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SENATE BILL 1241

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

INTRODUCED BY

LEONARD TSOSIE

AN ACT

RELATING TO DRIVER'S LICENSES; AMENDING THE PROCEDURES FOR
ISSUING LIMITED DRIVER'S LICENSES; AMENDING A SECTION OF THE
MOTOR VEHICLE CODE.

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

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

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

A. Upon suspension or revocation of a person's
driver's license following conviction or adjudication as a
delinquent under any law, ordinance or regulation relating to
motor vehicles, a person may apply to the [~~director~~] department
for a driver's license or permit to drive, limited to use
allowing him to engage in gainful employment or to attend

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1 school, except that no person shall be eligible to apply [~~for a~~
2 ~~limited license when the person's license was revoked or~~
3 ~~suspended pursuant to~~]:

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

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6 driver's license was revoked pursuant to the provisions of the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

9 ~~(2)]~~ (3) for a limited license when the
10 person's license was revoked pursuant to an offense for which
11 the person is a subsequent offender as defined in the Motor
12 Vehicle Code, except that a person who is convicted a second
13 time for driving under the influence of intoxicating liquor or
14 drugs may apply for and receive a limited license if he complies
15 with the requirements set forth in Subsections C and D of this
16 section; or

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18 driver's license was revoked pursuant to a conviction for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

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

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1 the person pays every fee, meets the criteria for limited
2 driving privileges established in regulation by the department
3 and provides the [director] department with documentation of the
4 following:

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

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

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

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

16 C. A person who is convicted a second time for
17 driving under the influence of intoxicating liquor or drugs may
18 apply for and shall receive a limited license thirty days after
19 revocation of his license if the person pays every fee, meets
20 the criteria for limited driving privileges established in
21 regulation by the department and provides the department with
22 documented proof:

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

25 (2) of financial responsibility pursuant to the

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1 provisions of the Mandatory Financial Responsibility Act; and
2 either

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

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

8 D. In addition to the requirements set forth in
9 Subsection C of this section, a person who is convicted a second
10 time for driving under the influence of intoxicating liquor or
11 drugs shall provide the department with a written statement from
12 the court that sentenced him. The court's statement shall
13 attest that the person will be on probation for the entire
14 period that a limited license will be in effect and that, as a
15 condition of probation, the person shall successfully
16 participate in and complete a drug court program and shall be
17 subject to random urinalysis tests to determine if the person is
18 using alcohol or drugs. If a person fails to successfully
19 complete the drug court program or tests positive for alcohol or
20 drugs during the probationary period, the court shall
21 immediately notify the department and the department shall
22 revoke the person's limited license.

23 ~~[C.] E. Upon receipt of [the application, proof of~~
24 ~~financial responsibility for the future and a hearing as~~
25 ~~provided in Subsection D of this section, the director] an order~~

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1 approving the application for a limited license and payment of
2 the fee specified in this subsection, the department shall issue
3 a limited license or permit to the applicant showing the
4 limitations specified in the approved application [~~provided that~~
5 ~~the applicant meets established uniform criteria for limited~~
6 ~~driving privileges adopted by regulation of the department~~].

7 For each limited license or permit to drive, the applicant shall
8 pay to the [~~division~~] department a fee of forty-five dollars
9 (\$45.00), which shall be transferred to the state highway and
10 transportation department. All money collected under this
11 subsection shall be used for DWI prevention and education
12 programs for elementary and secondary school students. The
13 state highway and transportation department shall coordinate
14 with the department of health to ensure that there is no program
15 duplication. The limited license or permit to drive may be
16 suspended as provided in Section 66-5-30 NMSA 1978.

17 [~~D.~~] F. The [~~director~~] department, within twenty
18 days of receipt of an application for a limited driver's license
19 or permit pursuant to this section, shall afford the applicant a
20 hearing in the county in which the applicant resides, unless the
21 [~~division~~] department and the licensee agree that the hearing
22 may be held in some other county. The [~~director may, in his~~
23 ~~discretion~~] department may extend the twenty-day period,
24 provided that the extension is in writing and made no later than
25 fifteen days after receipt of an application. Upon hearing, the

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1 ~~[director or his duly authorized]~~ hearing officer designated by
2 the department may administer oaths and may issue subpoenas for
3 the attendance of witnesses and the production of relevant books
4 and papers. The ~~[director]~~ hearing officer shall make specific
5 findings as to whether the applicant has shown proof of
6 financial responsibility for the future and enrollment in an
7 approved DWI school and meets established uniform criteria for
8 limited driving privileges adopted by regulation of the
9 department. The ~~[director]~~ hearing officer shall enter an order
10 either approving or denying the applicant's request for a
11 limited license or permit to drive. If any of the specific
12 findings set forth in this subsection are not found by the
13 ~~[director]~~ hearing officer, the applicant's request for a
14 limited license or permit shall not be approved.

15 ~~[E.]~~ G. A person adversely affected by an order of
16 the ~~[director]~~ hearing officer may seek review within thirty
17 days in the district court in the county in which he resides.
18 ~~[The district court, upon thirty days' written notice to the~~
19 ~~director, shall hear the case.]~~ On review, it is for the court
20 to determine only whether the applicant met the requirements in
21 this section for issuance of a limited license or permit to
22 drive. "

23 Section 2. EFFECTIVE DATE. -- The effective date of the
24 provisions of this act is July 1, 1997.

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