

AN ACT
RELATING TO MOTOR VEHICLES; ESTABLISHING A SYSTEM OF
GRADUATED DRIVER'S LICENSES FOR PERSONS LESS THAN EIGHTEEN
YEARS OF AGE; AMENDING AND ENACTING SECTIONS OF THE NMSA
1978.

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

Section 1. A new section of Chapter 66, Article 5 NMSA
1978 is enacted to read:

"DEFINITION.--As used in Sections 66-5-5, 66-5-8 and
66-5-9 NMSA 1978, "traffic violation" means a violation of
one or more of the following offenses:

- A. failure to obey traffic-control devices, as
provided in Section 66-7-104 NMSA 1978;
- B. failure to obey traffic-control signals, as
provided in Section 66-7-105 NMSA 1978;
- C. speeding, as provided in Section 66-7-301 NMSA
1978;
- D. homicide by vehicle, as provided in Section
66-8-101 NMSA 1978;
- E. injury to pregnant woman by vehicle, as
provided in Section 66-8-101.1 NMSA 1978;
- F. driving while under the influence of
intoxicating liquor or drugs, as provided in Section 66-8-
102 NMSA 1978;
- G. refusal to submit to chemical tests, as
provided in Section 66-8-111 NMSA 1978;
- H. reckless driving, as provided in Section
66-8-113 NMSA 1978;
- I. careless driving, as provided in Section

66-8-114 NMSA 1978;

J. racing on highways, as provided in Section 66-8-115 NMSA 1978; and

K. failure to yield, as provided in Sections 66-7-328 through 66-7-332.1 NMSA 1978."

Section 2. Section 66-5-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 227, as amended) is amended to read:

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

A. who is under the age of eighteen years, except the division may, in its discretion, issue:

(1) an instruction permit to a person fifteen years of age or over who is enrolled in and attending or has completed a driver education course that includes a DWI education and prevention component approved by the bureau or offered by a public school;

(2) a provisional license to any person fifteen years and six months of age or older:

(a) who has completed a driver education course approved by the bureau or offered by a public school that includes a DWI education and prevention component and has had an instruction permit for at least six months; and

(b) who has successfully completed a practice driving component;

(3) a driver's license to any person sixteen years and six months of age or older:

(a) who has had a provisional license for the twelve-month period immediately preceding the date

of the application for the driver's license;

(b) who has complied with restrictions on that license;

(c) who has not been convicted of a traffic violation that was committed during the ninety days prior to applying for a driver's license; and

(d) who has not been adjudicated for an offense involving the use of alcohol or drugs during that period and who has no pending adjudications alleging an offense involving the use of alcohol or drugs at the time of his application; and

(4) to any person thirteen years of age or older who passes an examination prescribed by the division, a license restricted to the operation of a motorcycle, provided:

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

(b) no holder of an initial license may carry any other passenger while driving a motorcycle; and

(c) the director approves and certifies motorcycles as not in excess of one hundred cubic centimeters displacement and by regulation provides for a method of identification of such motorcycles by all law enforcement officers;

B. whose license or driving privilege has been suspended or denied, during the period of suspension or denial, or to any person whose license has been revoked, except as provided in Section 66-5-32 NMSA 1978;

C. who is an habitual drunkard, an habitual user

of narcotic drugs or an habitual user of any drug to a degree which renders him incapable of safely driving a motor vehicle;

D. who, within any ten-year period, is three times convicted of driving a motor vehicle while under the influence of intoxicating liquor or narcotic drug regardless of whether the convictions are under the laws or ordinances of this state or any municipality or county of this state or under the laws or ordinances of any other state, the District of Columbia or any governmental subdivision thereof. Ten years after being so convicted for the third time, the person may apply to any district court of this state for restoration of the license, and the court, upon good cause being shown, may order restoration of the license applied for; provided that the person has not been subsequently convicted of driving a motor vehicle while under the influence of intoxicating liquor or drug in the ten-year period prior to his request for restoration of his license. Upon issuance of the order of restoration, a certified copy shall immediately be forwarded to the division, and if the person is otherwise qualified for the license applied for, the three previous convictions shall not prohibit issuance of the license applied for. Should the person be subsequently once convicted of driving a motor vehicle while under the influence of intoxicating liquor or drug, the division shall revoke his license for five years, after which time he may apply for restoration of his license as provided in this subsection;

E. who has previously been afflicted with or who is suffering from any mental disability or disease which

would render him unable to drive a motor vehicle with safety upon the highways and who has not, at the time of application, been restored to health;

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

G. who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited the proof;

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

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

Section 3. Section 66-5-8 NMSA 1978 (being Laws 1978, Chapter 35, Section 230, as amended) is amended to read:

"66-5-8. PROVISIONAL LICENSES--INSTRUCTION PERMITS--DRIVER EDUCATION STUDENTS--TEMPORARY LICENSES.--

A. A person fifteen years and six months of age or older who has completed a driver education course that includes a DWI prevention and education program approved by the bureau or offered by a public school, who has had an instruction permit for at least six months, and who has successfully completed a practice driving component may apply to the division for a provisional license. Successful completion of a practice driving component shall include not less than fifty hours of actual driving by the applicant,

including not less than ten hours of night driving. The applicant's parent or guardian shall certify that the applicant has completed the practice driving component.

B. When operating a motor vehicle, a provisional licensee may be accompanied by not more than one passenger under the age of twenty-one who is not a member of the licensee's immediate family. A provisional license entitles the licensee, while having the license in his immediate possession, to operate a motor vehicle upon the public highways between the hours of 5:00 a.m. and midnight. A provisional licensee may drive at any hour if:

- (1) accompanied by a licensed driver twenty-one years of age or older;
- (2) required by family necessity as evidenced by a signed statement of a parent or guardian;
- (3) required by medical necessity as evidenced by a signed statement from medical personnel;
- (4) driving to and from work as evidenced by a signed statement from the licensee's employer;
- (5) driving to and from school or a religious activity as evidenced by a signed statement of a school or religious official or a parent or guardian; or
- (6) required due to a medical emergency.

C. A provisional license shall not be issued to a person convicted of a traffic violation in the ninety days prior to applying for a provisional license. A provisional license shall be in such form as to be readily distinguishable from an unrestricted driver's license and shall contain an indication that the licensee may drive without supervision.

D. Any person fifteen years of age or older who is enrolled in and attending or has completed a driver education course that includes a DWI prevention and education program approved by the bureau or offered by a public school may apply to the division for an instruction permit. The division, in its discretion after the applicant has successfully passed all parts of the examination other than the driving test, may issue to the applicant an instruction permit. This permit entitles the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the public highways for a period of six months when accompanied by a licensed driver twenty-one years of age or older who has been licensed for at least three years in this state or in another state and who is occupying a seat beside the driver except in the event the permittee is operating a motorcycle.

E. A person fifteen years of age or older who is a student enrolled in and attending a driver education course that is approved by the bureau or offered by a public school and that includes both a DWI education and prevention component and practice driving component may drive a motor vehicle on the highways of this state even though he has not reached the legal age to be eligible for a driver's license or a provisional license. In completing the practice driving component, a person may only operate a motor vehicle on a public highway if:

(1) an approved instructor is occupying a seat beside the person; or

(2) a licensed driver twenty-one years of age or older who has been licensed for at least three years

in this state or another state is occupying a seat beside the person.

F. The division in its discretion may issue a temporary driver's permit to an applicant for a driver's license permitting him to operate a motor vehicle while the division is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The permit shall be in his immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

G. Any holder of an instruction permit for a motorcycle shall not carry any other passenger while operating a motorcycle."

Section 4. Section 66-5-9 NMSA 1978 (being Laws 1978, Chapter 35, Section 231, as amended) is amended to read:

"66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE, PROVISIONAL LICENSE OR INSTRUCTION PERMIT.--

A. Every application for an instruction permit, provisional license or driver's license shall be made upon a form furnished by the department. Every application shall be accompanied by the proper fee. For permits, provisional licenses or driver's licenses other than those issued pursuant to the New Mexico Commercial Driver's License Act, submission of a complete application with payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of six months from the date of application.

B. Every application shall contain the full name, social security number, date of birth, sex and New Mexico

residence address of the applicant and briefly describe the applicant and indicate whether the applicant has previously been licensed as a driver and, if so, when and by what state or country and whether any such license has ever been suspended or revoked or whether an application has ever been refused and, if so, the date of and reason for the suspension, revocation or refusal.

C. Every applicant shall indicate whether he has been convicted of driving while under the influence of intoxicating liquor or drugs in this state or in any other jurisdiction. Failure to disclose any such conviction prevents the issuance of a driver's license, provisional license, temporary license or instruction permit for a period of one year if the failure to disclose is discovered by the department prior to issuance. If the nondisclosure is discovered by the department subsequent to issuance, the department shall revoke the driver's license, provisional license, temporary license or instruction permit for a period of one year. Intentional and willful failure to disclose, as required in this subsection, is a misdemeanor.

D. Every applicant less than eighteen years of age who is making an application to be granted his first New Mexico driver's license shall submit evidence that he has:

(1) successfully completed a driver education course that included a DWI prevention and education program approved by the bureau or offered by a public school. The bureau may accept verification of driver education course completion from another state if the driver education course substantially meets the requirements of the bureau for a course offered in New Mexico;

(2) had a provisional license for the twelve-month period immediately preceding the date of the application for the driver's license;

(3) complied with restrictions on that license;

(4) not been convicted of a traffic violation committed during the ninety days prior to applying for a driver's license;

(5) not been cited for a traffic violation that is pending at the time of his application; and

(6) not been adjudicated for an offense involving the use of alcohol or drugs during that period and that there are no pending adjudications alleging an offense involving the use of alcohol or drugs at the time of his application.

E. Every applicant eighteen years of age and over, but less than twenty-five years of age, who is making an application to be granted his first New Mexico driver's license shall submit evidence with his application that he has successfully completed a bureau-approved DWI prevention and education program.

F. Every applicant twenty-five years of age and over who has been convicted of driving under the influence of intoxicating liquor or drugs, and who is making an application to be granted his first New Mexico driver's license, shall submit evidence with his application that he has successfully completed a bureau-approved DWI prevention and education program.

G. Whenever application is received from a person previously licensed in another jurisdiction, the department

may request a copy of the driver's record from the other jurisdiction. When received, the driver's record may become a part of the driver's record in this state with the same effect as though entered on the driver's record in this state in the original instance.

H. Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

I. This section does not apply to driver's licenses issued pursuant to the New Mexico Commercial Driver's License Act."

Section 5. Section 66-5-11 NMSA 1978 (being Laws 1978, Chapter 35, Section 233) is amended to read:

"66-5-11. APPLICATION OF MINORS.--

A. The application of any person under the age of eighteen years for an instruction permit, provisional license or driver's license shall be signed and verified by the father, mother or guardian or, in the event there is no parent or guardian, by another responsible adult who is willing to assume the obligation imposed under this article upon a person signing the application of a minor.

B. Any negligence or willful misconduct of a minor under the age of eighteen years when driving a motor vehicle upon a highway shall be imputed to the person who has signed the application of the minor for a permit or license, which person shall be jointly and severally liable with the minor for any damages caused by the negligence or willful misconduct except as otherwise provided in Subsection C of this section.

C. In the event a minor deposits or there is

deposited upon his behalf proof of financial responsibility in respect to the operation of a motor vehicle owned by him or, if not the owner of a motor vehicle, with respect to the operation of any motor vehicle, in form and in amounts as required under the motor vehicle financial responsibility laws of this state, the division may accept the application of the minor when signed by one parent or the guardian of the minor, and, while such proof is maintained, the parent or guardian is not subject to the liability imposed under Subsection B of this section."

Section 6. Section 66-5-12 NMSA 1978 (being Laws 1978, Chapter 35, Section 234) is amended to read:

"66-5-12. RELEASE FROM LIABILITY.--Any person who has signed the application of a minor for an instruction permit, a driver's license or provisional license may thereafter file with the division a verified written request that the license of the minor so granted be canceled. Thereupon, the division shall cancel the license of the minor, and the person who signed the application of the minor shall be relieved from the liability imposed under this article, by reason of having signed the application, on account of any subsequent negligence or willful misconduct of the minor in operating a motor vehicle."

Section 7. Section 66-5-13 NMSA 1978 (being Laws 1978, Chapter 35, Section 235) is amended to read:

"66-5-13. CANCELLATION OF LICENSE UPON DEATH OF PERSON SIGNING MINOR'S APPLICATION.--The division upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for an instruction permit, a driver's license or provisional license shall cancel the

license and shall not issue a new license until such time as a new application, duly signed and verified, is made as required by this article. This provision does not apply in the event the minor has attained the age of eighteen years."

Section 8. Section 66-5-24 NMSA 1978 (being Laws 1978, Chapter 35, Section 246) is amended to read:

"66-5-24. AUTHORITY OF DIVISION TO CANCEL LICENSE.--

A. The division is authorized to cancel any instruction permit, driver's license or provisional license upon determining that the licensee was not entitled to the issuance of the license or that the licensee failed to give the required or correct information in his application or committed any fraud in making the application.

B. Upon such cancellation, the licensee must surrender the license so canceled to the division."

Section 9. Section 66-5-29 NMSA 1978 (being Laws 1978, Chapter 35, Section 251, as amended by Laws 1993, Chapter 66, Section 4 and also by Laws 1993, Chapter 78, Section 4) is amended to read:

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

A. The division shall immediately revoke the instruction permit, driver's license or provisional license of any driver upon receiving a record of the driver's adjudication as a delinquent for or conviction of any of the following offenses, whether the offense is under any state law or local ordinance, when the conviction or adjudication has become final:

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

(2) any offense rendering a person a "first offender" as defined in the Motor Vehicle Code, if that person does not attend a driver rehabilitation program pursuant to Subsection E of Section 66-8-102 NMSA 1978;

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

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

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

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

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

B. Any person whose license has been revoked under this section, except as provided in Subsection C, D or E of this section, shall not be entitled to apply for or receive any new license until the expiration of one year from the date of the last application on which the revoked license was surrendered to and received by the division, if no appeal is filed, or one year from the date that the revocation is final and he has exhausted his rights to an appeal.

C. Any person who upon adjudication as a delinquent or conviction is subject to license revocation

under this section for an offense pursuant to which he was also subject to license revocation pursuant to Section 66-8-111 NMSA 1978 shall have his license revoked for that offense for a combined period of time equal to one year.

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

E. Upon receipt from a district court of a record of conviction for the offense of shooting at or from a motor vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978 or of a conviction for a conspiracy or an attempt to commit that offense, the division shall revoke the driver's licenses or driving privileges of the convicted person. Any person whose license or privilege has been revoked pursuant to the provisions of this subsection shall not be entitled to apply for or receive any new license or privilege until the expiration of one year from the date of the last application on which the revoked license was surrendered to and received by the division, if no appeal is filed, or one year from the date that the revocation is final and the person has exhausted his rights to an appeal."

Section 10. Section 66-5-30 NMSA 1978 (being Laws 1978, Chapter 35, Section 252, as amended) is amended to read:

"66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE LICENSE.--

A. The division is authorized to suspend the instruction permit, driver's license or provisional license

of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(1) has been convicted of an offense for which mandatory revocation of license is required upon conviction;

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

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

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

(5) is incompetent to drive a motor vehicle;

(6) has permitted an unlawful or fraudulent use of the license;

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

(8) has violated provisions stipulated by a district court in limitation of certain driving privileges;

(9) has failed to fulfill a signed promise to appear or notice to appear in court as evidenced by notice from a court, whenever appearance is required by law or by the court as a consequence of any charge or conviction under the Motor Vehicle Code;

(10) has failed to pay a penalty assessment

within thirty days of the date of issuance; or

(11) has accumulated seven points, but less than eleven points, and when the division has received a recommendation from a municipal or magistrate judge that the license be suspended for a period not to exceed three months.

B. Upon suspending the license of any person as authorized in this section, the division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing as early as practicable within not to exceed twenty days, not counting Saturdays, Sundays and legal holidays, after receipt of the request in the county wherein the licensee resides unless the division and the licensee agree that the hearing may be held in some other county; provided that the hearing request is received within twenty days from the date that the suspension was deposited in the United States mail. The director may, in his discretion, extend the twenty-day period. Upon the hearing, the director or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon the hearing, the division shall either rescind its order of suspension or, good cause appearing therefor, may continue, modify or extend the suspension of the license or revoke the license."

Section 11. A new Section 66-5-44.1 NMSA 1978 is enacted to read:

"66-5-44.1. PROVISIONAL LICENSES--DURATION AND FEE--
APPROPRIATION.--

A. There shall be paid to the division a fee of thirteen dollars (\$13.00) for each provisional license or duplicate provisional license. Each provisional license shall be for a term provided for in Section 66-5-21 NMSA 1978.

B. The director with the approval of the governor may increase the amount of the fee provided for in this section by an amount not to exceed three dollars (\$3.00) for the purpose of implementing an enhanced driver's license system. The additional amounts collected pursuant to this subsection are appropriated to the division to defray the expense of the new system of licensing.

C. The fees collected pursuant to the provisions of Subsection A of this section are appropriated to the division to defray the expense of implementing the new system of provisional licensing."

Section 12. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2000. _____

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