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HOUSE BILL 1046

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

INTRODUCED BY

BOBBIE K. MALLORY

AN ACT

RELATING TO PUBLIC SAFETY; PROVIDING FOR THE FORFEITURE OF MOTOR VEHICLES OPERATED BY PERSONS CONVICTED A THIRD OR SUBSEQUENT TIME FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; ENACTING NEW SECTIONS OF THE MOTOR VEHICLE CODE.

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

Section 1. A new section of the Motor Vehicle Code is enacted to read:

"[NEW MATERIAL] VEHICLE NUISANCE-- FORFEITURE. -- A motor vehicle is hereby declared to be a nuisance and subject to forfeiture pursuant to the provisions of the Motor Vehicle Code if it is:

A. operated by a person who, as a result of operating the vehicle, is convicted a third or subsequent time for driving under the influence of intoxicating liquor or drugs;

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1 or

2 B. operated by a person whose license is suspended  
3 or revoked as a result of being convicted for driving under the  
4 influence of intoxicating liquor or drugs in violation of  
5 Section 66-8-102 NMSA 1978 or pursuant to Section 66-8-111 NMSA  
6 1978. "

7 Section 2. A new section of the Motor Vehicle Code is  
8 enacted to read:

9 "[NEW MATERIAL] FORFEITURE PROCEDURE. --

10 A. Motor vehicles subject to forfeiture under the  
11 Motor Vehicle Code may be seized by any police officer of the  
12 city upon an order issued by the district court.

13 B. Seizure without such an order may be made if  
14 seizure is incident to an arrest by the driver of the motor  
15 vehicle for driving while his license is suspended or revoked  
16 for driving while intoxicated.

17 C. A motor vehicle taken or detained under the Motor  
18 Vehicle Code shall not be subject to replevin but is deemed to  
19 be in the custody of the police department seizing it, subject  
20 only to the orders and decrees of the district court. The  
21 police officer may take custody of the motor vehicle and remove  
22 it to an appropriate and official location within the district  
23 court's jurisdiction for disposition in accordance with this  
24 act.

25 D. In the event of seizure pursuant to Subsection B

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1 of this section, proceedings under the Rules of Civil Procedure  
2 for the District Courts shall be instituted promptly and not  
3 later than thirty days after seizure. Any person who, pursuant  
4 to the records of the motor vehicle division of the taxation and  
5 revenue department, has an ownership or security interest in the  
6 subject motor vehicle shall be served with notice of the  
7 forfeiture proceedings.

8 E. When a motor vehicle is forfeited pursuant to  
9 this act, the seizing law enforcement agency shall sell the  
10 motor vehicle, and the proceeds shall revert to the general fund  
11 of the state, county or municipality, as the case may be."

12 Section 3. A new section of the Motor Vehicle code is  
13 enacted to read:

14 "[NEW MATERIAL] PROPERTY INTEREST NOT SUBJECT TO  
15 FORFEITURE. --Notwithstanding the provisions of Section 2 of this  
16 act, any forfeiture shall be subject to the interest of:

17 A. any owner or co-owner of record who did not have  
18 knowledge and did not consent to the use of the vehicle by the  
19 driver who caused the vehicle to become a nuisance; and

20 B. any secured party, to the extent of a perfected  
21 security interest, if the secured party proves that the security  
22 interest was acquired in good faith with no knowledge or reason  
23 to believe that the vehicle would be used by the driver who  
24 caused the vehicle to become a nuisance."

25 Section 4. SEVERABILITY. --If any part or application of

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1 this act is held invalid, the remainder or its application to  
2 other situations or persons shall not be affected.

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# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 7, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 1046

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

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Thomas P. Foy, Chairman

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 3 Against

Yes: 6

No: M P. Garcia, King, Pederson

Excused: Mallory, Rios, Sanchez, Stewart

Absent: None

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# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 11, 1997

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
whom has been referred

HOUSE BILL 1046

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

1. On page 2, lines 2 and 3, strike "whose license is  
suspended or revoked as a result of being convicted" and insert in  
lieu thereof "who, as a result of operating the vehicle, is  
convicted of driving while his license is suspended or revoked as  
a result of being convicted of a third or subsequent offense".

2. On page 2, lines 5 and 6, strike "or pursuant to Section  
66-8-111 NMSA 1978".

3. On page 2, lines 11 and 12, strike "of the city".

4. On page 3, line 12, strike "code" and insert in lieu

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**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**HAF C/HB 1046**

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thereof "Code".

5. On page 3, line 17, strike "of record".

Respectfully submitted,

\_\_\_\_\_  
Max Coll, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HAF C/HB 1046

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The roll call vote was 10 For 1 Against

Yes: 10

No: Watchman

Excused: Heaton, Marquardt, Pearce, Saavedra, Salazar, Varela

Absent: None

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