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SENATE BILL 675

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

INTRODUCED BY

R. L. STOCKARD

AN ACT

RELATING TO ALCOHOL; PROVIDING FOR PARTICIPATION IN A SCREENING PROGRAM; PROVIDING MANDATORY CRIMINAL PENALTIES.

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

Section 1. Section 66-8-102 NMSA 1978 (being Laws 1953, Chapter 139, Section 54, as amended) is amended to read:

"66-8-102. PERSONS UNDER INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--PENALTY. --

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

B. It is unlawful for any person who is under the influence of any drug to a degree that renders him incapable of safely driving a vehicle to drive any vehicle within this state.

Underscored material = new
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1 C. It is unlawful for any person who has an alcohol
2 concentration of eight one-hundredths or more in his blood or
3 breath to drive any vehicle within this state.

4 D. Aggravated driving while under the influence of
5 intoxicating liquor or drugs consists of a person who:

6 (1) has an alcohol concentration of sixteen
7 one-hundredths or more in his blood or breath while driving any
8 vehicle within this state;

9 (2) has caused bodily injury to a human being
10 as a result of the unlawful operation of a motor vehicle while
11 driving under the influence of intoxicating liquor or drugs; or

12 (3) refused to submit to chemical testing, as
13 provided for in the Implied Consent Act, and in the judgment of
14 the court, based upon evidence of intoxication presented to the
15 court, [~~the person~~] was under the influence of intoxicating
16 liquor or drugs.

17 E. Every person under first conviction under this
18 section shall be punished, notwithstanding the provisions of
19 Section 31-18-13 NMSA 1978, by imprisonment for not more than
20 ninety days or by a fine of not more than five hundred dollars
21 (\$500), or both; provided that if the sentence is suspended in
22 whole or in part or deferred, the period of probation may extend
23 beyond ninety days but shall not exceed one year. Upon a first
24 conviction under this section, an offender may be sentenced to
25 not less than forty-eight hours of community service or a fine

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1 of three hundred dollars (\$300). The offender shall be ordered
2 by the court to participate in and complete a screening program
3 described in Subsection H of this section and to attend a driver
4 rehabilitation program for alcohol or drugs, also known as a
5 "DWI school", approved by the traffic safety bureau of the state
6 highway and transportation department and also may be required
7 to participate in other rehabilitative services as the court
8 shall determine to be necessary. In addition to those
9 penalties, when an offender commits aggravated driving while
10 under the influence of intoxicating liquor or drugs, the
11 offender shall be sentenced to not less than forty-eight
12 consecutive hours in jail. If an offender fails to complete,
13 within a time specified by the court, any community service,
14 screening program, treatment program or DWI school ordered by
15 the court, the offender shall be sentenced to not less than an
16 additional forty-eight consecutive hours in jail. Any jail
17 sentence imposed under this subsection for failure to complete,
18 within a time specified by the court, any community service,
19 screening program, treatment program or DWI school ordered by
20 the court or for aggravated driving while under the influence of
21 intoxicating liquor or drugs shall not be suspended, deferred or
22 taken under advisement. On a first conviction under this
23 section, any time spent in jail for the offense prior to the
24 conviction for that offense shall be credited to any term of
25 imprisonment fixed by the court. A deferred sentence under this

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1 subsection shall be considered a first conviction for the
2 purpose of determining subsequent convictions.

3 F. A second or third conviction under this section
4 shall be punished, notwithstanding the provisions of Section
5 31-18-13 NMSA 1978, by imprisonment for not more than three
6 hundred sixty-four days or by a fine of not more than one
7 thousand dollars (\$1,000), or both; provided that if the
8 sentence is suspended in whole or in part, the period of
9 probation may extend beyond one year but shall not exceed five
10 years. Notwithstanding any provision of law to the contrary for
11 suspension or deferment of execution of a sentence:

12 (1) upon a second conviction, each offender
13 shall be sentenced to a jail term of not less than seventy-two
14 consecutive hours, forty-eight hours of community service and a
15 fine of five hundred dollars (\$500). In addition to those
16 penalties, when an offender commits aggravated driving while
17 under the influence of intoxicating liquor or drugs, the
18 offender shall be sentenced to a jail term of not less than
19 ninety-six consecutive hours. If an offender fails to complete,
20 within a time specified by the court, any community service,
21 screening program or treatment program ordered by the court, the
22 offender shall be sentenced to not less than an additional seven
23 consecutive days in jail. A penalty imposed pursuant to this
24 paragraph shall not be suspended or deferred or taken under
25 advisement; and

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1 (2) upon a third conviction, an offender shall
2 be sentenced to a jail term of not less than thirty consecutive
3 days and a fine of seven hundred fifty dollars (\$750). In
4 addition to those penalties, when an offender commits aggravated
5 driving while under the influence of intoxicating liquor or
6 drugs, the offender shall be sentenced to a jail term of not
7 less than sixty consecutive days. If an offender fails to
8 complete, within a time specified by the court, any screening
9 program or treatment program ordered by the court, the offender
10 shall be sentenced to not less than an additional sixty
11 consecutive days in jail. A penalty imposed pursuant to this
12 paragraph shall not be suspended or deferred or taken under
13 advisement.

14 G. Upon a fourth or subsequent conviction under this
15 section, an offender is guilty of a fourth degree felony, as
16 provided in Section 31-18-15 NMSA 1978, and shall be sentenced
17 to a jail term of not less than six months, which shall not be
18 suspended or deferred or taken under advisement.

19 H. Upon any conviction under this section, an
20 offender shall be required to participate in and complete,
21 within a time specified by the court, an alcohol or drug abuse
22 screening program and, if necessary, a treatment program
23 approved by the court. The penalty imposed pursuant to this
24 subsection shall not be suspended, deferred or taken under
25 advisement.

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I. In the case of a first, second or third offense under this section, the magistrate court has concurrent jurisdiction with district courts to try the offender.

J. A conviction under a municipal or county ordinance prescribing penalties for driving while under the influence of intoxicating liquor or drugs shall be deemed to be a conviction under this section for purposes of determining whether a conviction is a second or subsequent conviction.

K. In addition to any other fine or fee which may be imposed pursuant to the conviction or other disposition of the offense under this section, the court may order the offender to pay the costs of any court-ordered screening and treatment programs.

L. As used in this section:

(1) "bodily injury" means an injury to a person that is not likely to cause death or great bodily harm to the person, but does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the person's body; and

(2) "conviction" means an adjudication of guilt and does not include imposition of a sentence. "

1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997

3
4
5 February 26, 1997

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7 Mr. President:

8
9 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
10 referred

11
12 SENATE BILL 675

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14 has had it under consideration and reports same with
15 recommendation that it DO PASS, and thence referred to the
16 JUDICIARY COMMITTEE.

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18 Respectfully submitted,

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22 _____
23 Shannon Robinson, Chairman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Boitano, Garcia, Vernon, Smith

Absent: None

S0675PA1

Underscored material = new
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1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997
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5 March 15, 1997
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7 Mr. President:
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9 Your JUDICIARY COMMITTEE, to whom has been referred
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11 SENATE BILL 675
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13 has had it under consideration and reports same with
14 recommendation that it DO PASS.
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16 Respectfully submitted,
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20 Fernando R. Macias, Chairman
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24 Adopted _____ Not Adopted _____
25 (Chief Clerk) (Chief Clerk)

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Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Sanchez, Tsosi e

Absent: None

S0675JU1

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 21, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE BILL 675

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Thomas P. Foy, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 10 For 1 Against

Yes: 10

No: Vaughn

Excused: Rios, Sanchez

Absent: None

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