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HOUSE BILL 240
44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999
INTRODUCED BY
Patsy Trujillo Knauer

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING DWI OFFENDERS TO HAVE
IGNITION INTERLOCK DEVICES PLACED ON THEIR MOTOR VEHICLES.

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 by Laws 1997, Chapter 43,
Section 1 and also by Laws 1997, Chapter 205, Section 1) 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.

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

5 C. It is unlawful for any person who has an
6 alcohol concentration of eight one-hundredths or more in his
7 blood or breath to drive any vehicle within this state.

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

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

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

16 or

17 (3) refused to submit to chemical testing, as
18 provided for in the Implied Consent Act, and in the judgment
19 of the court, based upon evidence of intoxication presented to
20 the court, was under the influence of intoxicating liquor or
21 drugs.

22 E. Every person under first conviction under this
23 section shall be punished, notwithstanding the provisions of
24 Section 31-18-13 NMSA 1978, by imprisonment for not more than
25 ninety days or by a fine of not more than five hundred dollars

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

underscored material = new
[bracketed material] = delete

1 ordered by the court or for aggravated driving while under the
2 influence of intoxicating liquor or drugs shall not be
3 suspended, deferred or taken under advisement. On a first
4 conviction under this section, any time spent in jail for the
5 offense prior to the conviction for that offense shall be
6 credited to any term of imprisonment fixed by the court. A
7 deferred sentence under this subsection shall be considered a
8 first conviction for the purpose of determining subsequent
9 convictions.

10 F. A second or third conviction under this section
11 shall be punished, notwithstanding the provisions of Section
12 31-18-13 NMSA 1978, by imprisonment for not more than three
13 hundred sixty-four days or by a fine of not more than one
14 thousand dollars (\$1,000), or both; provided that if the
15 sentence is suspended in whole or in part, the period of
16 probation may extend beyond one year but shall not exceed five
17 years. Notwithstanding any provision of law to the contrary
18 for suspension or deferment of execution of a sentence:

19 (1) upon a second conviction, each offender
20 shall be sentenced to a jail term of not less than seventy-two
21 consecutive hours, forty-eight hours of community service and
22 a fine of five hundred dollars (\$500). In addition to those
23 penalties, when an offender commits aggravated driving while
24 under the influence of intoxicating liquor or drugs, the
25 offender shall be sentenced to a jail term of not less than

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1 ninety-six consecutive hours. If an offender fails to
2 complete, within a time specified by the court, any community
3 service, screening program or treatment program ordered by the
4 court, the offender shall be sentenced to not less than an
5 additional seven consecutive days in jail. A penalty imposed
6 pursuant to this paragraph shall not be suspended or deferred
7 or taken under advisement; and

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

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

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1 H. Upon any conviction under this section, an
2 offender shall be required to participate in and complete,
3 within a time specified by the court, an alcohol or drug abuse
4 screening program and [~~if necessary~~] a treatment program
5 approved by the court that includes the installation of an
6 approved ignition interlock device on any motor vehicle the
7 offender is permitted to drive. The penalty imposed pursuant
8 to this subsection shall not be suspended, deferred or taken
9 under advisement.

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

13 J. A conviction under a municipal or county
14 ordinance in New Mexico or a law of any other jurisdiction,
15 territory or possession of the United States that is
16 equivalent to New Mexico law for driving while under the
17 influence of intoxicating liquor or drugs [~~prescribing~~] and
18 prescribes penalties for driving while under the influence of
19 intoxicating liquor or drugs shall be deemed to be a
20 conviction under this section for purposes of determining
21 whether a conviction is a second or subsequent conviction.

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

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1 treatment programs.

2 L. As used in this section:

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

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

10 Section 2. Section 66-8-111 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 519, as amended) is amended to read:

12 "66-8-111. REFUSAL TO SUBMIT TO CHEMICAL TESTS--
13 TESTING--GROUNDS FOR REVOCATION OF LICENSE OR PRIVILEGE TO
14 DRIVE. --

15 A. If a person under arrest for violation of an
16 offense enumerated in the Motor Vehicle Code refuses upon
17 request of a law enforcement officer to submit to chemical
18 tests designated by the law enforcement agency as provided in
19 Section 66-8-107 NMSA 1978, none shall be administered except
20 when a municipal judge, magistrate or district judge issues a
21 search warrant authorizing chemical tests as provided in
22 Section 66-8-107 NMSA 1978 upon his finding in a law
23 enforcement officer's written affidavit that there is probable
24 cause to believe that the person has driven a motor vehicle
25 while under the influence of alcohol or a controlled

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1 substance, thereby causing the death or great bodily injury of
2 another person, or there is probable cause to believe that the
3 person has committed a felony while under the influence of
4 alcohol or a controlled substance and that chemical tests as
5 provided in Section 66-8-107 NMSA 1978 will produce material
6 evidence in a felony prosecution.

7 B. The department, upon receipt of a statement
8 signed under penalty of perjury from a law enforcement officer
9 stating the officer's reasonable grounds to believe the
10 arrested person had been driving a motor vehicle within this
11 state while under the influence of intoxicating liquor or
12 [~~drug~~] drugs and that, upon his request, the person refused to
13 submit to a chemical test after being advised that failure to
14 submit could result in revocation of his privilege to drive,
15 shall revoke the person's New Mexico driver's license or any
16 nonresident operating privilege for a period of one year or
17 until all conditions for license reinstatement are met,
18 whichever is [~~later~~] earlier.

19 C. The department, upon receipt of a statement
20 signed under penalty of perjury from a law enforcement officer
21 stating the officer's reasonable grounds to believe the
22 arrested person had been driving a motor vehicle within this
23 state while under the influence of intoxicating liquor and
24 that the person submitted to chemical testing pursuant to
25 Section 66-8-107 NMSA 1978 and the test results indicated an

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1 alcohol concentration of eight one-hundredths or more in the
2 person's blood or breath if the person is twenty-one years of
3 age or older or an alcohol concentration of two one-hundredths
4 or more in the person's blood or breath if the person is less
5 than twenty-one years of age, shall revoke the person's
6 license or permit to drive or his nonresident operating
7 privilege for a period of:

8 (1) ninety days or until all conditions for
9 license reinstatement are met, whichever is [~~later~~] earlier,
10 if the person is twenty-one years of age or older;

11 (2) six months or until all conditions for
12 license reinstatement are met, whichever is [~~later~~] earlier,
13 if the person is less than twenty-one years of age and has not
14 previously had his license revoked pursuant to the provisions
15 of this section, notwithstanding any provision of the
16 Children's Code; or

17 (3) one year or until all conditions for
18 license reinstatement are met, whichever is [~~later~~] earlier,
19 if the person has previously had his license revoked pursuant
20 to the provisions of this section, notwithstanding the
21 provisions of Paragraph (1) or (2) of this subsection or any
22 provision of the Children's Code.

23 D. The determination of alcohol concentration
24 shall be based on the grams of alcohol in one hundred
25 milliliters of blood or the grams of alcohol in two hundred

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1 ten liters of breath.

2 E. If the person subject to the revocation
3 provisions of this section is a resident or will become a
4 resident within one year and is without a license to operate a
5 motor vehicle in this state, the department shall deny the
6 issuance of a license to him for the appropriate period of
7 time as provided in Subsections B and C of this section.

8 F. A statement signed by a law enforcement
9 officer, pursuant to the provisions of Subsection B or C of
10 this section, shall be sworn to by the officer or shall
11 contain a declaration substantially to the effect: "I hereby
12 declare under penalty of perjury that the information given in
13 this statement is true and correct to the best of my
14 knowledge.". A law enforcement officer who signs a statement,
15 knowing that the statement is untrue in any material issue or
16 matter, is guilty of perjury as provided in Section 66-5-38
17 NMSA 1978. "

18 Section 3. Section 66-8-112 NMSA 1978 (being Laws 1978,
19 Chapter 35, Section 520, as amended) is amended to read:

20 "66-8-112. REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE--
21 NOTICE-- EFFECTIVE DATE-- HEARING-- HEARING COSTS-- REVIEW. --

22 A. The effective date of revocation pursuant to
23 Section 66-8-111 NMSA 1978 is twenty days after notice of
24 revocation or, if the person whose license or privilege to
25 drive is being revoked or denied requests a hearing pursuant

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1 to this section, the date that the department issues the order
2 following that hearing. The date of notice of revocation is:

3 (1) the date the law enforcement officer
4 serves written notice of revocation and of right to a hearing
5 pursuant to Section 66-8-111.1 NMSA 1978; or

6 (2) in the event the results of a chemical
7 test cannot be obtained immediately, the date notice of
8 revocation is served by mail by the department. This notice
9 of revocation and of right to a hearing shall be sent by
10 certified mail and shall be deemed to have been served on the
11 date borne by the return receipt showing delivery, refusal of
12 the addressee to accept delivery or attempted delivery of the
13 notice at the address obtained by the arresting law
14 enforcement officer or on file with the department.

15 B. Within ten days after receipt of notice of
16 revocation pursuant to Subsection A of this section, a person
17 whose license or privilege to drive is revoked or denied or
18 the person's agent may request a hearing. The hearing request
19 shall be made in writing and shall be accompanied by a payment
20 of twenty-five dollars (\$25.00) or a sworn statement of
21 indigency on a form provided by the department. A standard
22 for indigency shall be established pursuant to regulations
23 adopted by the department. Failure to request a hearing
24 within ten days shall result in forfeiture of the person's
25 right to a hearing. Any person less than eighteen years of

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1 age who fails to request a hearing within ten days shall have
2 notice of revocation sent to his parent, guardian or custodian
3 by the department. A date for the hearing shall be set by the
4 department, if practical, within thirty days after receipt of
5 notice of revocation. The hearing shall be held in the county
6 in which the offense for which the person was arrested took
7 place.

8 C. The department may postpone or continue any
9 hearing on its own motion or upon application from the person
10 and for good cause shown for a period not to exceed ninety
11 days from the date of notice of revocation and provided that
12 the department extends the validity of the temporary license
13 for the period of the postponement or continuation.

14 D. At the hearing, the department or its agent may
15 administer oaths and may issue subpoenas for the attendance of
16 witnesses and the production of relevant books and papers.

17 E. The hearing shall be limited to the issues:

18 (1) whether the law enforcement officer had
19 reasonable grounds to believe that the person had been driving
20 a motor vehicle within this state while under the influence of
21 intoxicating liquor or drugs;

22 (2) whether the person was arrested;

23 (3) whether this hearing is held no later
24 than ninety days after notice of revocation; and either

25 (4)

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1 (a) whether the person refused to
2 submit to a test upon request of the law enforcement officer;
3 and

4 (b) whether the law enforcement officer
5 advised that the failure to submit to a test could result in
6 revocation of the person's privilege to drive; or

7 (5)

8 (a) whether the chemical test was
9 administered pursuant to the provisions of the Implied Consent
10 Act; and

11 (b) the test results indicated an
12 alcohol concentration of eight one-hundredths or more in the
13 person's blood or breath if the person is twenty-one years of
14 age or older or an alcohol concentration of two one-hundredths
15 or more in the person's blood or breath if the person is less
16 than twenty-one years of age; and

17 (6) whether the person had proof of payment
18 for the installation and rental of an approved ignition
19 interlock device for every motor vehicle for which he is
20 seeking a permit to drive.

21 F. The department shall enter an order sustaining
22 the revocation or denial of the person's license or privilege
23 to drive if the department finds that:

24 (1) the law enforcement officer had
25 reasonable grounds to believe the driver was driving a motor

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1 vehicle while under the influence of intoxicating liquor or
2 [~~drug~~] drugs;

3 (2) the person was arrested;

4 (3) this hearing is held no later than ninety
5 days after notice of revocation; and

6 (4) the person either refused to submit to
7 the test upon request of the law enforcement officer after the
8 law enforcement officer advised him that his failure to submit
9 to the test could result in the revocation of his privilege to
10 drive or that a chemical test was administered pursuant to the
11 provisions of the Implied Consent Act and the test results
12 indicated an alcohol concentration of eight one-hundredths or
13 more if the person is twenty-one years of age or older or an
14 alcohol concentration of two one-hundredths or more if the
15 person is less than twenty-one years of age.

16 If one or more of the elements set forth in Paragraphs
17 (1) through (4) of this subsection are not found by the
18 department, the person's license shall not be revoked.

19 G. A person adversely affected by an order of the
20 department may seek review within thirty days in the district
21 court in the county in which the offense for which the person
22 was arrested took place. The district court, upon thirty
23 days' written notice to the department, shall hear the case.
24 On review, it is for the court to determine only whether
25 reasonable grounds exist for revocation or denial of the

1 person's license or privilege to drive based on the record of
2 the administrative proceeding.

3 H. Any person less than eighteen years of age
4 shall have results of his hearing forwarded by the department
5 to his parent, guardian or custodian.

6 I. If a person whose license has been suspended
7 shows proof of payment for the installation and rental of an
8 approved ignition interlock device for every motor vehicle for
9 which he requests permission to drive, he may be issued a
10 restricted license that will permit him to drive only those
11 vehicles. "

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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5
6 February 22, 1999

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8 Mr. Speaker:

9
10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 HOUSE BILL 240

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14 has had it under consideration and reports same with
15 recommendation that it DO NOT PASS, but that

16
17 HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
18 HOUSE BILL 240

19 DO PASS.

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HJ/HB 240

Page 17

4 Respectfully submitted,
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8 _____
9 R. David Pederson, Chairman
10

11 Adopted _____

Not Adopted _____

12 (Chief Clerk)

(Chief Clerk)

13
14 Date _____
15

16 The roll call vote was 11 For 0 Against

17 Yes: 11

18 Excused: Luna

19 Absent: None
20

J: \99Billswp\H0240
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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 240

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING THAT DWI OFFENDERS MAY
BE REQUIRED TO HAVE IGNITION INTERLOCK DEVICES PLACED ON THEIR
MOTOR VEHICLES.

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 by Laws 1997, Chapter 43,
Section 1 and also by Laws 1997, Chapter 205, Section 1) 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.

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

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

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

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

(3) refused to submit to chemical testing, as provided for in the Implied Consent Act, and in the judgment of the court, based upon evidence of intoxication presented to the court, was under the influence of intoxicating liquor or drugs.

E. Every person under first conviction under this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than ninety days or by a fine of not more than five hundred dollars (\$500), or both; provided that if the sentence is suspended in whole or in part or deferred, the period of probation may extend beyond ninety days but shall not exceed one year. Upon a first conviction under this section, an offender may be sentenced to not less than forty-eight hours of community service or a fine of three hundred dollars (\$300). The offender shall be ordered by the court to participate in and complete a screening program described in Subsection H of this section and to attend a driver rehabilitation program for alcohol or drugs, also known as a "DWI school", approved by

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

25 F. A second or third conviction under this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than three hundred sixty-four days or by a fine of not more than one

1 thousand dollars (\$1,000), or both; provided that if the
2 sentence is suspended in whole or in part, the period of
3 probation may extend beyond one year but shall not exceed five
4 years. Notwithstanding any provision of law to the contrary
5 for suspension or deferment of execution of a sentence:

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

20 (2) upon a third conviction, an offender
21 shall be sentenced to a jail term of not less than thirty
22 consecutive days and a fine of seven hundred fifty dollars
23 (\$750). In addition to those penalties, when an offender
24 commits aggravated driving while under the influence of
25 intoxicating liquor or drugs, the offender shall be sentenced
to a jail term of not less than sixty consecutive days. If an
offender fails to complete, within a time specified by the
court, any screening program or treatment program ordered by

1 the court, the offender shall be sentenced to not less than an
2 additional sixty consecutive days in jail. A penalty imposed
3 pursuant to this paragraph shall not be suspended or deferred
4 or taken under advisement.

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

10 H. Upon any conviction under this section, an
11 offender shall be required to participate in and complete,
12 within a time specified by the court, an alcohol or drug abuse
13 screening program and, if necessary, a treatment program
14 approved by the court. The penalty imposed pursuant to this
15 subsection shall not be suspended, deferred or taken under
16 advisement.

17 I. Upon any subsequent misdemeanor conviction
18 under this section, as a condition of probation, an offender
19 may be required to have an ignition interlock device installed
20 and operating on all motor vehicles owned by the offender or
21 available for the offender's personal use, pursuant to rules
22 adopted by the traffic safety bureau.

23 [~~F.~~] J. In the case of a first, second or third
24 offense under this section, the magistrate court has
25 concurrent jurisdiction with district courts to try the
26 offender.

27 [~~J.~~] K. A conviction under a municipal or county
28 ordinance in New Mexico or a law of any other jurisdiction,

1 territory or possession of the United States that is
2 equivalent to New Mexico law for driving while under the
3 influence of intoxicating liquor or drugs, [~~prescribing~~] and
4 prescribes penalties for driving while under the influence of
5 intoxicating liquor or drugs shall be deemed to be a
6 conviction under this section for purposes of determining
7 whether a conviction is a second or subsequent conviction.

8 [~~K.~~] L. In addition to any other fine or fee which
9 may be imposed pursuant to the conviction or other disposition
10 of the offense under this section, the court may order the
11 offender to pay the costs of any court-ordered screening and
12 treatment programs.

13 [~~L.~~] M. As used in this section:

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

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

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