

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 190

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

AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; ENACTING 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 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

1 designed or converted for use as temporary living quarters for  
2 recreational, camping or travel activities excluding  
3 recreational vehicles unless used in commerce;

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

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

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

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

19 F. "collector" means a person who is the owner of  
20 one or more vehicles of historic or special interest who  
21 collects, purchases, acquires, trades or disposes of these  
22 vehicles or parts thereof for the person's own use in order to  
23 preserve, restore and maintain a similar vehicle for hobby  
24 purposes;

25 G. "combination" means any connected assemblage of

1 a motor vehicle and one or more semitrailers, trailers or  
 2 semitrailers converted to trailers by means of a converter  
 3 gear;

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

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

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

17 (1) ~~[is operated interstate and]~~ has a gross  
 18 vehicle weight rating or gross combination weight rating, or  
 19 gross vehicle weight or gross combination weight, of four  
 20 thousand five hundred thirty-six kilograms, or ten thousand one  
 21 pounds or more, ~~[or is operated only in intrastate commerce and~~  
 22 ~~has a gross vehicle weight rating or gross combination weight~~  
 23 ~~rating, or gross vehicle weight or gross combination weight, of~~  
 24 ~~twenty-six thousand one or more pounds]~~ whichever is greater;

25 (2) is designed or used to transport more than

.228045.3

1 eight passengers, including the driver, [~~and is used to~~  
2 ~~transport passengers~~] for compensation;

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

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

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

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

23 M. "converter gear" means any assemblage of one or  
24 more axles with a fifth wheel mounted thereon, designed for use  
25 in a combination to support the front end of a semitrailer but

.228045.3

1 not permanently attached thereto. A converter gear shall not  
2 be considered a vehicle, as that term is defined in Section  
3 66-1-4.19 NMSA 1978, but weight attributable thereto shall be  
4 included in declared gross weight;

5 N. "conviction":

6 (1) means:

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

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

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

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

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

20 O. "crosswalk" means:

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

.228045.3

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

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

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

8 "66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle  
9 Code:

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

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

20 C. "manufacturer" means every person engaged in the  
21 business of constructing or assembling vehicles of a type  
22 required to be registered under the Motor Vehicle Code;

23 D. "manufacturer's certificate of origin" means a  
24 certification, on a form supplied by or approved by the  
25 department, signed by the manufacturer that the new vehicle or

1 boat described in the certificate has been transferred to the  
2 New Mexico dealer or distributor named in the certificate or to  
3 a dealer duly licensed or recognized as such in another state,  
4 territory or possession of the United States and that such  
5 transfer is the first transfer of the vehicle or boat in  
6 ordinary trade and commerce;

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

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

19 [~~F.~~] G. "motorcycle" means every motor vehicle  
20 having a seat or saddle for the use of the rider and designed  
21 to travel on not more than three wheels in contact with the  
22 ground, including autocycles and excluding a tractor;

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

.228045.3

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

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

14                   (1) shall include:

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

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

21                   (2) may include:

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



1           SECTION 4. Section 66-3-1010.3 NMSA 1978 (being Laws  
2 2005, Chapter 325, Section 11, as amended) is amended to read:

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

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

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

9                   (2) while under the influence of intoxicating  
10 liquor or drugs as provided by Section [~~66-8-102~~] 66-14-2 or  
11 66-14-3 NMSA 1978;

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

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

18                   (5) on or within an earthen tank or other  
19 structure meant to water livestock or wildlife, unless the  
20 off-highway motor vehicle is on a route designated by the  
21 landowner or land management agency as an off-highway motor  
22 vehicle route;

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

.228045.3

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

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

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

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

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

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

20                   (11) that produces noise that exceeds ninety-  
21 six decibels when measured using test procedures established by  
22 the society of automotive engineers pursuant to standard  
23 J-1287; or

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

1 regulations.

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

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

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

10 (3) while carrying a passenger.

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

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

20 (2) fifteen years of age and has a valid  
21 driver's license, instructional permit or provisional license  
22 and off-highway motor vehicle safety permit.

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

25 (1) the all-terrain vehicle or recreational

.228045.3

1 off-highway vehicle is an age-appropriate size-fit vehicle  
2 established by rule of the department; and

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

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

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

15 "66-5-1.1. DEFINITION.--As used in Sections 66-5-8 and  
16 66-5-9 NMSA 1978, "traffic violation" means:

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

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

21 C. speeding, as provided in Section 66-7-301 NMSA  
22 1978;

23 D. failure to yield, as provided in Sections  
24 66-7-328 through 66-7-332.1 NMSA 1978;

25 E. child not in restraint device or seat belt, as

1 provided in Section 66-7-369 NMSA 1978;

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

4 G. homicide by vehicle, as provided in Section  
5 ~~[66-8-101]~~ 66-14-14 NMSA 1978;

6 H. injury to pregnant ~~[woman]~~ person by vehicle, as  
7 provided in Section ~~[66-8-101.1]~~ 66-14-13 NMSA 1978;

8 I. driving while under the influence of  
9 intoxicating liquor or drugs, as provided in Section ~~[66-8-102]~~  
10 66-14-2 or 66-14-3 NMSA 1978;

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

13 K. reckless driving, as provided in Section  
14 66-8-113 NMSA 1978;

15 L. careless driving, as provided in Section  
16 66-8-114 NMSA 1978;

17 M. racing on highways, as provided in Section  
18 66-8-115 NMSA 1978;

19 N. using a mobile communication device while  
20 driving a motor vehicle, unless the driver holds a valid  
21 amateur radio operator license issued by the federal  
22 communications commission and is operating an amateur radio.

23 As used in this subsection:

24 (1) "driving" means being in actual physical  
25 control of a motor vehicle on a highway or street, except that

.228045.3

1 "driving" does not include being lawfully parked; and

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

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

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

10 "66-5-1.2. DEFINITION--TRIBE.--As used in Sections  
11 66-5-25, 66-5-26 and 66-5-30 [~~and 66-8-102~~] NMSA 1978, "tribe"  
12 or "tribal" means an Indian nation, tribe or pueblo that is  
13 located wholly or partially in New Mexico and that has executed  
14 an intergovernmental agreement with the state pursuant to  
15 Section 66-5-27.1 NMSA 1978."

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

18 "66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION.--

19 A. The division shall immediately revoke the  
20 driving privilege or driver's license of a driver upon  
21 receiving a record of the driver's adjudication as a delinquent  
22 for or conviction of any of the following offenses, whether the  
23 offense is under any state law or local ordinance, when the  
24 conviction or adjudication has become final:

25 (1) manslaughter or negligent homicide

1 resulting from the operation of a motor vehicle;

2 (2) any offense rendering a person a "first  
3 offender" as defined in the Motor Vehicle Code;

4 (3) any offense rendering a person a  
5 "subsequent offender" as defined in the Motor Vehicle Code;

6 (4) any felony in the commission of which a  
7 motor vehicle is used;

8 (5) failure to stop and render aid as required  
9 under the laws of this state in the event of a motor vehicle  
10 accident resulting in the death or personal injury of another;

11 (6) perjury or the making of a false affidavit  
12 or statement under oath to the division under the Motor Vehicle  
13 Code or under any other law relating to the ownership or  
14 operation of motor vehicles; or

15 (7) conviction or forfeiture of bail not  
16 vacated upon three charges of reckless driving committed within  
17 a period of twelve months.

18 B. Except as provided in the Ignition Interlock  
19 Licensing Act and in Subsection C, D, E or F of this section, a  
20 person whose driving privilege or driver's license has been  
21 revoked under this section shall not be entitled to apply for  
22 or receive a new license until one year from the date that the  
23 conviction is final and all rights to an appeal have been  
24 exhausted.

25 C. A person who upon adjudication as a delinquent

.228045.3

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

1 for driving while under the influence of intoxicating liquor or  
2 drugs or a conviction pursuant to Section [~~66-8-102~~] 66-14-2 or  
3 66-14-3 NMSA 1978 is subject to revocation of the driving  
4 privilege or driver's license under this section for an offense  
5 pursuant to which the person was also subject to revocation of  
6 the driving privilege or driver's license pursuant to Section  
7 [~~66-8-111~~] 66-14-47 NMSA 1978 shall have the person's driving  
8 privilege or driver's license revoked for that offense for a  
9 combined period of time equal to:

10 (1) one year for a first offender; or

11 (2) for a subsequent offender:

12 (a) two years for a second conviction;

13 (b) three years for a third conviction;

14 or

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

19 D. The division shall apply the license revocation  
20 provisions of Subsection C of this section and the provisions  
21 of Subsection D of Section 66-5-5 NMSA 1978 to a person who was  
22 three or more times convicted of driving a motor vehicle under  
23 the influence of intoxicating liquor or drugs and who has a  
24 driver's license revocation pursuant to the law in effect prior  
25 to June 17, 2005, upon the request of the person and if the

.228045.3



1 person has had an ignition interlock license for three years or  
2 more and has proof from the ignition interlock vendor of no  
3 violations of the ignition interlock device in the previous six  
4 months.

5 E. Upon receipt of an order from a court pursuant  
6 to Section 32A-2-19 NMSA 1978 or Subsection G of Section  
7 32A-2-22 NMSA 1978, the division shall revoke the driver's  
8 license or driving privileges for a period of time in  
9 accordance with these provisions.

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

21 SECTION 8. Section 66-5-33.1 NMSA 1978 (being Laws 1985,  
22 Chapter 47, Section 1, as amended) is amended to read:

23 "66-5-33.1. REINSTATEMENT OF DRIVER'S LICENSE OR  
24 REGISTRATION--IGNITION INTERLOCK [~~FEE~~].--

25 A. Whenever a driver's license or registration is

.228045.3

1 suspended or revoked and an application has been made for its  
2 reinstatement, compliance with all appropriate provisions of  
3 the Motor Vehicle Code and [~~the payment of a fee of twenty-five~~  
4 ~~dollars (\$25.00)~~] is a prerequisite to the reinstatement of any  
5 license or registration.

6 B. If a driver's license was revoked for driving  
7 while under the influence of intoxicating liquor or drugs  
8 pursuant to Section 66-14-2 or 66-14-3 NMSA 1978, for  
9 aggravated driving while under the influence of intoxicating  
10 liquor or drugs pursuant to Section 66-14-2 or 66-14-3 NMSA  
11 1978 or pursuant to the Implied Consent Act, the following are  
12 required to reinstate the driver's license:

13 [~~(1)~~] ~~an additional fee of seventy-five dollars~~  
14 ~~(\$75.00);~~

15 ~~(2)~~] (1) completion of the license revocation  
16 period;

17 [~~(3)~~] (2) satisfaction of any court-ordered  
18 ignition interlock requirements;

19 [~~(4)~~] (3) a minimum of six months of driving  
20 with an ignition interlock license with no attempts to  
21 circumvent, remove or tamper with the ignition interlock  
22 device;

23 [~~(5)~~] (4) evidence that the ignition interlock  
24 device has not recorded two vehicle lockouts; and

25 [~~(6)~~] (5) evidence of verified active usage as

1 that phrase is defined by the bureau.

2 C. A person whose driver's license reinstatement is  
3 denied may file an appeal pursuant to the provisions of Section  
4 39-3-1.1 NMSA 1978.

5 D. The department may reinstate the driving  
6 privileges of an out-of-state resident without the requirement  
7 that the person obtain an ignition interlock license for a  
8 minimum of six months, if the following conditions are met:

9 (1) the license revocation period is  
10 completed; and

11 (2) satisfactory proof is presented to the  
12 department that the person is no longer a resident of New  
13 Mexico. [~~and~~

14 ~~(3) the license reinstatement fee is paid.~~

15 ~~E. Fees collected pursuant to Subsection B of this~~  
16 ~~section are appropriated to the local governments road fund.~~  
17 ~~The department shall maintain an accounting of the fees~~  
18 ~~collected and shall report that amount upon request to the~~  
19 ~~legislature.~~

20 ~~F.]~~ E. For the purposes of this section, "vehicle  
21 lockout" means a driver has failed:

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

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

.228045.3

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

3           "66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR  
4 REVOCATION.--

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

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

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

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

25                   (4) for a limited license when the person's

.228045.3

1 driver's license is denied pursuant to the provisions of  
2 Subsection D of Section 66-5-5 NMSA 1978, except as provided in  
3 the Ignition Interlock Licensing Act; or

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

11 B. Upon receipt of a fully completed application  
12 that complies with statutes and rules for a limited license or  
13 an ignition interlock license and payment of the fee specified  
14 in this subsection, the department shall issue a limited  
15 license, ignition interlock license or permit to the applicant  
16 showing the limitations specified in the approved application.  
17 For each limited license, ignition interlock license or permit  
18 to drive, the applicant shall pay to the department a fee of  
19 forty-five dollars (\$45.00), which shall be transferred to the  
20 department of transportation. All money collected under this  
21 subsection shall be used for DWI prevention and education  
22 programs for elementary and secondary school students. The  
23 department of transportation shall coordinate with the  
24 department of health to ensure that there is no program  
25 duplication. The limited license or permit to drive may be

.228045.3

1 suspended as provided in Section 66-5-30 NMSA 1978."

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

4 "66-5-54. DEFINITIONS.--As used in the New Mexico  
5 Commercial Driver's License Act:

6 A. "commerce" means:

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

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

14 B. "commercial driver's license holder" means an  
15 individual to whom a license has been issued by a state or  
16 other jurisdiction, in accordance with the standards found in  
17 49 CFR Part 383, as amended or renumbered, that authorizes the  
18 individual to operate a commercial motor vehicle;

19 C. "commercial driver's license information system"  
20 means the information system created pursuant to the federal  
21 Commercial Motor Vehicle Safety Act of 1986 that contains  
22 information pertaining to operators of commercial motor  
23 vehicles;

24 D. "commercial motor vehicle" means a motor vehicle  
25 or combination of motor vehicles used in commerce to transport

1 passengers or property if the motor vehicle

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

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

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

10 ~~(4) is of any size and is used in the~~  
11 ~~transportation of hazardous materials, as provided in 49 CFR~~  
12 ~~Part 383.5] is a:~~

13 (1) combination vehicle, known as Group A,  
14 having a gross combination weight rating or gross combination  
15 weight of eleven thousand seven hundred ninety-four kilograms  
16 or twenty-six thousand one pounds or more, whichever is  
17 greater, inclusive of a towed unit with a gross vehicle weight  
18 rating or gross vehicle weight of more than four thousand five  
19 hundred thirty-six kilograms or ten thousand pounds, whichever  
20 is greater;

21 (2) heavy straight vehicle, known as Group B,  
22 having a gross vehicle weight rating or gross vehicle weight of  
23 eleven thousand seven hundred ninety-four kilograms or  
24 twenty-six thousand one pounds or more, whichever is greater;  
25 or

.228045.3

1                   (3) small vehicle, known as Group C, that does  
2 not meet Group A or B requirements but that either is:

3                   (a) designed to transport sixteen or  
4 more passengers, including the driver; or

5                   (b) of any size and is used in the  
6 transportation of hazardous materials as defined in 49 U.S.C.  
7 5103 and is required to be placarded under Subpart F of 49  
8 C.F.R. part 172 or any quantity of a material listed as a  
9 select agent or toxin in 42 C.F.R. part 73;

10                   E. "conviction" means:

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

14                   (a) a court of original jurisdiction; or

15                   (b) an authorized administrative  
16 tribunal;

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

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

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

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

25                   (6) an assignment to a diversion program or a



1 driver improvement school; or

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

4 F. "director" means the director of the motor  
5 vehicle division of the department;

6 G. "disqualification" means:

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

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

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

18 H. "division" means the motor vehicle division of  
19 the department;

20 I. "driving a commercial motor vehicle while under  
21 the influence of alcohol" means:

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

25 (2) driving a commercial motor vehicle while

.228045.3

1 the driver is under the influence of intoxicating liquor; or

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

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

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

14 L. "fatality" means the death of a person as a  
15 result of a motor vehicle accident;

16 M. "gross combination weight rating" means the  
17 value specified by the manufacturer as the loaded weight of a  
18 combination vehicle. In the absence of a value specified by  
19 the manufacturer, gross combination weight rating shall be  
20 determined by adding the gross vehicle weight rating of the  
21 power unit and the total weight of the towed unit or units and  
22 any load thereon;

23 N. "gross vehicle weight rating" means the value  
24 specified by the manufacturer as the loaded weight of a single  
25 vehicle;

.228045.3

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

1           O. "hazardous materials" means any material that  
2 has been designated as hazardous under 49 U.S.C. 5130 and is  
3 required to be placarded under Subpart F of 49 CFR part 172 or  
4 any quantity of a material listed as a select agent or toxin in  
5 42 CFR part 73;

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

12           ~~[P.]~~ Q. "noncommercial motor vehicle" means a motor  
13 vehicle or combination of motor vehicles that is not a  
14 commercial motor vehicle;

15           ~~[Q.]~~ R. "nonresident commercial driver's license"  
16 means a commercial driver's license issued by another state to  
17 a person domiciled in that state or by a foreign country to a  
18 person domiciled in that country;

19           ~~[R.]~~ S. "out-of-service order" means a declaration  
20 by an authorized enforcement officer of a federal, state,  
21 Canadian, Mexican or local jurisdiction that a driver, a  
22 commercial motor vehicle or a motor carrier operation is  
23 temporarily prohibited from operating;

24           ~~[S.]~~ T. "railroad-highway grade crossing violation"  
25 means a violation of a provision of Section 66-7-341 or

.228045.3

1 66-7-343 NMSA 1978 or a violation of federal or local law,  
2 ordinance or rule pertaining to stopping at or crossing a  
3 railroad-highway grade crossing;

4 ~~[F.]~~ U. "serious traffic violation" means  
5 conviction of any of the following if committed when operating  
6 a motor vehicle:

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

9 (2) reckless driving as defined by Section  
10 66-8-113 NMSA 1978 or a municipal ordinance or the law of  
11 another state;

12 (3) homicide by vehicle, as defined in Section  
13 ~~[66-8-101]~~ 66-14-14 NMSA 1978;

14 (4) injury to pregnant ~~[women]~~ person by  
15 vehicle as defined in Section ~~[66-8-101.1]~~ 66-14-13 NMSA 1978  
16 or a municipal ordinance or the law of another state;

17 (5) any other violation of law relating to  
18 motor vehicle traffic control, other than a parking violation,  
19 that the secretary determines by regulation to be a serious  
20 traffic violation. "Serious traffic violation" does not  
21 include a vehicle weight or vehicle defect violation;

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

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

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

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

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

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

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

19 (13) driving a commercial motor vehicle  
20 without obtaining a commercial driver's license in violation of  
21 Section 66-5-59 NMSA 1978; and

22 [~~U.~~] V. "state of domicile" means the state in  
23 which a person has a true, fixed and permanent home and  
24 principal residence and to which the person has the intention  
25 of returning whenever the person has been absent from that

.228045.3

1 state."

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

4 "66-5-68. DISQUALIFICATION.--

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

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

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

19 (2) is twenty-one years of age or more and  
20 submits to chemical testing pursuant to the Implied Consent Act  
21 and the test results indicate an alcohol concentration of eight  
22 one hundredths or more;

23 (3) submits to chemical testing pursuant to  
24 the Implied Consent Act and the test results indicate an  
25 alcohol concentration of four one hundredths or more if the

.228045.3

1 person is driving a commercial motor vehicle;

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

6 (5) is convicted of a violation of:

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

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

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

17 (d) driving a commercial motor vehicle  
18 after the driver's commercial driver's license, non-domiciled  
19 commercial driver's license, commercial driver's instruction  
20 permit or non-domiciled commercial driver's instruction permit  
21 is revoked, suspended, disqualified or canceled for violations  
22 while operating a commercial motor vehicle; or

23 (e) causing a fatality in the unlawful  
24 operation of a motor vehicle pursuant to Section [~~66-8-101~~]  
25 66-14-14 NMSA 1978.

.228045.3

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

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

16           E. The department shall disqualify a person from  
17 driving a commercial motor vehicle for life if the person is  
18 convicted of using a motor vehicle in the commission of any  
19 felony involving the manufacture, distribution or dispensing of  
20 a controlled substance or involving an act or practice of  
21 severe forms of trafficking in persons, as defined in federal  
22 law.

23           F. The department shall disqualify a person from  
24 driving a commercial motor vehicle for a period of not less  
25 than sixty days if convicted of two serious traffic violations

.228045.3



1 or one hundred twenty days if convicted of three serious  
2 traffic violations, if the violations were committed while  
3 driving a commercial motor vehicle, arising from separate  
4 incidents occurring within a three-year period.

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

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

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

16 (3) not less than three years nor more than  
17 five years if, during any ten-year period, the person is  
18 convicted of any subsequent violations of out-of-service  
19 orders, in separate incidents, while transporting hazardous  
20 materials required to be placarded pursuant to that act or  
21 while operating a motor vehicle designed to transport more than  
22 fifteen passengers, including the driver.

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

25 (1) the person has been convicted of two

.228045.3

1 serious traffic violations in separate incidents within a  
2 three-year period; and

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

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

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

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

20 J. When a person is disqualified from driving a  
21 commercial motor vehicle, any commercial driver's license held  
22 by that person is invalidated without a separate proceeding of  
23 any kind and the driver is not eligible to apply for a  
24 commercial driver's license until the period of time for which  
25 the driver was disqualified has elapsed.

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

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

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

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

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

19           M. When disqualifying, suspending, revoking or  
20 canceling a commercial driver's license, the department shall  
21 treat a conviction received in another state in the same manner  
22 as if it was received in this state.

23           N. The department shall post and enforce any  
24 disqualification sent by the federal motor carrier safety  
25 administration to the department that indicates that a

.228045.3

1 commercial motor vehicle driver poses an imminent hazard.

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

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

14 SECTION 12. Section 66-5-205.1 NMSA 1978 (being Laws  
15 1989, Chapter 214, Section 1, as amended) is amended to read:

16 "66-5-205.1. UNINSURED MOTORIST CITATION--REQUIREMENTS TO  
17 BE FOLLOWED AT TIME OF ACCIDENT--SUBSEQUENT PROCEDURES--INSURER  
18 NOTIFICATION REQUIREMENTS--SUSPENSION PROCEDURES.--

19 A. When a law enforcement officer issues a driver  
20 who is involved in an accident a citation for failure to comply  
21 with the provisions of the Mandatory Financial Responsibility  
22 Act, the law enforcement officer shall at the same time:

23 (1) issue to the driver cited a temporary  
24 operation sticker, valid for thirty days after the date the  
25 sticker is issued, and forward by mail or delivery to the

.228045.3

1 department a duplicate of the issued sticker; and

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

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

20 C. The secretary shall adopt and promulgate rules  
21 prescribing the form and use of the sticker required to be  
22 issued under Subsection A of this section.

23 ~~[D. The secretary shall adopt and promulgate rules~~  
24 ~~requiring insurance carriers to report canceled, terminated and~~  
25 ~~newly issued motor vehicle insurance policies each month to the~~

.228045.3

1 ~~department. Information pertaining to each motor vehicle shall~~  
2 ~~be made a part of that vehicle file for one year.~~

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

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

14 ~~(2) requires the department to suspend the~~  
15 ~~person's registration as provided in Section 66-5-236 NMSA~~  
16 ~~1978.~~

17 ~~F. The department shall notify the superintendent of~~  
18 ~~insurance if an insurance carrier fails to provide monthly~~  
19 ~~reports to the department regarding motor vehicle insurance~~  
20 ~~policy information as required by Subsection D of this~~  
21 ~~section.]"~~

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

24 "66-5-206. REGISTRATION WITHOUT INSURANCE OR EVIDENCE OF  
25 FINANCIAL RESPONSIBILITY PROHIBITED--SUSPENSION REQUIRED.--

.228045.3

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

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

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

17           D. Within ten days of notification by the insurance  
18 carrier of a termination or cancellation of a motor vehicle  
19 insurance policy, the department shall demand satisfactory  
20 evidence from the owner of the motor vehicle that the owner  
21 meets the requirements of the Mandatory Financial  
22 Responsibility Act. Failure to provide evidence of financial  
23 responsibility within twenty days after the department has  
24 mailed its demand for proof:

25           (1) constitutes reasonable grounds to believe

.228045.3

1 that a person is operating a motor vehicle in violation of the  
2 provisions of Section 66-5-205 NMSA 1978; and

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

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

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

13 "66-7-2. REFERENCE TO VEHICLES UPON THE HIGHWAYS--  
14 EXCEPTIONS.--

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

19 B. The provisions of Sections 66-7-201 through  
20 66-7-215, 66-7-352.5, [~~66-8-102~~ and] 66-8-113, 66-14-2 and  
21 66-14-3 NMSA 1978 apply upon highways and elsewhere throughout  
22 the state."

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

25 "66-14-1. [NEW MATERIAL] DWI ACT--SHORT TITLE.--Sections  
.228045.3

underscored material = new  
[bracketed material] = delete



1 66-14-1 through 66-14-21 NMSA 1978 may be cited as the "DWI  
2 Act"."

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

5 "66-14-2. [NEW MATERIAL] DRIVING UNDER THE INFLUENCE OF  
6 INTOXICATING LIQUOR--AGGRAVATED DRIVING UNDER THE INFLUENCE OF  
7 INTOXICATING LIQUOR--UNLAWFUL ALCOHOL CONCENTRATIONS.--

8 A. It is unlawful for a person who is under the  
9 influence of intoxicating liquor to drive a vehicle within this  
10 state.

11 B. It is unlawful for a person to drive:

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

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

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

25 (1) driving a vehicle in this state with an

.228045.3

1 alcohol concentration of sixteen one hundredths or more in the  
2 driver's blood or breath within three hours of driving the  
3 vehicle and the alcohol concentration results from alcohol  
4 consumed before or while driving the vehicle;

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

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

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

15 "66-14-3. [NEW MATERIAL] DRIVING UNDER THE INFLUENCE OF  
16 AN INTOXICATING DRUG--AGGRAVATED DRIVING UNDER THE INFLUENCE OF  
17 AN INTOXICATING DRUG.--

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

20 (1) who is under the influence of a drug to a  
21 degree that renders the person incapable of safely driving a  
22 vehicle within this state; or

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

.228045.3

1           B. Aggravated driving under the influence of an  
2 intoxicating drug consists of a person:

3                   (1) causing bodily injury to a human being as a  
4 result of unlawful operation of a motor vehicle while driving  
5 under the influence of an intoxicating drug or while driving  
6 under the influence of a combination of intoxicating drug and  
7 alcohol; or

8                   (2) refusing to submit to withdrawing the  
9 person's blood for a chemical blood test, when a warrant is  
10 first issued for the blood draw as provided for in the Implied  
11 Consent Act and in the judgment of the court, based upon  
12 evidence of intoxication presented to the court, the driver was  
13 under the influence of an intoxicating drug or under the  
14 influence of a combination of intoxicating drug and alcohol."

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

17           "66-14-4. [NEW MATERIAL] FIRST CONVICTION FOR DRIVING  
18 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

19           A. A first conviction for driving under the influence  
20 of intoxicating liquor or drugs shall be punished,  
21 notwithstanding the provisions of the Criminal Sentencing Act,  
22 by imprisonment for not more than ninety days or by a fine of  
23 not more than three hundred dollars (\$300), or both; provided  
24 that if the sentence is suspended in whole or in part or  
25 deferred, the period of probation may extend beyond ninety days

.228045.3

1 but shall not exceed one year.

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

5 C. Upon a first conviction pursuant to this  
6 section, an offender shall be ordered by the court to  
7 participate in and complete a screening program described in  
8 Section 66-14-15 NMSA 1978 and to attend a driver  
9 rehabilitation program for alcohol or drugs, also known as a  
10 "DWI school", approved by the bureau and also may be required  
11 to participate in other rehabilitative services as the court  
12 shall determine to be necessary.

13 D. When an offender commits aggravated driving under  
14 the influence of intoxicating liquor or drugs, the offender  
15 shall be sentenced to not less than forty-eight consecutive  
16 hours in jail.

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

23 F. A jail sentence imposed pursuant to Subsection E  
24 of this section or for aggravated driving under the influence  
25 of intoxicating liquor or drugs shall not be suspended,

.228045.3

1 deferred or taken under advisement.

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

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

11 "66-14-5. [NEW MATERIAL] SECOND CONVICTION FOR DRIVING  
12 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

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

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

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

.228045.3

1 than forty-eight hours of community service;

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

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

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

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

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

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

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

24 or

25 (4) any other substance abuse treatment program

1 approved by the court.

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

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

7 "66-14-6. [NEW MATERIAL] THIRD CONVICTION FOR DRIVING  
8 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

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

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

20 (1) an offender shall be sentenced to a jail  
21 term of not less than thirty consecutive days, not less than  
22 ninety-six hours of community service;

23 (2) when an offender commits aggravated driving  
24 under the influence of intoxicating liquor or drugs, the  
25 offender shall be sentenced to a jail term of not less than

.228045.3

1 sixty consecutive days; and

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

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

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

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

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

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

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

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

.228045.3



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

3           "66-14-7. [NEW MATERIAL] FOURTH CONVICTION FOR DRIVING  
4 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a  
5 fourth conviction for driving under the influence of  
6 intoxicating liquor or drugs, an offender is guilty of a fourth  
7 degree felony and, notwithstanding the provisions of Section  
8 31-18-15 NMSA 1978, shall be sentenced to a term of  
9 imprisonment of eighteen months, six months of which shall not  
10 be suspended, deferred or taken under advisement."

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

13           "66-14-8. [NEW MATERIAL] FIFTH CONVICTION FOR DRIVING  
14 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a  
15 fifth conviction for driving under the influence of  
16 intoxicating liquor or drugs, an offender is guilty of a fourth  
17 degree felony and, notwithstanding the provisions of Section  
18 31-18-15 NMSA 1978, shall be sentenced to a term of  
19 imprisonment of two years, one year of which shall not be  
20 suspended, deferred or taken under advisement."

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

23           "66-14-9. [NEW MATERIAL] SIXTH CONVICTION FOR DRIVING  
24 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a  
25 sixth conviction for driving under the influence of

.228045.3

1 intoxicating liquor or drugs, an offender is guilty of a third  
2 degree felony and, notwithstanding the provisions of Section  
3 31-18-15 NMSA 1978, shall be sentenced to a term of  
4 imprisonment of thirty months, eighteen months of which shall  
5 not be suspended, deferred or taken under advisement."

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

8 "66-14-10. [NEW MATERIAL] SEVENTH CONVICTION FOR DRIVING  
9 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a  
10 seventh conviction for driving under the influence of  
11 intoxicating liquor or drugs, an offender is guilty of a third  
12 degree felony and, notwithstanding the provisions of Section  
13 31-18-15 NMSA 1978, shall be sentenced to a term of  
14 imprisonment of three years, two years of which shall not be  
15 suspended, deferred or taken under advisement."

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

18 "66-14-11. [NEW MATERIAL] EIGHTH OR SUBSEQUENT CONVICTION  
19 FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR  
20 DRUGS.--Upon an eighth or subsequent conviction for driving  
21 under the influence of intoxicating liquor or drugs, an  
22 offender is guilty of a second degree felony and,  
23 notwithstanding the provisions of Section 31-18-15 NMSA 1978,  
24 shall be sentenced to a term of imprisonment of twelve years,  
25 ten of which shall not be suspended, deferred or taken under

1 advisement."

2           **SECTION 26.** Section 66-8-102.5 NMSA 1978 (being Laws  
3 2019, Chapter 79, Section 1) is recompiled as Section 66-14-12  
4 NMSA 1978 and is amended to read:

5           "66-14-12. DRIVING WHILE INTOXICATED WITH A MINOR IN THE  
6 VEHICLE--PENALTY.--

7           A. Driving while intoxicated with a minor in the  
8 vehicle consists of a person committing a violation of Section  
9 [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978 when a minor is in the  
10 vehicle and when the minor does not suffer great bodily harm or  
11 death. Whoever commits driving while intoxicated with a minor  
12 in the vehicle is guilty of a misdemeanor and, if the minor is  
13 a child of the motorist, shall participate in a parenting  
14 class.

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

19           C. As used in this section, "minor" means an  
20 individual who is younger than [~~thirteen~~] eighteen years of  
21 age."

22           **SECTION 27.** Section 66-8-101.1 NMSA 1978 (being Laws  
23 1985, Chapter 239, Section 2) is recompiled as Section 66-14-13  
24 NMSA 1978 and is amended to read:

25           "66-14-13. INJURY TO PREGNANT [~~WOMAN~~] PERSON BY

.228045.3

1 VEHICLE.--

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

7 B. As used in this section:

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

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

21 C. Any person who commits injury to pregnant [~~woman~~]  
22 person by vehicle while under the influence of intoxicating  
23 liquor or while under the influence of any drug or while  
24 violating Section 66-8-113 NMSA 1978 is guilty of a third  
25 degree felony and shall be sentenced pursuant to the provisions

.228045.3

1 of Section 31-18-15 NMSA 1978; provided that violation of  
2 speeding laws as set forth in the Motor Vehicle Code shall not  
3 per se be a basis for violation of Section 66-8-113 NMSA 1978."

4 **SECTION 28.** Section 66-8-101 NMSA 1978 (being Laws 1978,  
5 Chapter 35, Section 509, as amended) is recompiled as Section  
6 66-14-14 NMSA 1978 and is amended to read:

7 "66-14-14. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY  
8 VEHICLE.--

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

11 B. Great bodily harm by vehicle is the injuring of a  
12 human being, to the extent defined in Section 30-1-12 NMSA  
13 1978, in the unlawful operation of a motor vehicle.

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

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

25 E. A person who commits great bodily harm by vehicle

.228045.3

1 while under the influence of intoxicating liquor, while under  
2 the influence of any drug or while violating Section 66-8-113  
3 NMSA 1978 is guilty of a third degree felony and shall be  
4 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
5 1978; provided that violation of speeding laws as set forth in  
6 the Motor Vehicle Code shall not per se be a basis for  
7 violation of Section 66-8-113 NMSA 1978.

8 F. A person who commits homicide by vehicle or great  
9 bodily harm by vehicle while under the influence of  
10 intoxicating liquor or while under the influence of any drug,  
11 as provided in Subsection C or E of this section, and who has  
12 incurred a prior DWI conviction within ten years of the  
13 occurrence for which the person is being sentenced under this  
14 section, shall have the person's basic sentence increased by  
15 four years for each prior DWI conviction.

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

18 (1) a prior conviction under Section 66-8-102,  
19 66-14-2 or 66-14-3 NMSA 1978; or

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

24 H. A person who willfully operates a motor vehicle in  
25 violation of Subsection C of Section 30-22-1 NMSA 1978 and

1 directly or indirectly causes the death of or great bodily harm  
2 to a human being is guilty of a third degree felony and shall  
3 be sentenced pursuant to the provisions of Section 31-18-15  
4 NMSA 1978."

5 SECTION 29. A new Section 66-14-15 NMSA 1978 is enacted  
6 to read:

7 "66-14-15. [NEW MATERIAL] ALCOHOL OR DRUG ABUSE SCREENING  
8 REQUIRED.--Upon a conviction for driving under the influence of  
9 intoxicating liquor or drugs, an offender shall be required to  
10 participate in and complete, within a time specified by the  
11 court, an alcohol or drug abuse screening program approved by  
12 the department of finance and administration and, if necessary,  
13 a treatment program approved by the court. The requirement  
14 imposed pursuant to this section shall not be suspended,  
15 deferred or taken under advisement."

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

18 "66-14-16. [NEW MATERIAL] SUBSTANCE ABUSE COUNSELING AND  
19 TREATMENT TO BE PROVIDED BY THE CORRECTIONS DEPARTMENT UPON A  
20 FELONY CONVICTION.--Upon a felony conviction for driving under  
21 the influence of intoxicating liquor or drugs, the corrections  
22 department shall provide substance abuse counseling and  
23 treatment to the offender in its custody. While the offender  
24 is on probation or parole under its supervision, the  
25 corrections department shall also provide substance abuse

.228045.3

1 counseling and treatment to the offender or shall require the  
2 offender to obtain substance abuse counseling and treatment."

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

5 "66-14-17. [NEW MATERIAL] CONVICTIONS IN OTHER  
6 JURISDICTIONS.--A conviction pursuant to a municipal or county  
7 ordinance in New Mexico, or a law of any other jurisdiction,  
8 territory or possession of the United States or of an Indian  
9 nation, tribe or pueblo, when that ordinance or law is  
10 equivalent to New Mexico law for driving under the influence of  
11 intoxicating liquor or drugs and prescribes penalties for  
12 driving under the influence of intoxicating liquor or drugs,  
13 shall be deemed to be a conviction pursuant to this section for  
14 purposes of determining whether a conviction is a second or  
15 subsequent conviction."

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

18 "66-14-18. [NEW MATERIAL] MAGISTRATE COURT CONCURRENT  
19 JURISDICTION.--In the case of a first, second or third offense  
20 pursuant to the DWI Act:

21 A. when a charge is brought pursuant to Section  
22 66-14-2 NMSA 1978, the magistrate court has concurrent  
23 jurisdiction with district courts to try the offender; or

24 B. when a charge is brought pursuant to Section  
25 66-14-3 NMSA 1978:

.228045.3



1           (1) in any county with a metropolitan court, the  
2 metropolitan court has concurrent jurisdiction with the  
3 district courts to try the offender;

4           (2) in all counties without a metropolitan  
5 court, if the case does not involve evidence from a chemical  
6 blood test, the magistrate has concurrent jurisdiction with the  
7 district courts to try the offender; and

8           (3) in all counties without a metropolitan  
9 court, if the case involves evidence from a chemical blood  
10 test, the district court has exclusive jurisdiction to try the  
11 offender."

12           **SECTION 33.** Section 66-8-102.1 NMSA 1978 (being Laws  
13 1982, Chapter 102, Section 2, as amended by Laws 2003, Chapter  
14 51, Section 11 and by Laws 2003, Chapter 90, Section 4) is  
15 recompiled as Section 66-14-19 NMSA 1978 and is amended to  
16 read:

17           "66-14-19. GUILTY PLEAS--LIMITATIONS.--Where the  
18 complaint or information alleges a violation of Section  
19 [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA 1978, any plea of guilty  
20 thereafter entered in satisfaction of the charges shall include  
21 at least a plea of guilty to the violation of [~~one of the~~  
22 ~~subsections of~~] Section [~~66-8-102~~] 66-14-2 or 66-14-3 NMSA  
23 1978, and no other disposition by plea of guilty to any other  
24 charge in satisfaction of the charge shall be authorized if the  
25 results of a test performed pursuant to the Implied Consent Act

.228045.3

1 disclose that the blood or breath of the person charged  
2 contains an alcohol concentration of:

3 A. eight one hundredths or more; or

4 B. four one hundredths or more if the person charged  
5 is driving a commercial motor vehicle."

6 SECTION 34. Section 66-8-102.2 NMSA 1978 (being Laws  
7 1993, Chapter 66, Section 16) is recompiled as Section 66-14-20  
8 NMSA 1978 and is amended to read:

9 "66-14-20. MUNICIPAL AND COUNTY ORDINANCES--UNLAWFUL  
10 ALCOHOL CONCENTRATION LEVEL FOR DRIVING WHILE UNDER THE  
11 INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--No municipal or  
12 county ordinance prohibiting driving while under the influence  
13 of intoxicating liquor or drugs shall be enacted that provides  
14 for an unlawful alcohol concentration level that is different  
15 than the alcohol concentration levels provided in [~~Subsections~~  
16 ~~C and D of Section 66-8-102~~] Section 66-14-2 NMSA 1978."

17 SECTION 35. Section 66-8-102.4 NMSA 1978 (being Laws  
18 2005, Chapter 269, Section 8) is recompiled as Section 66-14-21  
19 NMSA 1978 and is amended to read:

20 "66-14-21. UNIFORM POLICE REPORTS AND PROCEDURES FOR DWI  
21 ARRESTS.--

22 A. The department of public safety, in collaboration  
23 with the [~~motor vehicle~~] division [~~of the taxation and revenue~~  
24 ~~department~~] and the [~~traffic safety~~] bureau [~~of the department~~  
25 ~~of transportation~~], shall develop and periodically review and

.228045.3

1 update standard arrest reports and procedures to be used by law  
 2 enforcement officers when making an arrest for a violation of  
 3 the [~~provisions of Section 66-8-102 NMSA 1978~~] DWI Act or  
 4 similar municipal or county ordinances.

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

11 SECTION 36. A new Section 66-14-31 NMSA 1978 is enacted  
 12 to read:

13 "66-14-31. [NEW MATERIAL] SHORT TITLE.--Sections 66-14-31  
 14 though 66-14-38 NMSA 1978 may be cited as the "Boating While  
 15 Intoxicated Act"."

16 SECTION 37. A new Section 66-14-32 NMSA 1978 is enacted  
 17 to read:

18 "66-14-32. [NEW MATERIAL] OPERATING A MOTORBOAT WHILE  
 19 UNDER THE INFLUENCE OF INTOXICATING LIQUOR.--

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

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

25 C. Aggravated boating while under the influence of

.228045.3

1 intoxicating liquor or drugs consists of a person who:

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

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

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

13 SECTION 38. A new Section 66-14-33 NMSA 1978 is enacted  
14 to read:

15 "66-14-33. [NEW MATERIAL] OPERATING A MOTORBOAT WHILE  
16 UNDER THE INFLUENCE OF INTOXICATING DRUG.--

17 A. It is unlawful for a person who is under the  
18 influence of any drug to a degree that renders the person  
19 incapable of safely operating a motorboat to operate a  
20 motorboat.

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

25 C. Aggravated boating while under the influence of

.228045.3

1 intoxicating liquor or drugs consists of a person who has  
2 caused bodily injury to a human being as a result of the  
3 unlawful operation of a motorboat while under the influence of  
4 intoxicating liquor or drugs."

5 SECTION 39. A new Section 66-14-34 NMSA 1978 is enacted  
6 to read:

7 "66-14-34. [NEW MATERIAL] PENALTIES.--

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

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

23 C. In addition to those penalties, when an offender  
24 commits aggravated boating while under the influence of  
25 intoxicating liquor or drugs, the offender shall be sentenced

.228045.3

1 to not less than forty-eight consecutive hours in jail and may  
2 be fined not more than seven hundred fifty dollars (\$750).

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

7 E. A deferred sentence pursuant to this subsection  
8 shall be considered a first conviction for the purpose of  
9 determining subsequent convictions."

10 SECTION 40. A new Section 66-14-35 NMSA 1978 is enacted  
11 to read:

12 "66-14-35. [NEW MATERIAL] SUBSEQUENT CONVICTIONS.--

13 A. A second or subsequent conviction pursuant to the  
14 Boating While Intoxicated Act shall be punished,  
15 notwithstanding the provisions of Section 31-18-13 NMSA 1978,  
16 by imprisonment for not more than three hundred sixty-four days  
17 or by a fine of not more than seven hundred fifty dollars  
18 (\$750), or both; provided that if the sentence is suspended in  
19 whole or in part, the period of probation shall not exceed one  
20 year.

21 B. In addition to the penalties provided in  
22 Subsection A of this section, when an offender commits  
23 aggravated boating while under the influence of intoxicating  
24 liquor or drugs, the offender shall be sentenced to not less  
25 than forty-eight consecutive hours in jail and may be fined not

1 more than one thousand dollars (\$1,000)."

2 SECTION 41. A new Section 66-14-36 NMSA 1978 is enacted  
3 to read:

4 "66-14-36. [NEW MATERIAL] GUILTY PLEAS--LIMITATIONS.--  
5 When a complaint or information alleges a violation of Section  
6 66-14-33 NMSA 1978, any plea of guilty thereafter entered in  
7 satisfaction of the charges shall include at least a plea of  
8 guilty to the violation of Section 66-14-33 NMSA 1978, and no  
9 other disposition by plea of guilty to any other charge in  
10 satisfaction of the charge shall be authorized if the results  
11 of a test performed pursuant to that act disclose that the  
12 blood or breath of the person charged contains an alcohol  
13 concentration of eight one hundredths or more."

14 SECTION 42. A new Section 66-14-37 NMSA 1978 is enacted  
15 to read:

16 "66-14-37. [NEW MATERIAL] MUNICIPAL AND COUNTY  
17 ORDINANCES--UNLAWFUL ALCOHOL CONCENTRATION LEVEL FOR BOATING  
18 WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUORS OR DRUGS.--No  
19 municipal or county ordinance prohibiting the operation of a  
20 motorboat while under the influence of intoxicating liquor or  
21 drugs shall be enacted that provides for an unlawful alcohol  
22 concentration level that is different than the alcohol  
23 concentration levels provided in Section 66-14-33 NMSA 1978."

24 SECTION 43. A new Section 66-14-38 NMSA 1978 is enacted  
25 to read:

.228045.3

1 "66-14-38. [NEW MATERIAL] EDUCATIONAL PROGRAM.--The state  
2 parks division of the energy, minerals and natural resources  
3 department shall develop and implement a program to advertise  
4 and further educate the boating public about the dangers of  
5 boating while under the influence of alcohol or drugs and the  
6 penalties associated with a conviction pursuant to the  
7 provisions of the Boating While Intoxicated Act."

8 SECTION 44. Section 66-8-105 NMSA 1978 (being Laws 1978,  
9 Chapter 35, Section 513) is recompiled as Section 66-14-41 NMSA  
10 1978 and is amended to read:

11 "66-14-41. IMPLIED CONSENT ACT--SHORT TITLE.--Sections  
12 [~~64-8-105 through 64-8-112 NMSA 1953~~] 66-14-41 through 66-14-50  
13 NMSA 1978 may be cited as the "Implied Consent Act"."

14 SECTION 45. Section 66-8-107 NMSA 1978 (being Laws 1978,  
15 Chapter 35, Section 515, as amended) is recompiled as Section  
16 66-14-42 NMSA 1978 and is amended to read:

17 "66-14-42. IMPLIED CONSENT TO SUBMIT TO CHEMICAL TEST.--

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

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

.228045.3



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

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

14           **SECTION 46.** Section 66-8-108 NMSA 1978 (being Laws 1978,  
 15 Chapter 35, Section 516) is recompiled as Section 66-14-43 NMSA  
 16 1978 and is amended to read:

17           "66-14-43. CONSENT OF PERSON INCAPABLE OF REFUSAL NOT  
 18 WITHDRAWN.--Any person who is dead, unconscious or otherwise in  
 19 a condition rendering [~~him~~] the person incapable of refusal  
 20 shall be deemed not to have withdrawn the consent provided by  
 21 Section [~~64-8-107 NMSA 1953~~] 66-14-42 NMSA 1978, and the test  
 22 or tests designated by the law enforcement officer may be  
 23 administered."

24           **SECTION 47.** A new Section 66-14-44 NMSA 1978 is enacted  
 25 to read:

.228045.3

1 "66-14-44. [NEW MATERIAL] ADMINISTRATION OF BLOOD DRAW--  
2 PAYMENT OF COSTS.--

3 A. The person whose breath has been tested pursuant  
4 to the provisions of the DWI Act shall be advised by the law  
5 enforcement officer of the person's right to be given an  
6 opportunity to arrange for an independent blood draw in  
7 addition to any breath test performed at the direction of a law  
8 enforcement officer.

9 B. The law enforcement agency represented by the law  
10 enforcement officer at whose direction the breath test is  
11 performed shall pay for the blood draw."

12 SECTION 48. A new Section 66-14-45 NMSA 1978 is enacted  
13 to read:

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

19 A. Any person authorized by law to draw blood may  
20 withdraw blood from another person for the performance of a  
21 chemical blood test approved by the scientific laboratory  
22 division of the department of health. When withdrawing blood  
23 for the performance of a chemical blood test, the person shall  
24 withdraw a sufficient sample to permit an independent chemical  
25 analysis to be conducted. The additional sample shall be sent

.228045.3

1 to the scientific laboratory division of the department of  
2 health for chain of custody and storage.

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

16 C. A person authorized by law to draw blood who  
17 withdraws blood from a person for the performance of a chemical  
18 blood test that has been directed by a police officer, or by a  
19 judicial or probation officer, shall not be held liable in a  
20 civil or criminal action for assault, battery, false  
21 imprisonment or the conduct of a police officer, except for  
22 negligence, nor shall a person assisting in the withdrawal of  
23 blood, or a hospital wherein blood is withdrawn in the  
24 performance of the test, be subject to civil or criminal  
25 liability for assault, battery, false imprisonment or the

.228045.3

1 conduct of a police officer, except for negligence.

2 D. As used in this section, "authorized by law to  
3 draw blood" includes a person authorized by the laws of this  
4 state, as well as a person authorized by the laws of another  
5 state when a driver or operator of a motorboat is transported  
6 to another state following an accident, incapacitation or other  
7 medical emergency."

8 SECTION 49. Section 66-8-110 NMSA 1978 (being Laws 1978,  
9 Chapter 35, Section 518, as amended) is recompiled as Section  
10 66-14-46 NMSA 1978 and is amended to read:

11 "66-14-46. USE OF TESTS IN CRIMINAL ACTIONS OR CIVIL  
12 ACTIONS--LEVELS OF INTOXICATION--MANDATORY CHARGING.--

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

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

21 (1) an alcohol concentration of [~~less than~~] four  
22 one hundredths or less, it shall be presumed that the person  
23 was not under the influence of intoxicating liquor;

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

.228045.3

underscored material = new  
[bracketed material] = delete

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

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

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

13 C. The arresting officer shall charge the person  
14 tested with a violation of Section [~~66-8-102~~] 66-14-2 or  
15 66-14-42 NMSA 1978 when the blood or breath of the person  
16 contains an alcohol concentration of:

17 (1) eight one hundredths or more; or

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

20 D. When a person is less than twenty-one years of age  
21 and the blood or breath of the person contains an alcohol  
22 concentration of two one hundredths or more, the person's  
23 driving privileges shall be revoked pursuant to the provisions  
24 of the Implied Consent Act.

25 E. If the test performed pursuant to the Implied

.228045.3

1 Consent Act is administered more than three hours after the  
2 person was driving a vehicle, the test result may be introduced  
3 as evidence of the alcohol concentration in the person's blood  
4 or breath at the time of the test and the trier of fact shall  
5 determine what weight to give the test result for the purpose  
6 of determining a violation of Section [~~66-8-102~~] 66-14-2 or  
7 66-14-42 NMSA 1978.

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

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

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

21 SECTION 50. Section 66-8-111 NMSA 1978 (being Laws 1978,  
22 Chapter 35, Section 519, as amended) is recompiled as Section  
23 66-14-47 NMSA 1978 and is amended to read:

24 "66-14-47. REFUSAL TO SUBMIT TO CHEMICAL TESTS--TESTING--  
25 GROUNDS FOR REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE.--

.228045.3

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

19           B. If a person under arrest for a violation of  
20 driving under the influence of intoxicating liquor, driving  
21 under the influence of an intoxicating drug or boating while  
22 intoxicated submits to a chemical breath test upon request of a  
23 law enforcement officer as provided in Section 66-14-42 NMSA  
24 1978, but thereafter refuses upon request of a law enforcement  
25 officer to submit to a chemical blood test, no chemical blood

.228045.3

1 test shall be administered except when a magistrate or district  
2 judge issues a search warrant authorizing chemical tests as  
3 provided in Section 66-14-42 NMSA 1978 upon finding in a law  
4 enforcement officer's written affidavit that there is probable  
5 cause to believe that the person has committed driving under  
6 the influence of an intoxicating drug and that chemical tests  
7 as provided in Section 66-14-42 NMSA 1978 will produce material  
8 evidence in a prosecution; provided that:

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

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

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

21 ~~[B.]~~ C. The department, upon receipt of a statement  
22 signed under penalty of perjury from a law enforcement officer  
23 stating the officer's reasonable grounds to believe the  
24 arrested person had been driving a motor vehicle within this  
25 state while under the influence of intoxicating liquor or drugs



1 and that, upon request, the person refused to submit to a  
2 chemical test after being advised that failure to submit could  
3 result in revocation of the person's privilege to drive, shall  
4 revoke the person's New Mexico driver's license or any  
5 nonresident operating privilege for a period of one year or  
6 until all conditions for license reinstatement are met,  
7 whichever is later.

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

22           (1) six months or until all conditions for  
23 license reinstatement are met, whichever is later, if the  
24 person is twenty-one years of age or older;

25           (2) one year or until all conditions for license

.228045.3

1 reinstatement are met, whichever is later, if the person was  
2 less than twenty-one years of age at the time of the arrest,  
3 notwithstanding any provision of the Children's Code; or

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

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

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

21 [~~F.~~] G. A statement signed by a law enforcement  
22 officer, pursuant to the provisions of Subsection [~~B or C~~] C or  
23 D of this section, shall be sworn to by the officer or shall  
24 contain a declaration substantially to the effect: "I hereby  
25 declare under penalty of perjury that the information given in

underscored material = new  
[bracketed material] = delete

1 this statement is true and correct to the best of my  
2 knowledge.". The statement may be signed and submitted  
3 electronically in a manner and form approved by the department.  
4 A law enforcement officer who signs a statement knowing that  
5 the statement is untrue in any material issue or matter is  
6 guilty of perjury as provided in Section 66-5-38 NMSA 1978."

7 SECTION 51. A new Section 66-14-48 NMSA 1978 is enacted  
8 to read:

9 "66-14-48. [NEW MATERIAL] TOXICOLOGIST OR LABORATORY  
10 TECHNICIAN--VIDEO TESTIMONY.--

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

16 (1) testimony is provided by each toxicologist  
17 or laboratory technician who conducted analysis on the blood  
18 sample at issue in the proceeding; and

19 (2) the court determines that permitting the  
20 video testimony of the toxicologists or laboratory technicians  
21 does not abrogate the defendant's rights in the proceeding.

22 B. Any interactive video appearance allowed pursuant  
23 to this subsection shall provide a full and meaningful  
24 opportunity to question and cross-examine the toxicologist or  
25 laboratory technician in plain sight and clear hearing of the

.228045.3

1 trier of fact, all parties, counsel and the presiding officer,  
2 with the toxicologist or laboratory technician able to clearly  
3 see and hear the proceeding while testifying."

4 SECTION 52. Section 66-8-111.1 NMSA 1978 (being Laws  
5 1984, Chapter 72, Section 7, as amended) is recompiled as  
6 Section 66-14-49 NMSA 1978 and is amended to read:

7 "66-14-49. LAW ENFORCEMENT OFFICER AGENT FOR DEPARTMENT--  
8 WRITTEN NOTICE OF REVOCATION AND RIGHT TO HEARING.--

9 A. On behalf of the department, a law enforcement  
10 officer requesting a chemical test or directing the  
11 administration of a chemical test pursuant to Section  
12 [~~66-8-107~~] 66-14-42 NMSA 1978 shall serve immediate written  
13 notice of revocation and of right to a hearing before the  
14 administrative hearings office pursuant to the Implied Consent  
15 Act on a person who:

- 16 (1) refuses to permit chemical testing; or  
17 (2) submits to a chemical test the results of  
18 which indicate an alcohol concentration in the person's blood  
19 or breath of:
- 20 (a) eight one hundredths or more if the  
21 person is twenty-one years of age or older;  
22 (b) four one hundredths or more if the  
23 person is driving a commercial motor vehicle; or  
24 (c) two one hundredths or more if the person  
25 is less than twenty-one years of age.

1           B. The written notice of revocation and of a right to  
 2 a hearing served on the driver shall be a temporary license  
 3 valid for twenty days or, if the driver requests a hearing  
 4 pursuant to Section [~~66-8-112~~] 66-14-50 NMSA 1978, valid until  
 5 the date the administrative hearings office issues the order  
 6 following that hearing; provided that a written notice of  
 7 revocation and right to a hearing shall not be a temporary  
 8 license for a driver without any otherwise valid driving  
 9 privileges in this state.

10           C. The law enforcement officer shall send to the  
 11 department the signed statement required pursuant to Section  
 12 [~~66-8-111~~] 66-14-47 NMSA 1978."

13           **SECTION 53.** Section 66-8-112 NMSA 1978 (being Laws 1978,  
 14 Chapter 35, Section 520, as amended) is repealed and a new  
 15 Section 66-14-50 NMSA 1978 is enacted to read:

16           "66-14-50. [NEW MATERIAL] REVOCATION OF LICENSE OR  
 17 PRIVILEGE TO DRIVE--NOTICE--EFFECTIVE DATE--HEARING--HEARING  
 18 COSTS--REVIEW.--

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

.228045.3

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

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

13           B. Within ten days after receipt of notice of  
14 revocation pursuant to Subsection A of this section, a person  
15 whose license or privilege to drive is revoked or denied or the  
16 person's agent may request a hearing. The hearing request  
17 shall be made in writing and shall be accompanied by a payment  
18 of twenty-five dollars (\$25.00) or a sworn statement of  
19 indigency on a form provided by the department. A standard for  
20 indigency shall be established pursuant to rules adopted by the  
21 department. Failure to request a hearing within ten days shall  
22 result in forfeiture of the person's right to a hearing. Any  
23 person less than eighteen years of age who fails to request a  
24 hearing within ten days shall have notice of revocation sent to  
25 the person's parent, guardian or custodian by the department.

.228045.3

1 A date for the hearing shall be set by the administrative  
2 hearings office, if practical, within thirty days after receipt  
3 of notice of revocation. The hearing shall be held in the  
4 county in which the offense for which the person was arrested  
5 took place.

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

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

16 E. The hearing shall be limited to the following  
17 issues:

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

22 (2) whether the person was arrested;

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

25 (4) whether:

.228045.3

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

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

6 (5) whether:

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

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

15 F. The administrative hearings office shall enter an  
16 order sustaining the revocation or denial of the person's  
17 license or privilege to drive if the hearing officer from the  
18 administrative hearings office finds that:

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

22 (2) the person was arrested;

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

25 (4) either:



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

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

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

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

.228045.3

1 on the record of the administrative proceeding.

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

6 SECTION 54. Section 66-5-501 NMSA 1978 (being Laws 2003,  
7 Chapter 239, Section 1) is recompiled as Section 66-14-51 NMSA  
8 1978 and is amended to read:

9 "66-14-51. IGNITION INTERLOCK LICENSING ACT--SHORT  
10 TITLE.--Sections [1 through 4 of this act] 66-14-51 through  
11 66-14-56 NMSA 1978 may be cited as the "Ignition Interlock  
12 Licensing Act"."

13 SECTION 55. Section 66-5-502 NMSA 1978 (being Laws 2003,  
14 Chapter 239, Section 2, as amended) is recompiled as Section  
15 66-14-52 NMSA 1978 and is amended to read:

16 "66-14-52. DEFINITIONS.--As used in the Ignition  
17 Interlock Licensing Act:

18 A. "denied" means the division has refused to issue  
19 an instruction permit, driver's license or provisional license  
20 pursuant to the provisions of Subsection D or E of Section  
21 66-5-5 NMSA 1978;

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

.228045.3

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

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

12 (1) driving while under the influence of  
13 intoxicating liquor or drugs; or

14 (2) a conviction of homicide by vehicle or great  
15 bodily harm by vehicle while under the influence of  
16 intoxicating liquor or drugs."

17 SECTION 56. A new Section 66-14-53 NMSA 1978 is enacted  
18 to read:

19 "66-14-53. [NEW MATERIAL] IGNITION INTERLOCK  
20 REQUIREMENT.--

21 A. Upon a conviction for driving under the influence  
22 of intoxicating liquor or drugs, an offender shall be required  
23 to obtain an ignition interlock license and have an ignition  
24 interlock device installed and operating on all motor vehicles  
25 driven by the offender, pursuant to rules adopted by the

.228045.3

1 bureau. Unless determined by the bureau to be indigent, the  
2 offender shall pay all costs associated with having an ignition  
3 interlock device installed on the appropriate motor vehicles.  
4 The offender shall operate only those vehicles equipped with  
5 ignition interlock devices for:

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

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

25 C. An offender who obtains an ignition interlock

1 license and installs an ignition interlock device prior to  
2 conviction shall be given credit at sentencing for the time  
3 period the ignition interlock device has been in use."

4 SECTION 57. Section 66-5-503 NMSA 1978 (being Laws 2003,  
5 Chapter 239, Section 3, as amended) is recompiled as Section  
6 66-14-54 NMSA 1978 and is amended to read:

7 "66-14-54. IGNITION INTERLOCK LICENSE--REQUIREMENTS.--

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

14 B. An applicant for an ignition interlock license  
15 shall:

16 (1) provide proof of installation of the  
17 ignition interlock device by [~~a traffic safety bureau-approved~~]  
18 an ignition interlock installer approved by the bureau on any  
19 vehicle the applicant drives; and

20 (2) sign an affidavit acknowledging that:

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

24 (b) tampering or interfering with the proper  
25 and intended operation of an ignition interlock device may

.228045.3

1 subject the applicant to penalties for driving with a license  
2 that was revoked for driving under the influence of  
3 intoxicating liquor or drugs or a violation of the Implied  
4 Consent Act; and

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

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

16 SECTION 58. Section 66-5-504 NMSA 1978 (being Laws 2003,  
17 Chapter 239, Section 4, as amended) is recompiled as Section  
18 66-14-55 NMSA 1978 and is amended to read:

19 "66-14-55. PENALTIES.--

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

.228045.3

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

9           **SECTION 59.** Section 66-8-102.3 NMSA 1978 (being Laws  
 10 2002, Chapter 82, Section 2, as amended) is recompiled as  
 11 Section 66-14-56 NMSA 1978 and is amended to read:

12           "66-14-56. IMPOSING A FEE--INTERLOCK DEVICE FUND  
 13 CREATED.--

14           A. A fee is imposed on a person convicted of driving  
 15 under the influence of intoxicating liquor or drugs in  
 16 violation of [~~Section 66-8-102 NMSA 1978~~] the DWI Act or  
 17 adjudicated as a delinquent on the basis of Subparagraph (a) of  
 18 Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978 or a  
 19 person whose driver's license is revoked pursuant to the  
 20 provisions of the Implied Consent Act, in an amount determined  
 21 by rule of the [~~traffic safety~~] bureau [~~of the department of~~  
 22 ~~transportation~~] not to exceed one hundred dollars (\$100) but  
 23 not less than fifty dollars (\$50.00) for each year the person  
 24 is required to operate only vehicles equipped with an ignition  
 25 interlock device in order to ensure the solvency of the

.228045.3

1 interlock device fund. The fee shall not be imposed on an  
2 indigent person.

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

8 C. All money in the interlock device fund is  
9 appropriated to the [~~traffic safety~~] bureau [~~of the department~~  
10 ~~of transportation~~] to cover part of the costs of installing,  
11 removing and leasing ignition interlock devices for indigent  
12 people who are required, pursuant to convictions [~~under Section~~  
13 ~~66-8-102 NMSA 1978~~] for violations of the DWI Act or  
14 adjudications on the basis of Subparagraph (a) of Paragraph (1)  
15 of Subsection A of Section 32A-2-3 NMSA 1978 or driver's  
16 license revocations pursuant to the provisions of the Implied  
17 Consent Act or as a condition of parole, to install those  
18 devices in their vehicles. Provided that money is available in  
19 the interlock device fund, the [~~traffic safety~~] bureau shall  
20 pay, for one vehicle per offender, up to fifty dollars (\$50.00)  
21 for the cost of installation, up to fifty dollars (\$50.00) for  
22 the cost of removal and up to thirty dollars (\$30.00) monthly  
23 for verified active usage of the interlock device. The  
24 [~~traffic safety~~] bureau shall not pay any amount above what an  
25 offender would be required to pay for the installation, removal

.228045.3



1 or usage of an interlock device.

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

5 (1) temporary assistance for needy families;  
6 (2) general assistance;  
7 (3) the supplemental nutritional assistance  
8 program, also known as "food stamps";

9 (4) supplemental security income;  
10 (5) the federal food distribution program on  
11 Indian reservations; or

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

14 E. Any balance remaining in the interlock device fund  
15 shall not revert to the general fund at the end of any fiscal  
16 year. Any money remaining in the fund at the end of a fiscal  
17 year that exceeds twenty percent of the expenditures from the  
18 prior fiscal year may be used by the traffic safety bureau for  
19 other statutory duties of the bureau.

20 F. The interlock device fund shall be administered by  
21 the [~~traffic safety~~] bureau [~~of the department of~~  
22 ~~transportation~~]. No more than ten percent of the money in the  
23 interlock device fund in any fiscal year shall be expended by  
24 the [~~traffic safety~~] bureau [~~of the department of~~  
25 ~~transportation~~] for the purpose of administering the fund."

.228045.3

1           **SECTION 60.** TEMPORARY PROVISION--REQUIRING A STUDY ON  
2 INSURANCE LEVELS REGARDING DRIVERS SUBJECT TO THE IGNITION  
3 INTERLOCK LICENSING ACT.--The traffic safety bureau of the  
4 department of transportation shall coordinate a study to  
5 include the motor vehicle division of the taxation and revenue  
6 department and other appropriate stakeholders. The study shall  
7 investigate the procedures to be recommended to ensure that  
8 drivers subject to the Ignition Interlock Licensing Act are  
9 insured at the levels required by the Mandatory Financial  
10 Responsibility Act at all times, and the steps to be taken if  
11 the bureau or division is made aware that a driver subject to  
12 the Ignition Interlock Licensing Act fails to maintain adequate  
13 financial responsibility to drive on the roads of this state.  
14 The study shall also investigate if the insurance obtained by  
15 this class of high-risk driver should be required to be  
16 registered with the state through the motorist, whereas  
17 insurance is currently registered with the state through the  
18 vehicle only in New Mexico.

19           **SECTION 61.** TEMPORARY PROVISION--REQUIRING A STUDY ON  
20 DUPLICATIVE FORMS USED FOR PERSONS ALLEGED TO HAVE DRIVEN UNDER  
21 THE INFLUENCE OF ALCOHOL OR DRUGS.--The traffic safety bureau  
22 of the department of transportation shall coordinate a study to  
23 include the motor vehicle division of the taxation and revenue  
24 department and other appropriate stakeholders. The study shall  
25 identify duplicative forms used in the detection, apprehension,

.228045.3

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

1 arrest and prosecution of persons alleged to have driven under  
2 the influence of drugs or alcohol in this state and recommend  
3 appropriate administrative and legislative changes, if any.

4 SECTION 62. TEMPORARY PROVISION--REQUIRING CHAPTER 66,  
5 ARTICLE 14 NMSA 1978 TO BE NAMED "INTOXICATION AND  
6 IMPAIRMENT".--The New Mexico compilation commission shall name  
7 Chapter 66, Article 14 NMSA 1978 "Intoxication and Impairment".

8 SECTION 63. REPEAL.--Sections 66-8-102, 66-8-103,  
9 66-8-104, 66-8-109 and 66-13-1 through 66-13-13 NMSA 1978  
10 (being Laws 1953, Chapter 139, Section 54, Laws 1967, Chapter  
11 160, Section 1, Laws 1978, Chapter 35, Section 512, Laws 1978,  
12 Chapter 35, Section 517 and Laws 2003, Chapter 241, Sections 1  
13 through 13, as amended) are repealed.

14 SECTION 64. EFFECTIVE DATE.--

15 A. The effective date of the provisions of Sections  
16 60 and 61 of this act is July 1, 2024.

17 B. The effective date of the provisions of Sections 1  
18 through 59, 62 and 63 of this act is July 1, 2025.

19 - 91 -  
20  
21  
22  
23  
24  
25