. A new Section 66-14-4 NMSA 1978 is enacted to read:

"66-14-4. [NEW MATERIAL] DRIVING A VEHICLE--COMMUNITY CARETAKING--RELIEF FROM CIVIL AND CRIMINAL LIABILITY.--

A. As used in Sections 66-14-2 and 66-14-3 NMSA 1978, "driving a vehicle" means:

(1) the motorist is observed in control of a vehicle that is in motion by a named witness, either law enforcement or civilian;

(2) the motorist is observed in control of a vehicle that is in a lane of traffic on a roadway by a named witness, either law enforcement or civilian;

(3) the motorist is observed blocking other vehicles on private property in an area designated for vehicle travel by a named witness, either law enforcement or civilian;

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or

(4) following an investigation, a law enforcement officer ascertains that that motorist was in control of a vehicle that was involved in an accident.

B. There shall be no claims for damages or relief based upon the exercise of community caretaking when a motorist is not driving a vehicle as defined in Subsection A of this section."

SECTION 19. A new Section 66-14-5 NMSA 1978 is enacted to read:

"66-14-5. [NEW MATERIAL] FIRST CONVICTION FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

A. A first conviction for driving under the influence of intoxicating liquor or drugs shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than ninety days or by a fine of not more than SHPAC→~~five hundred dollars (\$500)~~←SHPAC SHPAC→**three hundred dollars (\$300)**←SHPAC , or both; provided that if the sentence is suspended in whole or in part or deferred, the period of probation may extend beyond ninety days but shall not exceed one year.

B. Upon a first conviction pursuant to this section, an offender shall be sentenced to not less than twenty-four hours of community service.

SHPAC→~~C. Upon a first conviction pursuant to this~~

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~~section, an offender may be required to pay a fine of three hundred dollars (\$300).~~←SHPAC

SHPAC→~~D.~~←SHPAC SHPAC→~~C.~~←SHPAC Upon a first conviction pursuant to this section, an offender shall be ordered by the court to participate in and complete a screening program described in Section 66-14-16 NMSA 1978 and to attend a driver rehabilitation program for alcohol or drugs, also known as a "DWI school", approved by the bureau and also may be required to participate in other rehabilitative services as the court shall determine to be necessary.

SHPAC→~~E.~~←SHPAC SHPAC→~~D.~~←SHPAC When an offender commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in jail.

SHPAC→~~F.~~←SHPAC SHPAC→~~E.~~←SHPAC If an offender fails to complete, within a time specified by the court, any community service, screening program, treatment program or DWI school ordered by the court or fails to comply with any other condition of probation, the offender shall be sentenced to not less than an additional forty-eight consecutive hours in jail.

SHPAC→~~G.~~←SHPAC SHPAC→~~F.~~←SHPAC A jail sentence imposed pursuant to SHPAC→~~Subsection F~~←SHPAC SHPAC→~~Subsection E~~←SHPAC of this section or for aggravated driving under the influence of intoxicating liquor or drugs shall not be suspended, deferred or taken under advisement.

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SHPAC→H.←SHPAC SHPAC→G.←SHPAC On a first conviction for driving under the influence of intoxicating liquor or drugs, time spent in jail for the offense prior to the conviction for that offense shall be credited to a term of imprisonment fixed by the court. A deferred sentence pursuant to this subsection shall be considered a first conviction for the purpose of determining subsequent convictions."

SECTION 20. A new Section 66-14-6 NMSA 1978 is enacted to read:

"66-14-6. [NEW MATERIAL] SECOND CONVICTION FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

A. A second conviction for driving under the influence of intoxicating liquor or drugs shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than three hundred sixty-four days or by a fine of not more than SHPAC→one thousand dollars (\$1,000)←SHPAC SHPAC→five hundred dollars (\$500)←SHPAC , or both; provided that if the sentence is suspended in whole or in part, the period of probation may extend beyond one year but shall not exceed five years.

B. Notwithstanding any provision of law to the contrary for suspension or deferment of execution of a sentence, upon a second conviction:

(1) an offender shall be sentenced to a jail term of not less than ninety-six consecutive hours, not less

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than forty-eight hours of community service SHPAC→~~and a fine of five hundred dollars (\$500)~~←SHPAC ;

(2) when an offender commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than ninety-six consecutive hours; and

(3) if an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional seven consecutive days in jail.

C. A penalty imposed pursuant to Subsection B of this section shall not be suspended or deferred or taken under advisement.

D. Upon a second conviction for driving under the influence of intoxicating liquor or drugs, an offender shall be required to participate in and complete, within a time specified by the court:

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

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

(3) a drug court program approved by the court;

or

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

E. The requirements imposed pursuant to Subsection D of this section shall not be suspended, deferred or taken under advisement."

SECTION 21. A new Section 66-14-7 NMSA 1978 is enacted to read:

"66-14-7. [NEW MATERIAL] THIRD CONVICTION FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

A. A third conviction for driving under the influence of intoxicating liquor or drugs shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than three hundred sixty-four days or by a fine of not more than SHPAC→~~one thousand dollars (\$1,000)~~←SHPAC SHPAC→**seven hundred fifty dollars (\$750)**←SHPAC, or both; provided that if the sentence is suspended in whole or in part, the period of probation may extend beyond one year but shall not exceed five years.

B. Notwithstanding any provision of law to the contrary for suspension or deferment of execution of a sentence, upon a third conviction:

(1) an offender shall be sentenced to a jail term of not less than thirty consecutive days, not less than ninety-six hours of community service SHPAC→~~and a fine of seven hundred fifty dollars (\$750)~~←SHPAC ;

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(2) when an offender commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than sixty consecutive days; and

(3) if an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional sixty consecutive days in jail.

C. A penalty imposed pursuant to Subsection B of this section shall not be suspended or deferred or taken under advisement.

D. Upon a third conviction for driving under the influence of intoxicating liquor or drugs, an offender shall be required to participate in and complete, within a time specified by the court:

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

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

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

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



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E. The requirements imposed pursuant to Subsection D of this section shall not be suspended, deferred or taken under advisement."

SECTION 22. A new Section 66-14-8 NMSA 1978 is enacted to read:

"66-14-8. [NEW MATERIAL] FOURTH CONVICTION FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a fourth conviction for driving under the influence of intoxicating liquor or drugs, an offender is guilty of a fourth degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of eighteen months, six months of which shall not be suspended, deferred or taken under advisement."

SECTION 23. A new Section 66-14-9 NMSA 1978 is enacted to read:

"66-14-9. [NEW MATERIAL] FIFTH CONVICTION FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a fifth conviction for driving under the influence of intoxicating liquor or drugs, an offender is guilty of a fourth degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of two years, one year of which shall not be suspended, deferred or taken under advisement."

SECTION 24. A new Section 66-14-10 NMSA 1978 is enacted to read:

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"66-14-10. [NEW MATERIAL] SIXTH CONVICTION FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a sixth conviction for driving under the influence of intoxicating liquor or drugs, an offender is guilty of a third degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of thirty months, eighteen months of which shall not be suspended, deferred or taken under advisement."

SECTION 25. A new Section 66-14-11 NMSA 1978 is enacted to read:

"66-14-11. [NEW MATERIAL] SEVENTH CONVICTION FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a seventh conviction for driving under the influence of intoxicating liquor or drugs, an offender is guilty of a third degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of three years, two years of which shall not be suspended, deferred or taken under advisement."

SECTION 26. A new Section 66-14-12 NMSA 1978 is enacted to read:

"66-14-12. [NEW MATERIAL] EIGHTH OR SUBSEQUENT CONVICTION FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon an eighth or subsequent conviction for driving under the influence of intoxicating liquor or drugs, an offender is guilty of a second degree felony and,

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notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of twelve years, ten of which shall not be suspended, deferred or taken under advisement."

SECTION 27. Section 66-8-102.5 NMSA 1978 (being Laws 2019, Chapter 79, Section 1) is recompiled as Section 66-14-13 NMSA 1978 and is amended to read:

"66-14-13. DRIVING WHILE INTOXICATED WITH A MINOR IN THE VEHICLE--DRIVING WHILE INTOXICATED WITH A TEENAGE MINOR IN THE VEHICLE--PENALTY.--

A. Driving while intoxicated with a minor in the vehicle consists of a person committing a violation of Section ~~[66-8-102]~~ 66-14-2 NMSA 1978 when a minor is in the vehicle and when the minor does not suffer great bodily harm or death. Whoever commits driving while intoxicated with a minor in the vehicle is guilty of a misdemeanor and, if the minor is a child of the motorist, shall participate in a parenting class.

B. Driving while intoxicated with a teenage minor in the vehicle consists of a person committing a violation of Section 66-14-2 NMSA 1978 when a teenage minor is in the vehicle and when the teenage minor does not suffer great bodily harm or death. Whoever commits driving while intoxicated with a teenage minor in the vehicle shall pay a penalty assessment of three hundred dollars (\$300) and, if the teenage minor is a child of the motorist, participate in a parenting class.

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[B-] C. A charge for a violation of Subsection A or B of this section shall be in addition to a charge for the violation of Section [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978 and shall be punished as a separate offense.

[G-] D. As used in this section:

(1) "minor" means an individual who is younger than thirteen years of age; and

(2) "teenage minor" means an individual who is thirteen years of age or older and younger than eighteen years of age."

SECTION 28. Section 66-8-101.1 NMSA 1978 (being Laws 1985, Chapter 239, Section 2) is recompiled as Section 66-14-14 NMSA 1978 and is amended to read:

"66-14-14. INJURY TO PREGNANT [~~WOMAN~~] PERSON BY VEHICLE.--

A. Injury to pregnant [~~woman~~] person by vehicle is injury to a pregnant [~~woman~~] person by a person other than the [~~woman~~] pregnant person in the unlawful operation of a motor vehicle causing [~~her~~] the pregnant person to suffer a miscarriage or stillbirth as a result of that injury.

B. As used in this section:

(1) "miscarriage" means the interruption of the normal development of the fetus, other than by a live birth and which is not an induced abortion, resulting in the complete expulsion or extraction from a pregnant [~~woman~~] person of a

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product of human conception; and

(2) "stillbirth" means the death of a fetus prior to the complete expulsion or extraction of the fetus from ~~[its mother]~~ the pregnant person, irrespective of the duration of pregnancy and which is not an induced abortion; and death is manifested by the fact that after the expulsion or extraction the fetus does not breathe spontaneously or show any other evidence of life such as heart beat, pulsation of the umbilical cord or definite movement of voluntary muscles.

C. Any person who commits injury to pregnant ~~woman~~ person by vehicle while under the influence of intoxicating liquor or while under the influence of any drug or while violating Section 66-8-113 NMSA 1978 is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; provided that violation of speeding laws as set forth in the Motor Vehicle Code shall not per se be a basis for violation of Section 66-8-113 NMSA 1978."

**SECTION 29.** Section 66-8-101 NMSA 1978 (being Laws 1978, Chapter 35, Section 509, as amended) is recompiled as Section 66-14-15 NMSA 1978 and is amended to read:

"66-14-15. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY VEHICLE.--

A. Homicide by vehicle is the killing of a human being in the unlawful operation of a motor vehicle.

B. Great bodily harm by vehicle is the injuring of a

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human being, to the extent defined in Section 30-1-12 NMSA 1978, in the unlawful operation of a motor vehicle.

C. A person who commits homicide by vehicle while under the influence of intoxicating liquor or while under the influence of any drug is guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

D. A person who commits homicide by vehicle while violating Section 66-8-113 NMSA 1978 is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; provided that violation of speeding laws as set forth in the Motor Vehicle Code shall not per se be a basis for violation of Section 66-8-113 NMSA 1978.

E. A person who commits great bodily harm by vehicle while under the influence of intoxicating liquor, while under the influence of any drug or while violating Section 66-8-113 NMSA 1978 is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; provided that violation of speeding laws as set forth in the Motor Vehicle Code shall not per se be a basis for violation of Section 66-8-113 NMSA 1978.

F. A person who commits homicide by vehicle or great bodily harm by vehicle while under the influence of intoxicating liquor or while under the influence of any drug, as provided in Subsection C or E of this section, and who has

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incurred a prior DWI conviction within ten years of the occurrence for which the person is being sentenced under this section, shall have the person's basic sentence increased by four years for each prior DWI conviction.

G. For the purposes of this section, "prior DWI conviction" means:

(1) a prior conviction under Section 66-8-102, 66-14-2 or 66-14-3 NMSA 1978; or

(2) a prior conviction in New Mexico or any other jurisdiction, territory or possession of the United States, including a tribal jurisdiction, when the criminal act is driving under the influence of alcohol or drugs.

H. A person who willfully operates a motor vehicle in violation of Subsection C of Section 30-22-1 NMSA 1978 and directly or indirectly causes the death of or great bodily harm to a human being is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

**SECTION 30.** A new Section 66-14-16 NMSA 1978 is enacted to read:

"66-14-16. [NEW MATERIAL] ALCOHOL OR DRUG ABUSE SCREENING REQUIRED.--Upon a conviction for driving under the influence of intoxicating liquor or drugs, an offender shall be required to participate in and complete, within a time specified by the court, an alcohol or drug abuse screening program approved by

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the department of finance and administration and, if necessary, a treatment program approved by the court. The requirement imposed pursuant to this section shall not be suspended, deferred or taken under advisement."

SECTION 31. A new Section 66-14-17 NMSA 1978 is enacted to read:

"66-14-17. [NEW MATERIAL] SUBSTANCE ABUSE COUNSELING AND TREATMENT TO BE PROVIDED BY THE CORRECTIONS DEPARTMENT UPON A FELONY CONVICTION.--Upon a felony conviction for driving under the influence of intoxicating liquor or drugs, the corrections department shall provide substance abuse counseling and treatment to the offender in its custody. While the offender is on probation or parole under its supervision, the corrections department shall also provide substance abuse counseling and treatment to the offender or shall require the offender to obtain substance abuse counseling and treatment."

SECTION 32. A new Section 66-14-18 NMSA 1978 is enacted to read:

"66-14-18. [NEW MATERIAL] CONVICTIONS IN OTHER JURISDICTIONS.--A conviction pursuant to a municipal or county ordinance in New Mexico, or a law of any other jurisdiction, territory or possession of the United States or of an Indian nation, tribe or pueblo, when that ordinance or law is equivalent to New Mexico law for driving under the influence of intoxicating liquor or drugs and prescribes penalties for



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driving under the influence of intoxicating liquor or drugs, shall be deemed to be a conviction pursuant to this section for purposes of determining whether a conviction is a second or subsequent conviction."

SECTION 33. A new Section 66-14-19 NMSA 1978 is enacted to read:

"66-14-19. [NEW MATERIAL] MAGISTRATE COURT CONCURRENT JURISDICTION.--In the case of a first, second or third offense pursuant to the DWI Act, when a charge is brought pursuant to Section 66-14-2 NMSA 1978, the magistrate court has concurrent jurisdiction with district courts to try the offender. In the case of a first, second or third offense of the DWI Act, when a charge is brought pursuant to Section 66-14-3 NMSA 1978, in any county with greater than two hundred thousand residents pursuant to the most recent federal decennial census, the magistrate court has concurrent jurisdiction with the district court to try the offender, and in all other counties, the district court has exclusive jurisdiction to try the offender."

SECTION 34. Section 66-8-102.1 NMSA 1978 (being Laws 1982, Chapter 102, Section 2, as amended by Laws 2003, Chapter 51, Section 11 and by Laws 2003, Chapter 90, Section 4) is recompiled as Section 66-14-20 NMSA 1978 and is amended to read:

"66-14-20. GUILTY PLEAS--LIMITATIONS.--Where the complaint or information alleges a violation of Section

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[~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978, any plea of guilty thereafter entered in satisfaction of the charges shall include at least a plea of guilty to the violation of [~~one of the subsections of~~] Section [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978, and no other disposition by plea of guilty to any other charge in satisfaction of the charge shall be authorized if the results of a test performed pursuant to the Implied Consent Act disclose that the blood or breath of the person charged contains an alcohol concentration of:

- A. eight one hundredths or more; or
- B. four one hundredths or more if the person charged

is driving a commercial motor vehicle."

**SECTION 35.** Section 66-8-102.2 NMSA 1978 (being Laws 1993, Chapter 66, Section 16) is recompiled as Section 66-14-21 NMSA 1978 and is amended to read:

"66-14-21. MUNICIPAL AND COUNTY ORDINANCES--UNLAWFUL ALCOHOL CONCENTRATION LEVEL FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--No municipal or county ordinance prohibiting driving while under the influence of intoxicating liquor or drugs shall be enacted that provides for an unlawful alcohol concentration level that is different than the alcohol concentration levels provided in [~~Subsections C and D of Section 66-8-102~~] Section 66-14-2 NMSA 1978."

**SECTION 36.** Section 66-8-102.4 NMSA 1978 (being Laws 2005, Chapter 269, Section 8) is recompiled as Section 66-14-22

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NMSA 1978 and is amended to read:

"66-14-22. UNIFORM POLICE REPORTS AND PROCEDURES FOR DWI ARRESTS.--

A. The department of public safety, in collaboration with the [~~motor vehicle~~] division [~~of the taxation and revenue department~~] and the [~~traffic safety~~] bureau [~~of the department of transportation~~], shall develop and periodically review and update standard arrest reports and procedures to be used by law enforcement officers when making an arrest for a violation of the [~~provisions of Section 66-8-102 NMSA 1978~~] DWI Act or similar municipal or county ordinances.

B. A law enforcement officer making an arrest for a violation of the [~~provisions of Section 66-8-102 NMSA 1978~~] DWI Act or of similar municipal or county ordinances shall use the standard arrest reports and procedures developed and approved by the department of public safety in accordance with the provisions of Subsection A of this section."

SECTION 37. A new Section 66-14-31 NMSA 1978 is enacted to read:

"66-14-31. [NEW MATERIAL] SHORT TITLE.--Sections 66-14-31 though 66-14-38 NMSA 1978 may be cited as the "Boating While Intoxicated Act"."

SECTION 38. A new Section 66-14-32 NMSA 1978 is enacted to read:

"66-14-32. [NEW MATERIAL] OPERATING A MOTORBOAT WHILE

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UNDER THE INFLUENCE OF INTOXICATING LIQUOR.--

A. It is unlawful for a person who is under the influence of intoxicating liquor to operate a motorboat.

B. It is unlawful for a person who has an alcohol concentration of eight one hundredths or more in the person's blood or breath to operate a motorboat.

C. Aggravated boating while under the influence of intoxicating liquor or drugs consists of a person who:

(1) has an alcohol concentration of sixteen one hundredths or more in the person's blood or breath while operating a motorboat;

(2) has caused bodily injury to a human being as a result of the unlawful operation of a motorboat while under the influence of intoxicating liquor; or

(3) refused to submit to chemical testing, as provided for in the Boating While Intoxicated Act, and in the judgment of the court, based upon evidence of intoxication presented to the court, was under the influence of intoxicating liquor."

SECTION 39. A new Section 66-14-33 NMSA 1978 is enacted to read:

"66-14-33. [NEW MATERIAL] OPERATING A MOTORBOAT WHILE UNDER THE INFLUENCE OF INTOXICATING DRUG.--

A. It is unlawful for a person who is under the influence of any drug to a degree that renders the person

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incapable of safely operating a motorboat to operate a motorboat.

B. It is unlawful for a person who is under the influence of a combination of liquor and any drug to a degree that renders the person incapable of safely operating a motorboat to operate a motorboat.

C. Aggravated boating while under the influence of intoxicating liquor or drugs consists of a person who has caused bodily injury to a human being as a result of the unlawful operation of a motorboat while under the influence of intoxicating liquor or drugs."

SECTION 40. A new Section 66-14-34 NMSA 1978 is enacted to read:

"66-14-34. [NEW MATERIAL] PENALTIES.--

SHPAC→A.←SHPAC Every person under first conviction pursuant to the Boating While Intoxicated Act shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than ninety days or by a fine of not more than five hundred dollars (\$500), or both; provided that if the sentence is suspended in whole or in part or deferred, the period of probation may extend beyond ninety days but shall not exceed one year. The offender shall be ordered by the court to attend a boating safety course approved by the national association of state boating law administrators.

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SHPAC→B.←SHPAC An offender ordered by the court to attend a boating safety course shall provide the court with proof that the offender successfully completed the course within seven months of the person's conviction or prior to completion of the person's probation, whichever period of time is less.

SHPAC→C.←SHPAC In addition to those penalties, when an offender commits aggravated boating while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in jail and may be fined not more than seven hundred fifty dollars (\$750).

SHPAC→D.←SHPAC On a first conviction under this section, any time spent in jail for the offense prior to the conviction for that offense shall be credited to any term of imprisonment fixed by the court.

SHPAC→E.←SHPAC A deferred sentence pursuant to this subsection shall be considered a first conviction for the purpose of determining subsequent convictions."

SECTION 41. A new Section 66-14-35 NMSA 1978 is enacted to read:

"66-14-35. [NEW MATERIAL] SUBSEQUENT CONVICTIONS.--A second or subsequent conviction pursuant to the Boating While Intoxicated Act shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for

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not more than three hundred sixty-four days or by a fine of not more than seven hundred fifty dollars (\$750), or both; provided that if the sentence is suspended in whole or in part, the period of probation shall not exceed one year. In addition to those penalties, when an offender commits aggravated boating while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in jail and may be fined not more than one thousand dollars (\$1,000)."

SECTION 42. A new Section 66-14-36 NMSA 1978 is enacted to read:

"66-14-36. [NEW MATERIAL] GUILTY PLEAS--LIMITATIONS.--  
When a complaint or information alleges a violation of Section 66-14-33 NMSA 1978, any plea of guilty thereafter entered in satisfaction of the charges shall include at least a plea of guilty to the violation of Section 66-14-33 NMSA 1978, and no other disposition by plea of guilty to any other charge in satisfaction of the charge shall be authorized if the results of a test performed pursuant to that act disclose that the blood or breath of the person charged contains an alcohol concentration of eight one hundredths or more."

SECTION 43. A new Section 66-14-37 NMSA 1978 is enacted to read:

"66-14-37. [NEW MATERIAL] MUNICIPAL AND COUNTY  
ORDINANCES--UNLAWFUL ALCOHOL CONCENTRATION LEVEL FOR BOATING

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WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUORS OR DRUGS.--No municipal or county ordinance prohibiting the operation of a motorboat while under the influence of intoxicating liquor or drugs shall be enacted that provides for an unlawful alcohol concentration level that is different than the alcohol concentration levels provided in Section 66-14-33 NMSA 1978."

SECTION 44. A new Section 66-14-38 NMSA 1978 is enacted to read:

"66-14-38. [NEW MATERIAL] EDUCATIONAL PROGRAM.--The state parks division of the energy, minerals and natural resources department shall develop and implement a program to advertise and further educate the boating public about the dangers of boating while under the influence of alcohol or drugs and the penalties associated with a conviction pursuant to the provisions of the Boating While Intoxicated Act."

SECTION 45. Section 66-8-105 NMSA 1978 (being Laws 1978, Chapter 35, Section 513) is recompiled as Section 66-14-41 NMSA 1978 and is amended to read:

"66-14-41. IMPLIED CONSENT ACT--SHORT TITLE.--Sections [~~64-8-105 through 64-8-112 NMSA 1953~~] 66-14-41 through 66-14-50 NMSA 1978 may be cited as the "Implied Consent Act".

SECTION 46. Section 66-8-107 NMSA 1978 (being Laws 1978, Chapter 35, Section 515, as amended) is recompiled as Section 66-14-42 NMSA 1978 and is amended to read:

"66-14-42. IMPLIED CONSENT TO SUBMIT TO CHEMICAL TEST.--



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A. Any person who operates a motor vehicle or motorboat within this state shall be deemed to have given consent, subject to the provisions of the Implied Consent Act:

(1) to chemical tests of [~~his~~] that person's breath or blood or both that are approved by the scientific laboratory division of the department of health pursuant to the provisions of Section 24-1-22 NMSA 1978 as determined by a law enforcement officer; or

(2) for the purpose of determining the drug or alcohol content of [~~his~~] the person's blood if the person is arrested for any offense arising out of the acts alleged to have been committed while the person was driving a motor vehicle or operating a motorboat while under the influence of an intoxicating liquor or drug.

B. A test of blood or breath or both, approved by the scientific laboratory division of the department of health pursuant to the provisions of Section 24-1-22 NMSA 1978, shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving a motor vehicle within this state while under the influence of intoxicating liquor or [~~drug~~] drugs."

SECTION 47. Section 66-8-108 NMSA 1978 (being Laws 1978, Chapter 35, Section 516) is recompiled as Section 66-14-43 NMSA 1978 and is amended to read:

"66-14-43. CONSENT OF PERSON INCAPABLE OF REFUSAL NOT

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WITHDRAWN.--Any person who is dead, unconscious or otherwise in a condition rendering [~~him~~] the person incapable of refusal shall be deemed not to have withdrawn the consent provided by Section [~~64-8-107 NMSA 1953~~] 66-14-42 NMSA 1978, and the test or tests designated by the law enforcement officer may be administered."

SECTION 48. Section 66-8-109 NMSA 1978 (being Laws 1978, Chapter 35, Section 517, as amended) is recompiled as Section 66-14-44 NMSA 1978 and is amended to read:

"66-14-44. ADMINISTRATION OF CHEMICAL TEST--PAYMENT OF COSTS--ADDITIONAL TESTS.--

A. Only the persons authorized by Section [~~66-8-103~~] 66-14-45 NMSA 1978 shall withdraw blood from any person for the purpose of determining its alcohol or drug content. This limitation does not apply to the taking of samples of breath.

B. The person tested shall be advised by the law enforcement officer of the person's right to be given an opportunity to arrange for [~~a physician, licensed professional or practical nurse, or laboratory technician or technologist who is employed by a hospital or physician of his own choosing to perform a chemical test~~] an independent blood draw in addition to any breath test or blood draw performed at the direction of a law enforcement officer.

C. Upon the request of the person tested, full

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information concerning the test performed at the direction of the law enforcement officer shall be made available to ~~him~~ the person as soon as it is available from the person performing the test.

D. The law enforcement agency represented by the law enforcement officer at whose direction the chemical test is performed shall pay for the chemical test.

E. If a person exercises ~~his~~ the person's right under Subsection B of this section to have ~~[a chemical test]~~ an independent blood draw performed ~~[upon him]~~ on the person by a person of ~~his~~ the person's own choosing, the cost of that test shall be paid by the law enforcement agency represented by the law enforcement officer at whose direction a ~~chemical~~ breath test or blood draw was administered under Section ~~[66-8-107]~~ 66-14-42 NMSA 1978."

SECTION 49. A new Section 66-14-45 NMSA 1978 is enacted to read:

"66-14-45. [NEW MATERIAL] CHEMICAL BLOOD TESTS DIRECTED BY POLICE, JUDICIAL OR PROBATION OFFICER--PERSONS QUALIFIED TO PERFORM TESTS--RELIEF FROM CIVIL AND CRIMINAL LIABILITY--ARREST OR TEST ONLY IN PERFORMANCE OF OFFICIAL DUTIES AUTHORIZED BY LAW.--

A. Any person authorized by law to draw blood may withdraw blood from another person for the performance of a chemical blood test approved by the scientific laboratory

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division of the department of health. When withdrawing blood for the performance of a chemical blood test, the person shall withdraw a sufficient sample to permit an independent chemical analysis to be conducted. The additional sample shall be sent to the scientific laboratory division of the department of health for chain of custody and storage.

B. A driver or operator of a motorboat whose blood was drawn pursuant to Subsection A of this section may request a sample of the blood for the purpose of conducting an independent analysis. The request may be made by the driver or operator of a motorboat or through the person's legal counsel, and may be filed directly with the scientific laboratory division of the department of health or through any court conducting a proceeding in which the blood sample will be at issue. The scientific laboratory division shall issue rules to permit the delivery of the sample to another laboratory in accordance with appropriate practices to ensure preservation of the sample for testing. No fee shall be charged for storage or delivery of the sample.

C. A person authorized by law to draw blood who withdraws blood from a person for the performance of a chemical blood test that has been directed by a police officer, or by a judicial or probation officer, shall not be held liable in a civil or criminal action for assault, battery, false imprisonment or the conduct of a police officer, except for

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negligence, nor shall a person assisting in the withdrawal of blood, or a hospital wherein blood is withdrawn in the performance of the test, be subject to civil or criminal liability for assault, battery, false imprisonment or the conduct of a police officer, except for negligence.

SHPAC → ~~D. Nothing in this section is intended to authorize a police officer, or a judicial or probation officer, to make an arrest or to direct the performance of a chemical blood test, except in the performance of that person's official duties and as otherwise authorized by law.~~ ← SHPAC "

SECTION 50. Section 66-8-110 NMSA 1978 (being Laws 1978, Chapter 35, Section 518, as amended) is recompiled as Section 66-14-46 NMSA 1978 and is amended to read:

"66-14-46. USE OF TESTS IN CRIMINAL ACTIONS OR CIVIL ACTIONS--LEVELS OF INTOXICATION--MANDATORY CHARGING.--

A. The results of a test performed pursuant to the Implied Consent Act may be introduced into evidence in any civil action or criminal action arising out of the acts alleged to have been committed by the person tested for driving a motor vehicle or operating a motorboat while under the influence of intoxicating liquor or drugs.

B. When the blood or breath of the person tested contains:

(1) an alcohol concentration of less than [~~four~~ five] one hundredths, it shall be presumed that the person was

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not under the influence of intoxicating liquor;

(2) an alcohol concentration of at least [~~four~~ five one hundredths but less than eight one hundredths:

(a) no presumption shall be made that the person either was or was not under the influence of intoxicating liquor, unless the person is driving a commercial motor vehicle; and

(b) the amount of alcohol in the person's blood or breath may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor; or

(3) an alcohol concentration of four one hundredths or more and the person is driving a commercial vehicle, it shall be presumed that the person is under the influence of intoxicating liquor.

C. The arresting officer shall charge the person tested with a violation of Section [~~66-8-102~~] 66-14-2 or 66-14-42 NMSA 1978 when the blood or breath of the person contains an alcohol concentration of:

(1) eight one hundredths or more; or

(2) four one hundredths or more if the person is driving a commercial motor vehicle.

D. When a person is less than twenty-one years of age and the blood or breath of the person contains an alcohol concentration of two one hundredths or more, the person's

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driving privileges shall be revoked pursuant to the provisions of the Implied Consent Act.

E. If the test performed pursuant to the Implied Consent Act is administered more than three hours after the person was driving a vehicle, the test result may be introduced as evidence of the alcohol concentration in the person's blood or breath at the time of the test and the trier of fact shall determine what weight to give the test result for the purpose of determining a violation of Section ~~[66-8-102]~~ 66-14-2 or 66-14-42 NMSA 1978.

F. The determination of alcohol concentration shall be based on the grams of alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of breath.

G. The presumptions in Subsection B of this section do not limit the introduction of other competent evidence concerning whether the person was under the influence of intoxicating liquor.

H. If a person is convicted of driving a motor vehicle or operating a motorboat while under the influence of intoxicating liquor, the trial judge shall ~~[inquire into]~~ review the past driving record of the person before sentence is entered in the matter."

SECTION 51. Section 66-8-111 NMSA 1978 (being Laws 1978, Chapter 35, Section 519, as amended) is recompiled as Section

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66-14-47 NMSA 1978 and is amended to read:

"66-14-47. REFUSAL TO SUBMIT TO CHEMICAL TESTS--TESTING--  
GROUNDS FOR REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE.--

A. If a person under arrest for violation of an offense enumerated in the Motor Vehicle Code refuses upon request of a law enforcement officer to submit to chemical tests designated by the law enforcement agency as provided in Section [~~66-8-107~~] 66-14-42 NMSA 1978, none shall be administered except when a [~~municipal judge~~] magistrate or district judge issues a search warrant authorizing chemical tests as provided in Section [~~66-8-107~~] 66-14-42 NMSA 1978 upon finding in a law enforcement officer's written affidavit that there is probable cause to believe that the person has controlled a motorboat or has driven a motor vehicle while under the influence of alcohol or a controlled substance, thereby causing the death or great bodily injury of another person, or there is probable cause to believe that the person has committed a felony while under the influence of alcohol or a controlled substance and that chemical tests as provided in Section [~~66-8-107~~] 66-14-42 NMSA 1978 will produce material evidence in a felony prosecution.

B. If a person under arrest for a violation of driving under the influence of intoxicating liquor, driving under the influence of an intoxicating drug or boating while intoxicated submits to a chemical breath test upon request of a



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law enforcement officer as provided in Section 66-14-42 NMSA 1978, but thereafter refuses upon request of a law enforcement officer to submit to a chemical blood test, no chemical blood test shall be administered except when a magistrate or district judge issues a search warrant authorizing chemical tests as provided in Section 66-14-42 NMSA 1978 upon finding in a law enforcement officer's written affidavit that there is probable cause to believe that the person has committed driving under the influence of an intoxicating drug and that chemical tests as provided in Section 66-14-42 NMSA 1978 will produce material evidence in a prosecution; provided that:

(1) the chemical breath test to which the person submitted resulted in an alcohol concentration in which the person is presumed not to be under the influence of intoxicating liquor pursuant to Paragraph (1) of Subsection B of Section 66-14-46 NMSA 1978;

(2) the person subsequently refused a chemical blood test upon the request of a law enforcement officer; and

(3) the law enforcement officer's written affidavit establishes probable cause to believe that the impairment observed by the law enforcement officer is inconsistent with the result of the chemical breath test and indicates the presence of intoxicating drugs.

[B-] C. The department, upon receipt of a statement signed under penalty of perjury from a law enforcement officer

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stating the officer's reasonable grounds to believe the arrested person had been driving a motor vehicle within this state while under the influence of intoxicating liquor or drugs and that, upon request, the person refused to submit to a chemical test after being advised that failure to submit could result in revocation of the person's privilege to drive, shall revoke the person's New Mexico driver's license or any nonresident operating privilege for a period of one year or until all conditions for license reinstatement are met, whichever is later.

[~~G.~~] D. The department, upon receipt of a statement signed under penalty of perjury from a law enforcement officer stating the officer's reasonable grounds to believe the arrested person had been driving a motor vehicle within this state while under the influence of intoxicating liquor and that the person submitted to chemical testing pursuant to Section [~~66-8-107~~] 66-14-42 NMSA 1978 and the test results indicated an alcohol concentration in the person's blood or breath of eight one hundredths or more if the person is twenty-one years of age or older, four one hundredths or more if the person is driving a commercial motor vehicle or two one hundredths or more if the person is less than twenty-one years of age, shall revoke the person's license or permit to drive or [~~his~~] the person's nonresident operating privilege for a period of:

- (1) six months or until all conditions for

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license reinstatement are met, whichever is later, if the person is twenty-one years of age or older;

(2) one year or until all conditions for license reinstatement are met, whichever is later, if the person was less than twenty-one years of age at the time of the arrest, notwithstanding any provision of the Children's Code; or

(3) one year or until all conditions for license reinstatement are met, whichever is later, if the ~~[person has previously had his]~~ person's license had been revoked previously pursuant to the provisions of this section, notwithstanding the provisions of Paragraph (1) of this subsection.

~~[D-]~~ E. The determination of alcohol concentration shall be based on the grams of alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of breath.

~~[E-]~~ F. If the person subject to the revocation provisions of this section is a resident or will become a resident within one year and is without a license to operate a motor vehicle in this state, the department shall deny the issuance of a license to ~~[him]~~ the person for the appropriate period of time as provided in Subsections ~~[B and C]~~ C and D of this section.

~~[F-]~~ G. A statement signed by a law enforcement officer, pursuant to the provisions of Subsection ~~[B or C]~~ C or

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D of this section, shall be sworn to by the officer or shall contain a declaration substantially to the effect: "I hereby declare under penalty of perjury that the information given in this statement is true and correct to the best of my knowledge.". The statement may be signed and submitted electronically in a manner and form approved by the department. A law enforcement officer who signs a statement knowing that the statement is untrue in any material issue or matter is guilty of perjury as provided in Section 66-5-38 NMSA 1978."

SECTION 52. A new Section 66-14-48 NMSA 1978 is enacted to read:

"66-14-48. [NEW MATERIAL] SHPAC→TOXICOLOGIST OR←SHPAC LABORATORY TECHNICIAN--VIDEO TESTIMONY.--

A. Upon motion of a party, a SHPAC→toxicologist or←SHPAC laboratory technician who has conducted an analysis of blood pursuant to the Implied Consent Act may be permitted to testify at a hearing or trial by means of interactive video; provided that:

(1) the laboratory where the analysis was conducted is not located in the same county nor in an adjoining county as the county in which the proceeding is taking place;

(2) that testimony is provided by each SHPAC→toxicologist or←SHPAC laboratory technician who conducted analysis on the blood sample at issue in the proceeding; and

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(3) the court determines that permitting the video testimony of the SHPAC→toxicologists or←SHPAC laboratory technicians does not abrogate the defendant's rights in the proceeding.

B. Any interactive video appearance allowed pursuant to this subsection shall provide a full and meaningful opportunity to question and cross-examine the SHPAC→toxicologist or←SHPAC laboratory technician in plain sight and clear hearing of the trier of fact, all parties, counsel and the presiding officer, with the SHPAC→toxicologist or←SHPAC laboratory technician able to clearly see and hear the proceeding while testifying."

SECTION 53. Section 66-8-111.1 NMSA 1978 (being Laws 1984, Chapter 72, Section 7, as amended) is recompiled as Section 66-14-49 NMSA 1978 and is amended to read:

"66-14-49. LAW ENFORCEMENT OFFICER AGENT FOR DEPARTMENT-- WRITTEN NOTICE OF REVOCATION AND RIGHT TO HEARING.--

A. On behalf of the department, a law enforcement officer requesting a chemical test or directing the administration of a chemical test pursuant to Section [66-8-107] 66-14-42 NMSA 1978 shall serve immediate written notice of revocation and of right to a hearing before the administrative hearings office pursuant to the Implied Consent Act on a person who:

- (1) refuses to permit chemical testing; or

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(2) submits to a chemical test the results of which indicate an alcohol concentration in the person's blood or breath of:

(a) eight one hundredths or more if the person is twenty-one years of age or older;

(b) four one hundredths or more if the person is driving a commercial motor vehicle; or

(c) two one hundredths or more if the person is less than twenty-one years of age.

B. The written notice of revocation and of a right to a hearing served on the driver shall be a temporary license valid for twenty days or, if the driver requests a hearing pursuant to Section ~~[66-8-112]~~ 66-14-49 NMSA 1978, valid until the date the administrative hearings office issues the order following that hearing; provided that a written notice of revocation and right to a hearing shall not be a temporary license for a driver without any otherwise valid driving privileges in this state.

C. The law enforcement officer shall send to the department the signed statement required pursuant to Section ~~[66-8-111]~~ 66-14-47 NMSA 1978."

SECTION 54. Section 66-8-112 NMSA 1978 (being Laws 1978, Chapter 35, Section 520, as amended) is repealed and a new Section 66-14-50 NMSA 1978 is enacted to read:

"66-14-50. [NEW MATERIAL] REVOCATION OF LICENSE OR

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PRIVILEGE TO DRIVE--NOTICE--EFFECTIVE DATE--HEARING--HEARING  
COSTS--REVIEW.--

A. The effective date of revocation pursuant to Section 66-14-47 NMSA 1978 is twenty days after notice of revocation or, if the person whose driver's license or privilege to drive is being revoked or denied requests a hearing pursuant to the Administrative Hearings Office Act, the date that the administrative hearings office issues the order following that hearing. The date of notice of revocation is:

(1) the date the law enforcement officer serves written notice of revocation and of right to a hearing pursuant to Section 66-14-49 NMSA 1978; or

(2) in the event the results of a chemical test cannot be obtained immediately, the date notice of revocation is served by mail by the department. This notice of revocation and of right to a hearing shall be sent by certified mail and shall be deemed to have been served on the date borne by the return receipt showing delivery, refusal of the addressee to accept delivery or attempted delivery of the notice at the address obtained by the arresting law enforcement officer or on file with the department.

B. Within ten days after receipt of notice of revocation pursuant to Subsection A of this section, a person whose license or privilege to drive is revoked or denied or the person's agent may request a hearing. The hearing request

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shall be made in writing and shall be accompanied by a payment of twenty-five dollars (\$25.00) or a sworn statement of indigency on a form provided by the department. A standard for indigency shall be established pursuant to rules adopted by the department. Failure to request a hearing within ten days shall result in forfeiture of the person's right to a hearing. Any person less than eighteen years of age who fails to request a hearing within ten days shall have notice of revocation sent to the person's parent, guardian or custodian by the department. A date for the hearing shall be set by the administrative hearings office, if practical, within thirty days after receipt of notice of revocation. The hearing shall be held in the county in which the offense for which the person was arrested took place.

C. The administrative hearings office may postpone or continue any hearing on its own motion or upon application from the person and for good cause shown for a period not to exceed ninety days from the date of notice of revocation and, provided that, upon a continuance, the department shall extend the validity of the temporary license for the period of the postponement or continuation.

D. At the hearing, the administrative hearings office may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers.

E. The hearing shall be limited to the following

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issues:

(1) whether the law enforcement officer had reasonable grounds to believe that the person had been driving a motor vehicle within this state while under the influence of intoxicating liquor or drugs;

(2) whether the person was arrested;

(3) whether this hearing is held no later than ninety days after notice of revocation; and

(4) whether:

(a) the person refused to submit to a test upon request of the law enforcement officer; and

(b) the law enforcement officer advised that the failure to submit to a test could result in revocation of the person's privilege to drive; or

(5) whether:

(a) the chemical test was administered pursuant to the provisions of the Implied Consent Act; and

(b) the test results indicated an alcohol concentration in the person's blood or breath of eight one hundredths or more if the person is twenty-one years of age or older, four one hundredths or more if the person is driving a commercial motor vehicle or two one hundredths or more if the person is less than twenty-one years of age.

F. The administrative hearings office shall enter an order sustaining the revocation or denial of the person's

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license or privilege to drive if the hearing officer from the administrative hearings office finds that:

(1) the law enforcement officer had reasonable grounds to believe the driver was driving a motor vehicle while under the influence of intoxicating liquor or drugs;

(2) the person was arrested;

(3) the hearing is held no later than ninety days after notice of revocation; and

(4) either:

(a) the person refused to submit to the test upon request of the law enforcement officer after the law enforcement officer advised the person that the person's failure to submit to the test could result in the revocation of the person's privilege to drive; or

(b) that a chemical test was administered pursuant to the provisions of the Implied Consent Act and the test results indicated an alcohol concentration in the person's blood or breath of eight one hundredths or more if the person is twenty-one years of age or older, four one hundredths or more if the person is driving a commercial motor vehicle or two one hundredths or more if the person is less than twenty-one years of age.

G. If one or more of the elements set forth in Paragraphs (1) through (4) of Subsection F of this section are not found by the hearing officer, the person's license shall

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not be revoked.

H. A person adversely affected by an order of the administrative hearings office may seek review within thirty days in the district court in the county in which the offense for which the person was arrested took place. The district court, upon thirty days' written notice to the department, shall hear the case. On review, it is for the court to determine only whether reasonable grounds exist for revocation or denial of the person's license or privilege to drive based on the record of the administrative proceeding.

I. Any person less than eighteen years of age shall have results of the person's hearing forwarded by the administrative hearings office to the person's parent, guardian or custodian."

SECTION 55. Section 66-5-501 NMSA 1978 (being Laws 2003, Chapter 239, Section 1) is recompiled as Section 66-14-51 NMSA 1978 and is amended to read:

"66-14-51. IGNITION INTERLOCK LICENSING ACT--SHORT TITLE.--Sections [1 through 4 of this act] 66-14-51 through 66-14-56 NMSA 1978 may be cited as the "Ignition Interlock Licensing Act"."

SECTION 56. Section 66-5-502 NMSA 1978 (being Laws 2003, Chapter 239, Section 2, as amended) is recompiled as Section 66-14-52 NMSA 1978 and is amended to read:

"66-14-52. DEFINITIONS.--As used in the Ignition

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Interlock Licensing Act:

A. "denied" means the division has refused to issue an instruction permit, driver's license or provisional license pursuant to the provisions of Subsection D or E of Section 66-5-5 NMSA 1978;

B. "ignition interlock device" means a device, approved by the [~~traffic safety~~] bureau, that prevents the operation of a motor vehicle by an intoxicated or impaired person;

C. "ignition interlock license" means a driver's license issued to a person by the division that allows that person to operate a motor vehicle with an ignition interlock device after that person's driving privilege or driver's license has been revoked or denied. The division shall clearly mark an ignition interlock license to distinguish it from other driver's licenses; and

D. "revoked" means the division, pursuant to the provisions of Section 66-5-29 or [~~66-8-111~~] 66-14-47 NMSA 1978, has terminated a person's driving privilege or driver's license for:

- (1) driving while under the influence of intoxicating liquor or drugs; or
- (2) a conviction of homicide by vehicle or great bodily harm by vehicle while under the influence of intoxicating liquor or drugs."

SECTION 57. A new Section 66-14-53 NMSA 1978 is enacted

to read:

"66-14-53. [NEW MATERIAL] IGNITION INTERLOCK REQUIREMENT.--

A. Upon a conviction for driving under the influence of intoxicating liquor or drugs, an offender shall be required to obtain an ignition interlock license and have an ignition interlock device installed and operating on all motor vehicles driven by the offender, pursuant to rules adopted by the bureau. Unless determined by the bureau to be indigent, the offender shall pay all costs associated with having an ignition interlock device installed on the appropriate motor vehicles. The offender shall operate only those vehicles equipped with ignition interlock devices for:

- (1) a period of one year for a first conviction;
- (2) a period of two years for a second conviction pursuant to the DWI Act;
- (3) a period of three years for a third conviction pursuant to the DWI Act; or
- (4) the remainder of the offender's life for a fourth or subsequent conviction pursuant to the DWI Act.

B. Five years from the date of conviction and every five years thereafter, a fourth or subsequent offender may apply to a district court for removal of the ignition interlock device requirement provided in this section and for restoration

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of a driver's license. A district court may, for good cause shown, remove the ignition interlock device requirement and order restoration of the license; provided that the offender has not been subsequently convicted of driving a motor vehicle under the influence of intoxicating liquor or drugs. Good cause may include an alcohol screening and proof from the interlock vendor that the person has not had violations of the interlock device.

C. An offender who obtains an ignition interlock license and installs an ignition interlock device prior to conviction shall be given credit at sentencing for the time period the ignition interlock device has been in use."

**SECTION 58.** Section 66-5-503 NMSA 1978 (being Laws 2003, Chapter 239, Section 3, as amended) is recompiled as Section 66-14-54 NMSA 1978 and is amended to read:

"66-14-54. IGNITION INTERLOCK LICENSE--REQUIREMENTS.--

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

B. An applicant for an ignition interlock license shall:

- (1) provide proof of installation of the

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ignition interlock device by [~~a traffic safety bureau-approved~~]  
an ignition interlock installer approved by the bureau on any  
vehicle the applicant drives; and

(2) sign an affidavit acknowledging that:

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

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

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

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

SECTION 59. Section 66-5-504 NMSA 1978 (being Laws 2003,

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Chapter 239, Section 4, as amended) is recompiled as Section 66-14-55 NMSA 1978 and is amended to read:

"66-14-55. PENALTIES.--

A. A person who is issued an ignition interlock license and operates a vehicle that is not equipped with an ignition interlock device is driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act and may be subject to the penalties provided in Section 66-5-39 NMSA 1978.

B. A person who is issued an ignition interlock license and who knowingly and deliberately tampers or interferes with or causes another to tamper or interfere with the proper and intended operation of an ignition interlock device may be subject to the penalties for driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act as provided in Section 66-5-39 NMSA 1978."

**SECTION 60.** Section 66-8-102.3 NMSA 1978 (being Laws 2002, Chapter 82, Section 2, as amended) is recompiled as Section 66-14-56 NMSA 1978 and is amended to read:

"66-14-56. 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~~] the DWI Act or



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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 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 ignition interlock devices for indigent people who are required, pursuant to convictions [~~under Section 66-8-102 NMSA 1978~~] for violations of the DWI Act 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

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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 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 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 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. Any money remaining in the fund at the end of a fiscal

year that exceeds twenty percent of the expenditures from the prior fiscal year may be used by the traffic safety bureau for other statutory duties of the bureau.

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."

SECTION 61. TEMPORARY PROVISION--REQUIRING A STUDY ON INSURANCE LEVELS REGARDING DRIVERS SUBJECT TO THE IGNITION INTERLOCK LICENSING ACT.--The traffic safety bureau of the department of transportation shall coordinate a study to include the motor vehicle division of the taxation and revenue department and other appropriate stakeholders. The study shall investigate the procedures to be recommended to ensure that drivers subject to the Ignition Interlock Licensing Act are insured at the levels required by the Mandatory Financial Responsibility Act at all times, and the steps to be taken if the bureau or division is made aware that a driver subject to the Ignition Interlock Licensing Act fails to maintain adequate financial responsibility to drive on the roads of this state. The study shall also investigate if the insurance obtained by this class of high-risk driver should be required to be registered with the state through the motorist, whereas

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insurance is currently registered with the state through the vehicle only in New Mexico.

**SECTION 62. TEMPORARY PROVISION--REQUIRING A STUDY ON DUPLICATIVE FORMS USED FOR PERSONS ALLEGED TO HAVE DRIVEN UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.--**The traffic safety bureau of the department of transportation shall coordinate a study to include the motor vehicle division of the taxation and revenue department and other appropriate stakeholders. The study shall identify duplicative forms used in the detection, apprehension, arrest and prosecution of persons alleged to have driven under the influence of drugs or alcohol in this state and recommend appropriate administrative and legislative changes, if any.

**SECTION 63. TEMPORARY PROVISION--REQUIRING CHAPTER 66, ARTICLE 14 NMSA 1978 TO BE NAMED "INTOXICATION AND IMPAIRMENT".--**The New Mexico compilation commission shall name Chapter 66, Article 14 NMSA 1978 "Intoxication and Impairment".

**SECTION 64. REPEAL.--**Sections 66-8-102, 66-8-103, 66-8-104 and 66-13-1 through 66-13-13 NMSA 1978 (being Laws 1953, Chapter 139, Section 54, Laws 1967, Chapter 160, Section 1, Laws 1978, Chapter 35, Section 512 and Laws 2003, Chapter 241, Sections 1 through 13, as amended) are repealed.

**SECTION 65. EFFECTIVE DATE.--**The effective date of the provisions of this act is January 1, 2025.