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HOUSE BILL 54

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

DAVID R. PEDERSON

FOR THE DWI OVERSIGHT TASK FORCE

AN ACT

RELATING TO DRIVER'S LICENSES; PROHIBITING DISTRICT ATTORNEYS FROM ENTERING INTO AGREEMENTS THAT LIMIT THE AUTHORITY OF THE TAXATION AND REVENUE DEPARTMENT TO REVOKE A PERSON'S DRIVER'S LICENSE WHEN THE PERSON HAS A PRIOR CONVICTION FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; CLARIFYING THE DISTINCTION BETWEEN SUSPENDING OR REVOKING A PERSON'S DRIVER'S LICENSE; AMENDING THE PROCEDURES FOR ISSUING LIMITED DRIVER'S LICENSES; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 36-1-22 NMSA 1978 (being Laws 1875-1876, Chapter 5, Section 1, as amended) is amended to read:

"36-1-22. ~~POWERS - - COMPROMISES - - RELEASES - - LIMIT ON POWERS.~~ - - [SEC. 7.]

A. The attorney general and district attorneys [of

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1 ~~this State in their respective districts~~], when any civil
2 proceedings ~~may be~~ are pending in district court in their
3 respective districts ~~in the district court~~ in which the state
4 or any county may be a party, whether ~~the same be~~ it is an
5 ordinary suit, scire facias proceedings, proceedings growing out
6 of any criminal prosecution or otherwise, ~~shall~~ have power to
7 compromise or settle ~~said~~ the suit or proceedings, ~~or~~ to
8 grant a release or enter satisfaction in whole or in part of any
9 claim or judgment in the name of the state or county, ~~or~~ to
10 dismiss the same, or take any other steps or proceedings
11 ~~therein which to him may~~ that appear to him proper and right
12 ~~and~~. All such civil suits and proceedings shall be entirely
13 under the management and control of the ~~said~~ attorney general
14 or district attorneys, and all compromises, releases and
15 satisfactions ~~heretofore~~ made or entered into by said officers
16 are ~~hereby~~ confirmed and ratified.

17 B. Notwithstanding the provisions of Subsection A of
18 this section, a district attorney shall not enter into an
19 agreement in a civil or criminal case that limits the authority
20 of the taxation and revenue department to revoke or suspend a
21 person's driver's license when that person has a valid, prior
22 conviction under state law, federal law, a county ordinance or a
23 municipal ordinance for driving a motor vehicle while under the
24 influence of intoxicating liquor or drugs."

25 Section 2. Section 66-1-4.3 NMSA 1978 (being Laws 1990,

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1 Chapter 120, Section 4) is amended to read:

2 "66-1-4.3. DEFINITIONS. --As used in the Motor Vehicle
3 Code:

4 A. "camping body" means a vehicle body primarily
5 designed or converted for use as temporary living quarters for
6 recreational, camping or travel activities;

7 B. "camping trailer" means a camping body that
8 exceeds neither eight feet in width nor forty feet in length,
9 mounted on a chassis, or frame with wheels, designed to be drawn
10 by another vehicle and that has collapsible partial side walls
11 that fold for towing and unfold at the campsite;

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

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

20 E. "certified motor vehicle liability policy" means
21 an owner's policy or a driver's policy of liability insurance to
22 or for the benefit of the person named therein as insured,
23 certified as provided in the Motor Vehicle Code and meeting the
24 requirements of the Motor Vehicle Code as evidence of financial
25 responsibility and issued by an insurance carrier duly

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1 authorized to transact business in New Mexico;

2 F. "chassis" means the complete motor vehicle,
3 including standard factory equipment, exclusive of the body and
4 cab;

5 G. "collector" means a person who is the owner of
6 one or more vehicles of historic or special interest who
7 collects, purchases, acquires, trades or disposes of these
8 vehicles or parts thereof for the person's own use in order to
9 preserve, restore and maintain a similar vehicle for hobby
10 purposes;

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

14 I. "combination gross vehicle weight" means the sum
15 total of the gross vehicle weights of all units of a
16 combination;

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

22 K. "commercial motor vehicle" means a motor vehicle
23 used in commerce:

24 (1) if the vehicle has a declared gross vehicle
25 weight rating of twenty-six thousand one or more pounds;

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1 (2) if the vehicle is designed to transport
2 sixteen or more passengers, including the driver; or

3 (3) if the vehicle is transporting hazardous
4 materials and is required to be placarded pursuant to applicable
5 law;

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

13 M "controlled substance" means any substance
14 defined in Section 30-31-2 NMSA 1978 as a controlled substance;

15 N. "converter gear" means any assemblage of one or
16 more axles with a fifth wheel mounted thereon, designed for use
17 in a combination to support the front end of a semitrailer but
18 not permanently attached thereto. A converter gear shall not be
19 considered a vehicle, as that term is defined in Section
20 66-1-4.19 NMSA 1978, but weight attributable thereto shall be
21 included in declared gross weight;

22 O. "conviction" means ~~[the alleged violator has~~
23 ~~entered a plea of guilty or nolo contendere or been found guilty~~
24 ~~in the trial court and has waived or exhausted all rights to an~~
25 ~~appeal]~~ an adjudication of guilt and does not include imposition

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1 of a sentence;

2 P. "crosswalk" means:

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

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

11 Q. "curb cut" means a short ramp through a curb or
12 built up to the curb. "

13 Section 3. Section 66-1-4.6 NMSA 1978 (being Laws 1990,
14 Chapter 120, Section 7) is amended to read:

15 "66-1-4.6. DEFINITIONS. --As used in the Motor Vehicle
16 Code:

17 A. "farm tractor" means every motor vehicle designed
18 and used primarily as a farm implement for drawing plows, mowing
19 machines and other implements of husbandry;

20 B. "farm vehicle" means a vehicle used primarily for
21 the transportation of:

22 (1) farm and ranch products to market; or

23 (2) farm and ranch supplies or livestock from
24 the place of purchase to a farm or ranch in this state;

25 [~~B.~~] C. "financial responsibility" means the ability

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1 to respond in damages for liability resulting from traffic
2 accidents arising out of the ownership, maintenance or use of a
3 motor vehicle of a type subject to registration under the laws
4 of New Mexico, in the amounts not less than that specified in
5 the Mandatory Financial Responsibility Act; the term includes a
6 motor vehicle liability policy, a certified motor vehicle
7 liability policy, a surety bond or evidence of a sufficient cash
8 deposit with the state treasurer;

9 [C.] D. "first offender" means a person who [~~for the~~
10 ~~first time~~] under state or federal law or county or municipal
11 ordinance has been adjudicated guilty of the charge of driving a
12 motor vehicle while under the influence of intoxicating liquor
13 or any other drug that renders the person incapable of safely
14 driving a motor vehicle, regardless of whether the person's
15 sentence was suspended or deferred, and who has not, within a
16 period of twenty years prior to the instant offense, been
17 adjudicated guilty of:

18 (1) driving a motor vehicle while under the
19 influence of intoxicating liquor or drugs; or

20 (2) aggravated driving while under the
21 influence of intoxicating liquor or drugs;

22 [D.] E. "flammable liquid" means any liquid that has
23 a flash point of seventy degrees fahrenheit or less, as
24 determined by a tagliabue or equivalent closed-cup test device;

25 [E.] F. "foreign jurisdiction" means any

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1 jurisdiction other than a state of the United States or the
2 District of Columbia;

3 [F-] G. "foreign vehicle" means every vehicle of a
4 type required to be registered under the provisions of the Motor
5 Vehicle Code brought into this state from another state,
6 territory or country; and

7 [G-] H. "freight trailer" means any trailer,
8 semi trailer or pole trailer drawn by a truck tractor or road
9 tractor, and any trailer, semi trailer or pole trailer drawn by a
10 truck that has a gross vehicle weight of more than twenty-six
11 thousand pounds, but the term does not include manufactured
12 homes, trailers of less than one-ton carrying capacity used to
13 transport animals, or fertilizer trailers of less than three
14 thousand five hundred pounds empty weight. "

15 Section 4. Section 66-1-4.16 NMSA 1978 (being Laws 1990,
16 Chapter 120, Section 17, as amended) is amended to read:

17 "66-1-4.16. DEFINITIONS. --As used in the Motor Vehicle
18 Code:

19 A. "safety glazing materials" means glazing
20 materials so constructed, treated or combined with other
21 materials as to reduce substantially, in comparison with
22 ordinary sheet glass or plate glass, the likelihood of injury to
23 persons by objects from exterior sources or by these safety
24 glazing materials when they are cracked and broken;

25 B. "safety zone" means the area or space officially

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1 set apart within a highway for the exclusive use of pedestrians
2 and which is protected or is so marked or indicated by adequate
3 signs as to be plainly visible at all times while set apart as a
4 safety zone;

5 C. "school bus" means any motor vehicle operating
6 under the authority of the state board of education or private
7 school or parochial school interests that is used to transport
8 children, students or teachers to and from schools or to and
9 from any school activity, but not including any vehicle:

10 (1) operated by a common carrier, subject to
11 and meeting all requirements of the state corporation commission
12 but not used exclusively for the transportation of pupils;

13 (2) operated solely by a government-owned
14 transit authority, if the [~~transit authority~~] vehicle meets all
15 safety requirements of the state corporation commission but is
16 not used exclusively for the transportation of pupils; [~~or~~]

17 (3) operated as a per capita feeder as
18 [~~defined~~] provided in Section 22-16-6 NMSA 1978; or

19 (4) that is a passenger car;

20 D. "seal" means the official seal of the taxation
21 and revenue department as designated by the secretary;

22 E. "secretary" means the secretary of taxation and
23 revenue, and, except for the purposes of Sections 66-2-3
24 [~~66-2-3-1~~] and 66-2-12 NMSA 1978, also includes the deputy
25 secretary and any division director delegated by the secretary;

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1 F. "semitrailer" means any vehicle without motive
2 power, other than a pole trailer, designed for carrying persons
3 or property and for being drawn by a motor vehicle and so
4 constructed that some significant part of its weight and that of
5 its load rests upon or is carried by another vehicle;

6 G. "sidewalk" means that portion of street between
7 the curb lines, or the lateral lines of a roadway, and the
8 adjacent property lines, intended for the use of pedestrians;

9 H. "slow-moving vehicle" means any vehicle that is
10 ordinarily moved, operated or driven at a speed less than
11 twenty-five miles per hour;

12 I. "solid tire" means every tire of rubber or other
13 resilient material that does not depend upon compressed air for
14 the support of the load;

15 J. "special mobile equipment" means every vehicle
16 not designed or used primarily for the transportation of persons
17 or property and incidentally operated or moved over the
18 highways, including but not limited to farm tractors, road
19 construction or maintenance machinery, earthmoving equipment,
20 ditch-digging apparatus, well-boring apparatus and [~~concrete~~
21 ~~mixers~~] wheeled equipment;

22 K. "specially-constructed vehicle" means every
23 vehicle of a type required to be registered under the Motor
24 Vehicle Code not originally constructed under a distinctive
25 name, make, model or type by a generally recognized manufacturer

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1 of vehicles and not materially altered from its original
2 construction;

3 L. "state" means any state, territory or possession
4 of the United States, the District of Columbia or any province
5 of the Dominion of Canada or any state of the United States of
6 Mexico;

7 M "state highway" means any public highway that has
8 been designated as a state highway by the legislature, the state
9 highway commission or the secretary of highway and
10 transportation;

11 N. "stop", when required, means complete cessation
12 from movement;

13 O. "stop, stopping or standing", when prohibited,
14 means any stopping or standing of a vehicle, whether occupied or
15 not, except when necessary to avoid conflict with other traffic
16 or in compliance with the directions of a police officer or
17 traffic-control sign or signal;

18 P. "street" or "highway" means every way or place
19 generally open to the use of the public as a matter of right for
20 the purpose of vehicular travel, even though it may be
21 temporarily closed or restricted for the purpose of
22 construction, maintenance, repair or reconstruction;

23 Q. "subsequent offender" means a person who was
24 previously a first offender and who again, under state law,
25 federal law or county or municipal ordinance, has been

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1 adjudicated guilty of the charge of driving a motor vehicle
2 while under the influence of intoxicating liquor or any drug
3 which rendered him incapable of safely driving a motor vehicle,
4 regardless of whether the person's sentence was suspended or
5 deferred, and who has, within a period of twenty years prior to
6 the instant offense, been adjudicated guilty of:

7 (1) driving a motor vehicle while under the
8 influence of intoxicating liquor or drugs; or

9 (2) aggravated driving while under the
10 influence of intoxicating liquor or drugs; and

11 R. "suspension" means that a person's driver's
12 license and privilege to drive a motor vehicle on the public
13 highways are temporarily withdrawn. "

14 Section 5. Section 66-1-4.17 NMSA 1978 (being Laws 1990,
15 Chapter 120, Section 18) is amended to read:

16 "66-1-4.17. DEFINITIONS. --As used in the Motor Vehicle
17 Code:

18 A. "tank vehicle" means a motor vehicle that is
19 designed to transport any liquid or gaseous material within a
20 tank that is either permanently or temporarily attached to the
21 vehicle or the chassis and that has either a gross vehicle
22 weight rating of twenty-six thousand one or more pounds or is
23 used in the transportation of hazardous materials requiring
24 placarding of the vehicle under applicable law;

25 B. "taxicab" means a motor vehicle used for hire in

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1 the transportation of persons, having a normal seating capacity
2 of not more than seven persons;

3 C. "through highway" means every highway or portion
4 thereof at the entrance to which vehicular traffic from
5 intersecting highways is required by law to stop before entering
6 or crossing it when stop signs are erected as provided in the
7 Motor Vehicle Code;

8 D. "trailer" means any vehicle without motive power,
9 designed for carrying persons or property and for being drawn by
10 a motor vehicle, and so constructed that no significant part of
11 its weight rests upon the towing vehicle;

12 E. "traffic" means pedestrians, ridden or herded
13 animals, vehicles and other conveyances either singly or
14 together using any highway for purposes of travel;

15 F. "traffic-control signal" means any device,
16 whether manually, electrically or mechanically operated, by
17 which traffic is alternately directed to stop and to proceed;

18 G. "traffic safety bureau" means the traffic safety
19 bureau of the state highway and transportation department;

20 [~~G.~~] H. "travel trailer" means a trailer that exceeds
21 neither a width of eight feet nor a length of forty feet, when
22 equipped for the road, and includes recreational travel trailers
23 and camping trailers;

24 [~~H.~~] I. "trial court" means the magistrate,
25 metropolitan, municipal or district court that tries the case

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1 concerning an alleged violation of a provision of the Motor
2 Vehicle Code;

3 [~~I.~~] J. "truck" means every motor vehicle designed,
4 used or maintained primarily for the transportation of property;

5 [~~J.~~] K. "truck camper" means a camping body designed
6 to be loaded onto, or affixed to, the bed [~~of~~] or chassis of a
7 truck. This camping body, when combined with a truck or truck
8 cab and chassis, even though not attached permanently, becomes a
9 part of the motor vehicle and together they are a recreational
10 unit to be known as a "truck camper"; there are three general
11 types of truck campers:

12 (1) "slide-in camper" means a camping body
13 designed to be loaded onto and unloaded from the bed of a pickup
14 truck;

15 (2) "chassis-mount camper" means a camping body
16 designed to be affixed to a truck cab and chassis; and

17 (3) "pickup cover" or "camper shell" means a
18 camping body designed to provide an all-weather protective
19 enclosure over the bed of a pickup truck and to be affixed
20 thereto; and

21 [~~K.~~] L. "truck tractor" means every motor vehicle
22 designed and used primarily for drawing other vehicles and not
23 so constructed as to carry a load other than a part of the
24 weight of the vehicle and load so drawn."

25 Section 6. Section 66-5-5 NMSA 1978 (being Laws 1978,

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1 Chapter 35, Section 227, as amended) is amended to read:

2 "66-5-5. PERSONS NOT TO BE LICENSED. -- The [~~division~~]
3 department shall not issue a driver's license under the Motor
4 Vehicle Code to any person:

5 A. who is under the age of sixteen years, except the
6 [~~division~~] department may, in its discretion, issue:

7 (1) a restricted instruction permit or a
8 restricted driver's license to students fourteen years of age or
9 over, enrolled in and attending a driver-education course that
10 includes a DWI education and prevention component approved by
11 the traffic safety bureau or offered by a public school;

12 (2) a driver's license to any person fifteen
13 years of age or older who has satisfactorily completed a driver-
14 education course that is approved by the traffic safety bureau
15 or offered by a public school and that includes both a DWI
16 education and prevention component and practice driving; and

17 (3) to any person thirteen years of age or older
18 who passes an examination prescribed by the [~~division~~]
19 department, a driver's license restricted to the operation of a
20 motorcycle, provided:

21 (a) the motor is not in excess of one hundred
22 cubic centimeters displacement;

23 (b) no holder of [~~an initial~~] a driver's
24 license authorized pursuant to this paragraph may carry any
25 other passenger while driving a motorcycle; and

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1 (c) the ~~[director approves and certifies~~
2 ~~motorcycles as not in excess of one hundred cubic centimeters~~
3 ~~displacement and by regulation]~~ department provides for a method
4 of identification of ~~[such]~~ motorcycles that have motors not in
5 excess of one hundred cubic centimeters by all law enforcement
6 officers;

7 B. whose driver's license or driving privilege has
8 been suspended ~~[or denied]~~ during the period of suspension ~~[or~~
9 ~~denial, or to any person whose license has been revoked]~~, except
10 as provided in Section 66-5-32 NMSA 1978;

11 C. who is an habitual drunkard, an habitual user of
12 narcotic drugs or an habitual user of any drug to a degree which
13 renders him incapable of safely driving a motor vehicle;

14 ~~[D. who, within any ten year period, is three times~~
15 ~~convicted of driving a motor vehicle while under the influence~~
16 ~~of intoxicating liquor or narcotic drug regardless of whether~~
17 ~~the convictions are under the laws or ordinances of this state~~
18 ~~or any municipality or county of this state or under the laws or~~
19 ~~ordinances of any other state, the District of Columbia or any~~
20 ~~governmental subdivision thereof. Ten years after being so~~
21 ~~convicted for the third time, the person may apply to any~~
22 ~~district court of this state for restoration of the license, and~~
23 ~~the court, upon good cause being shown, may order restoration of~~
24 ~~the license applied for; provided that the person has not been~~
25 ~~subsequently convicted of driving a motor vehicle while under~~

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1 ~~the influence of intoxicating liquor or drug in the ten-year~~
2 ~~period prior to his request for restoration of his license.~~
3 ~~Upon issuance of the order of restoration, a certified copy~~
4 ~~shall immediately be forwarded to the division, and if the~~
5 ~~person is otherwise qualified for the license applied for, the~~
6 ~~three previous convictions shall not prohibit issuance of the~~
7 ~~license applied for. Should the person be subsequently once~~
8 ~~convicted of driving a motor vehicle while under the influence~~
9 ~~of intoxicating liquor or drug, the division shall revoke his~~
10 ~~license for five years, after which time he may apply for~~
11 ~~restoration of his license as provided in this subsection]~~

12 D. whose driver's license or privilege to drive upon
13 the public highways has been revoked prior to the expiration of
14 the period during which the person is not entitled to make
15 application for a new driver's license or to make application
16 for reinstatement of his revoked license;

17 E. who has previously been afflicted with or who is
18 suffering from any mental disability or disease which would
19 render him unable to drive a motor vehicle with safety upon the
20 highways and who has not, at the time of application, been
21 restored to health;

22 F. who is required by the Motor Vehicle Code to take
23 an examination, unless he has successfully passed the
24 examination;

25 G. who is required under the laws of this state to

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1 deposit proof of financial responsibility and who has not
2 deposited the proof;

3 H. when the [~~director~~] department has good cause to
4 believe that the operation of a motor vehicle on the highways by
5 the person would be inimical to public safety or welfare; or

6 I. as a motorcycle driver who is less than eighteen
7 years of age and who has not presented a certificate or other
8 evidence of having successfully completed a motorcycle driver-
9 education program licensed or offered in conformance with
10 regulations of the traffic safety bureau. "

11 Section 7. Section 66-5-28 NMSA 1978 (being Laws 1978,
12 Chapter 35, Section 250, as amended) is amended to read:

13 "66-5-28. COURT TO FORWARD LICENSE TO [~~DIVISION--~~
14 ~~DEFINITIONS OF "CONVICTED" AND "CONVICTION"~~] DEPARTMENT. -- [A.]
15 Whenever any person is convicted of any offense for which the
16 Motor Vehicle Code or the New Mexico Commercial Driver's License
17 Act requires [~~mandatory~~] revocation of the driver's license of
18 that person by the [~~division~~] department, the court in which the
19 conviction is had shall [~~require~~] assist the department by
20 requiring the surrender to it of the driver's license or
21 commercial driver's license then held by the person so
22 convicted, and the court shall forward the driver's license or
23 commercial driver's license to the [~~division~~] department,
24 together with the abstract of the conviction.

25 [~~B. For the purposes of Subsection A of this section~~

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1 and Sections ~~66-5-29, 66-8-102 and 66-8-117~~ NMSA 1978, the terms
2 "conviction" and "convicted" mean that the alleged violator has
3 entered a plea of guilty or nolo contendere or been found guilty
4 in the trial court and has waived or exhausted all of his rights
5 to an appeal. For the purposes of any other provisions of the
6 Motor Vehicle Code, the terms "conviction" and "convicted" mean
7 a final conviction in the trial court. For the purposes of the
8 Motor Vehicle Code, a forfeiture of bail or collateral deposited
9 to secure a defendant's appearance in court or promise to mail
10 payment on a penalty assessment when unvacated is equivalent to
11 a conviction.]"

12 Section 8. Section 66-5-29 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 251, as amended by Laws 1993, Chapter 66,
14 Section 4 and also by Laws 1993, Chapter 78, Section 4) is
15 amended to read:

16 "66-5-29. [MANDATORY] REVOCATION OF LICENSE BY [DIVISION]
17 DEPARTMENT. --

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

24 (1) manslaughter or negligent homicide resulting
25 from the operation of a motor vehicle;

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1 (2) shooting at or from a motor vehicle, as
2 provided in Section 30-3-8 NMSA 1978 or conspiring to or
3 attempting to commit shooting at or from a motor vehicle.

4 [~~(2)~~] (3) any offense rendering a person a "first
5 offender" as defined in the Motor Vehicle Code, if that person
6 does not attend [~~a driver rehabilitation program~~] DWI school
7 pursuant to [~~Subsection H~~] the provisions of Section 66-8-102
8 NMSA 1978;

9 [~~(3)~~] (4) any offense rendering a person a
10 "subsequent offender" as defined in the Motor Vehicle Code;

11 [~~(4)~~] (5) any felony in the commission of which a
12 motor vehicle is used;

13 [~~(5)~~] (6) failure to stop and render aid as
14 required under the laws of this state in the event of a motor
15 vehicle accident resulting in the death or personal injury of
16 another;

17 [~~(6)~~] (7) perjury or the making of a false
18 affidavit or statement under oath to the [~~division~~] department
19 under the Motor Vehicle Code or under any other law relating to
20 the ownership or operation of motor vehicles; or

21 [~~(7)~~] (8) conviction or forfeiture of bail not
22 vacated upon three charges of reckless driving committed within
23 a period of twelve months.

24 B. Any person whose driver's license has been revoked
25 under this section, except as provided in Subsection C, D or E

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1 of this section, shall not be entitled to apply for or receive
2 any new driver's license until the expiration of one year from
3 the date of [~~the last application on which the revoked license~~
4 ~~was surrendered to and received by the division, if no appeal is~~
5 ~~filed, or one year from the date that the revocation is final~~
6 ~~and he has exhausted his rights to an appeal]~~ revocation.

7 C. Except as provided in Subsection E of this section,
8 any person who upon adjudication as a delinquent or upon
9 conviction is subject to license revocation under this section
10 for an offense pursuant to which he was also subject to license
11 revocation pursuant to Section 66-8-111 NMSA 1978 shall have his
12 driver's license and privilege to drive upon the public highways
13 revoked for that offense for a combined period of time equal to
14 one year.

15 D. Upon receipt of an order from a court pursuant to
16 [~~Subsection J of Section 32-1-34 NMSA 1978 or Subsection G of~~
17 ~~Section 32-1-36 NMSA 1978]~~ Section 32A-2-19 or 32A-2-22 NMSA
18 1978, the [~~division~~] department shall revoke the driver's
19 license or driving privileges for a period of time in accordance
20 with these provisions.

21 [~~E. Upon receipt from a district court of a record of~~
22 ~~conviction for the offense of shooting at or from a motor~~
23 ~~vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978 or~~
24 ~~of a conviction for a conspiracy or an attempt to commit that~~
25 ~~offense, the division shall revoke the driver's licenses or~~

Underscored material = new
[bracketed material] = delete

1 ~~driving privileges of the convicted person. Any person whose~~
2 ~~license or privilege has been revoked pursuant to the provisions~~
3 ~~of this subsection shall not be entitled to apply for or receive~~
4 ~~any new license or privilege until the expiration of one year~~
5 ~~from the date of the last application on which the revoked~~
6 ~~license was surrendered to and received by the division, if no~~
7 ~~appeal is filed, or one year from the date that the revocation~~
8 ~~is final and he has exhausted his rights to an appeal.]~~

9 E. If a person is adjudicated as a delinquent for or
10 convicted of driving a motor vehicle while under the influence
11 of intoxicating liquor or drugs pursuant to federal law, state
12 law or a municipal or county ordinance for a third time within a
13 ten-year period, the department shall revoke that person's
14 driver's license and driving privileges for ten years. If the
15 person is subsequently adjudicated as a delinquent for or
16 convicted of driving while under the influence of intoxicating
17 liquor or drugs, the department shall revoke his driver's
18 license and driving privileges for an additional five years."

19 Section 9. Section 66-5-30 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 252, as amended) is amended to read:

21 "66-5-30. AUTHORITY OF [DIVISION] DEPARTMENT TO SUSPEND [OR
22 REVOKE] LICENSE- - HEARINGS- - SUBPOENA POWER. - -

23 A. The [division] department is authorized to suspend
24 [~~the license of a driver~~] a person's driver's license without
25 preliminary hearing upon a showing by its records or other

Underscored material = new
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1 sufficient evidence that the licensee:

2 ~~[(1) has been convicted of an offense for which~~
3 ~~mandatory revocation of license is required upon conviction]~~

4 (1) failed to submit to an examination requested
5 by the department, as provided in Section 66-5-31 NMSA 1978;

6 (2) has been convicted as a driver in any
7 accident resulting in the death or personal injury of another
8 person or serious property damage;

9 (3) has been convicted with such frequency of
10 offenses against traffic laws or regulations governing motor
11 vehicles as to indicate a disrespect for traffic laws and a
12 disregard for the safety of other persons on the highways;

13 (4) is an habitually reckless or negligent driver
14 of a motor vehicle;

15 (5) is incompetent to drive a motor vehicle;

16 (6) has permitted an unlawful or fraudulent use
17 of ~~[the]~~ his driver's license;

18 (7) has been convicted of an offense in another
19 state which if committed in this state would be grounds for
20 suspension ~~[or revocation]~~;

21 (8) has violated provisions stipulated by a
22 district court in limitation of ~~[certain]~~ the person's driving
23 privileges or has violated restrictions placed by the department
24 on the person's driver's license;

25 (9) has failed to fulfill a signed promise to

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1 appear or notice to appear in court as evidenced by notice from
2 a court, whenever appearance is required by law or by the court
3 as a consequence of any charge or conviction under the Motor
4 Vehicle Code;

5 (10) has failed to pay a penalty assessment
6 within thirty days of the date of issuance; or

7 (11) has accumulated at least seven points, but
8 less than ~~[eleven]~~ twelve points, and when the ~~[division]~~
9 department has received a recommendation from a municipal,
10 metropolitan or magistrate judge that the ~~[licensee]~~ driver's
11 license be suspended for a period not to exceed three months.

12 B. The department shall suspend a person's driver's
13 license when required to do so pursuant to the provisions of
14 Section 66-5-236 NMSA 1978.

15 ~~[B.]~~ C. Upon suspending [the license of any person] a
16 person's driver's license as authorized in this section, the
17 ~~[division]~~ department shall immediately notify the licensee in
18 writing. ~~[and upon his request]~~

19 D. The licensee may appeal the suspension of his
20 driver's license by requesting a hearing, provided that the
21 request is received by the department within twenty days of the
22 date the notice of suspension was served upon the licensee or
23 deposited by the department in the United States mail. The
24 department, upon a showing of good cause by the licensee, may
25 extend the twenty-day period. Upon the licensee's timely

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1 request for a hearing, the department shall afford him an
2 opportunity for a hearing [~~as early as practicable within not to~~
3 ~~exceed~~] within twenty days, not counting Saturdays, Sundays and
4 legal holidays, after receipt of the request. The hearing shall
5 take place in the county wherein the licensee resides unless the
6 [~~division~~] department and the licensee agree that the hearing
7 may be held in some other county. [~~provided that the hearing~~
8 ~~request is received within twenty days from the date that the~~
9 ~~suspension was deposited in the United States mail. The~~
10 ~~director may, in his discretion, extend the twenty day period.~~]

11 E. At or prior to the hearing, the department may
12 issue subpoenas for the attendance of witnesses and the
13 production of relevant records. Upon the hearing, the [~~director~~
14 ~~or his duly authorized agent~~] hearing officer designated by the
15 department may administer oaths [~~and may issue subpoenas for the~~
16 ~~attendance of witnesses and the production of relevant books and~~
17 ~~papers~~] and may require a reexamination of the licensee. Upon
18 the hearing, the [~~division~~] department shall either rescind its
19 order of suspension or, good cause appearing therefor, may
20 continue, modify or extend the suspension of the driver's
21 license [~~or revoke the license~~]."

22 Section 10. Section 66-5-32 NMSA 1978 (being Laws 1978,
23 Chapter 35, Section 254, as amended) is amended to read:

24 "66-5-32. PERIOD OF SUSPENSION [~~OR REVOCATION~~]. --

25 A. The [~~division~~] department shall not suspend a

Underscored material = new
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1 driver's license or privilege to drive a motor vehicle on the
2 public highways for a period of more than one year except as
3 permitted under [~~Subsection C of~~] this section and [~~Sections~~
4 ~~66-5-5 and~~] Section 66-5-39 NMSA 1978.

5 ~~[B. Any person whose license or privilege to drive a~~
6 ~~motor vehicle on the public highways has been revoked shall not~~
7 ~~be entitled to have the license or privilege renewed or restored~~
8 ~~unless the revocation was for a cause that has been removed,~~
9 ~~except that after the expiration of the period specified in~~
10 ~~Subsection B of Section 66-5-29 NMSA 1978 from the date on which~~
11 ~~the revoked license was surrendered to and received by the~~
12 ~~division, the person may make application for a new license as~~
13 ~~provided by law.~~

14 ~~C.]~~ B. The suspension period for failure to appear or
15 failure to remit the penalty assessment shall, at the discretion
16 of the [~~director~~] secretary, be extended indefinitely subject to
17 the provisions of Subsection B of Section 66-5-30 NMSA 1978. "

18 Section 11. Section 66-5-35 NMSA 1978 (being Laws 1978,
19 Chapter 35, Section 257, as amended) is amended to read:

20 "66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR
21 REVOCATION-- HEARING-- REVIEW. --

22 A. Upon suspension or revocation of a person's
23 driver's license following conviction or adjudication as a
24 delinquent under any law, ordinance or regulation relating to
25 motor vehicles, a person may apply to the [~~director~~] department

Underscored material = new
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1 for a driver's license or permit to drive, limited to use
2 allowing him to engage in gainful employment or to attend
3 school, except that no person shall be eligible to apply [~~for a~~
4 ~~limited license when the person's license was revoked or~~
5 ~~suspended pursuant to~~]:

6 (1) for a limited commercial driver's license;

7 (2) for a limited license when the person's
8 driver's license was revoked pursuant to the provisions of the
9 Implied Consent Act, except as provided in Subsection B of this
10 section; [~~or~~

11 ~~(2)] (3) for a limited license when the person's~~
12 ~~license was revoked pursuant to an offense for which the person~~
13 ~~is a subsequent offender as defined in the Motor Vehicle Code;~~
14 or

15 (4) for a limited license when the person's
16 driver's license was revoked pursuant to a conviction for
17 committing homicide by vehicle or great bodily injury by
18 vehicle, as provided in Section 66-8-101 NMSA 1978.

19 B. A person [~~who has had his license~~] whose driver's
20 license is revoked for the first time pursuant to the provisions
21 of Paragraph (1) or (2) of Subsection C of Section 66-8-111 NMSA
22 1978 may apply for and shall receive a limited license or permit
23 thirty days after [~~suspension or~~] revocation of his license if
24 the person pays every fee, meets the criteria for limited
25 driving privileges established in regulation by the department

Underscored material = new
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1 and provides the [~~director~~] department with documentation of the
2 following:

3 (1) that the person is enrolled in [~~an approved~~
4 ~~DWI school and an approved alcohol screening program~~] a DWI
5 school approved by the traffic safety bureau;

6 (2) proof of financial responsibility pursuant to
7 the provisions of the Mandatory Financial Responsibility Act;
8 and either

9 (3) proof of gainful employment or gainful self-
10 employment and that the person needs a limited license to travel
11 to and from his place of employment; or

12 (4) that the person is enrolled in school and
13 needs a limited license to travel to and from school.

14 C. Upon receipt of [~~the application, proof of~~
15 ~~financial responsibility for the future and a hearing as~~
16 ~~provided in Subsection D of this section, the director~~] an order
17 approving the application for a limited license and payment of
18 the fee specified in this subsection, the department shall issue
19 a limited license or permit to the applicant showing the
20 limitations specified in the approved application [~~provided that~~
21 ~~the applicant meets established uniform criteria for limited~~
22 ~~driving privileges adopted by regulation of the department~~].
23 For each limited license or permit to drive, the applicant shall
24 pay to the [~~division~~] department a fee of forty-five dollars
25 (\$45.00), which shall be transferred to the state highway and

Underscored material = new
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1 transportation department. All money collected under this
2 subsection shall be used for DWI prevention and education
3 programs for elementary and secondary school students. The
4 state highway and transportation department shall coordinate
5 with the department of health to ensure that there is no program
6 duplication. The limited license or permit to drive may be
7 suspended as provided in Section 66-5-30 NMSA 1978.

8 D. The ~~[director]~~ department, within twenty days of
9 receipt of an application for a limited driver's license or
10 permit pursuant to this section, shall afford the applicant a
11 hearing in the county in which the applicant resides, unless the
12 ~~[division]~~ department and the licensee agree that the hearing
13 may be held in some other county. The ~~[director may, in his~~
14 ~~discretion]~~ department may extend the twenty-day period,
15 provided that the extension is in writing and made no later than
16 fifteen days after receipt of an application. Upon hearing, the
17 ~~[director or his duly authorized]~~ hearing officer designated by
18 the department may administer oaths and may issue subpoenas for
19 the attendance of witnesses and the production of relevant books
20 and papers. The ~~[director]~~ hearing officer shall make specific
21 findings as to whether the applicant has shown proof of
22 financial responsibility for the future and enrollment in an
23 approved DWI school and meets established uniform criteria for
24 limited driving privileges adopted by regulation of the
25 department. The ~~[director]~~ hearing officer shall enter an order

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1 either approving or denying the applicant's request for a
2 limited license or permit to drive. If any of the specific
3 findings set forth in this subsection are not found by the
4 [~~director~~] hearing officer, the applicant's request for a
5 limited license or permit shall not be approved.

6 E. A person adversely affected by an order of the
7 [~~director~~] hearing officer may seek review within thirty days in
8 the district court in the county in which he resides. [~~The~~
9 ~~district court, upon thirty days' written notice to the~~
10 ~~director, shall hear the case.~~] On review, it is for the court
11 to determine only whether the applicant met the requirements in
12 this section for issuance of a limited license or permit to
13 drive. "

14 Section 12. Section 66-8-135 NMSA 1978 (being Laws 1978,
15 Chapter 35, Section 543, as amended) is amended to read:

16 "66-8-135. RECORD OF TRAFFIC CASES. --

17 A. Every trial court judge shall keep a record of
18 every traffic complaint, uniform traffic citation and other form
19 of traffic charge filed in the judge's court or its traffic
20 violations bureau and every official action and disposition of
21 the charge by that court.

22 B. Within ten days of the later of entry of judgment
23 and sentence or failure to appear on a charge of violating the
24 Motor Vehicle Code or other law or ordinance relating to motor
25 vehicles or the final decision of any higher court that reviews

1 the matter and from which no appeal or review is successfully
2 taken, every trial court judge, including children's court
3 judges, or the clerk of the court in which the entry of judgment
4 and sentence or failure to appear occurred shall prepare and
5 forward to the department an abstract of the record containing:

6 (1) the name and address of the defendant;

7 (2) the specific section number and common name
8 of the provision of the NMSA 1978 or local law, ordinance or
9 regulation under which the defendant was tried;

10 (3) the plea, finding of the court and
11 disposition of the charge, including fine or jail sentence or
12 both, forfeiture of bail or dismissal of the charge;

13 (4) an itemization of costs assessed to the
14 defendant;

15 (5) the date of the hearing;

16 (6) the court's name and address; and

17 [~~(7) whether the defendant was a first or~~
18 ~~subsequent offender; and~~

19 ~~(8)] (7) whether the defendant was represented by~~

20 counsel or waived his right to counsel and, if represented, the

21 name and address of counsel.

22 C. The abstract of record prepared and forwarded under

23 Subsection B of this section shall be certified as correct by

24 the person required to prepare it. With the prior approval of

25 the department, the information required by Subsection B of this

Underscored material = new
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1 section may be transmitted electronically to the department.
2 Report need not be made of any disposition of a charge of
3 illegal parking or standing of a vehicle except when the uniform
4 traffic citation is used.

5 D. When the uniform traffic citation is used, the
6 court shall provide the information required by Subsection B of
7 this section in the manner prescribed by the department.

8 E. Every court of record shall also forward a like
9 report to the department upon conviction of any person of any
10 felony if a motor vehicle was used in the commission. With the
11 prior approval of the department, the information required by
12 this subsection may be submitted electronically to the
13 department. The report shall be forwarded to the department
14 within ten days of the final decision of the court or of any
15 higher court that reviews the matter and from which the decision
16 of no appeal or review is successfully taken.

17 F. The failure or refusal of any judicial officer to
18 comply with this section is misconduct in office and grounds for
19 removal.

20 G. The department shall keep records received on
21 motorists licensed in this state at its main office. Records
22 showing a record of conviction by a court of law shall be open
23 to public inspection during business hours for three years from
24 the date of their receipt, after which they shall be destroyed
25 by the department except for records of convictions under

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1 Sections 66-8-101 through 66-8-112 NMSA 1978, which may not be
2 destroyed until [~~twenty-five~~] twenty-one years from the date of
3 their receipt. Any record received on a motorist licensed in
4 another state or country shall be forwarded to the licensing
5 authority of that state or country. "

6 Section 13. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 1997.

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State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 12, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 54

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 27, line 9, after "Subsection B" insert "or
Subsections C and D".

2. On page 27, line 13, after "Code" insert:

", except that a person who is convicted a second time for driving
under the influence of intoxicating liquor or drugs may apply for
and receive a limited license if he complies with the requirements

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

1
2 set forth in Subsections C and D of this section".

3
4 3. On page 28, between lines 13 and 14, insert the following
5 new subsections:

6 "C. A person who is convicted a second time for driving
7 under the influence of intoxicating liquor or drugs may apply for
8 and shall receive a limited license thirty days after revocation
9 of his license if the person pays every fee, meets the criteria
10 for limited driving privileges established in regulation by the
11 department and provides the department with documented proof:

12 (1) of enrollment in a DWI school approved by the
13 traffic safety bureau;

14 (2) of financial responsibility pursuant to the
15 provisions of the Mandatory Financial Responsibility Act; and
16 either

17 (3) of gainful employment or gainful self-
18 employment and that the person needs a limited license to travel
19 to and from his place of employment; or

20 (4) of enrollment in school and that the person
21 needs a limited license to travel to and from school.

22 D. In addition to the requirements set forth in
23 Subsection C of this section, a person who is convicted a second
24

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HJC/HB 54

Page 36

1
2 time for driving under the influence of intoxicating liquor or
3 drugs shall provide the department with a written statement from
4 the court that sentenced him. The court's statement shall attest
5 that the person will be on probation for the entire period that a
6 limited license will be in effect and that, as a condition of
7 probation, the person shall be subject to random urinalysis tests
8 to determine if the person is using alcohol or drugs. If a person
9 tests positive for alcohol or drugs during the probationary
10 period, the court shall immediately notify the department and the
11 department shall revoke the person's limited license."

12 4. Reletter the succeeding subsections accordingly.

13
14 Respectfully submitted,

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19 _____
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21 Thomas P. Foy, Chairman
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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HJC/HB 54

Page 37

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Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 11 For 1 Against

Yes: 11

No: Mallory

Excused: Rios

Absent: None

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1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

HB 54/a

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March 5, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 54, as amended

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. Strike House Judiciary Committee Amendments 2 through 4.

2. On page 27, line 13, after "Code" insert:

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", except that a person who is convicted a second time for driving under the influence of intoxicating liquor or drugs, when the second conviction occurs more than five years after the first conviction, may apply for and receive a limited license if he complies with the requirements set forth in Subsections C and D of this section".

3. On page 28, between lines 13 and 14, insert the following new subsections:

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"C. A person who is convicted a second time for driving under the influence of intoxicating liquor or drugs, when the second conviction occurs more than five years after the first conviction, may apply for and shall receive a limited license thirty days after revocation of his license if the person pays every fee, meets the criteria for limited driving privileges established in regulation by the department and provides the department with documented proof:

(1) of enrollment in a DWI school approved by the traffic safety bureau;

(2) of financial responsibility pursuant to the provisions of the Mandatory Financial Responsibility Act; and either

(3) of gainful employment or gainful self-employment and that the person needs a limited license to travel to and from his place of employment; or

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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(4) of enrollment in school and that the person needs a limited license to travel to and from school.

D. In addition to the requirements set forth in Subsection C of this section, a person who is convicted a second time for driving under the influence of intoxicating liquor or drugs shall provide the department with a written statement from the court that sentenced him. The court's statement shall attest that the person will be on probation for the entire period that a limited license will be in effect and that, as a condition of probation, the person shall be subject to random urinalysis tests to determine if the person is using alcohol or drugs. If a person tests positive for alcohol or drugs during the probationary period, the court shall immediately notify the department and the department shall revoke the person's limited license."

4. Reletter the succeeding subsections accordingly., and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Shannon Robinson, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

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Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Ingle, Vernon, Smith, Garcia

Absent: None

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