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SENATE BILL 251

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Michael S. Sanchez

FOR THE COURTS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO MOTOR VEHICLES; CLARIFYING THAT A PERSON IN POSSESSION OF A LIMITED DRIVER'S LICENSE MAY LAWFULLY DRIVE TO AND FROM A COURT-ORDERED TREATMENT PROGRAM; AMENDING A SECTION OF THE NMSA 1978.

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~~ rule relating to motor vehicles, a person may apply to the department for a license or permit to drive, limited to use

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1 allowing him to engage in gainful employment, [~~or~~] to attend
2 school or to attend a court-ordered treatment program, except
3 that [~~no~~] the person shall not be eligible to apply:

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

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7 driver's license was revoked pursuant to the provisions of the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

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11 license was revoked pursuant to an offense for which the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

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19 driver's license was revoked pursuant to a conviction for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

22 B. A person whose driver's license is revoked for
23 the first time pursuant to the provisions of Paragraph (1) or
24 (2) of Subsection C of Section 66-8-111 NMSA 1978 or for the
25 second or third time pursuant to the provisions of Paragraph

. 133825. 2

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1 (3) of Subsection C of Section 66-8-111 NMSA 1978 may apply
2 for and shall receive a limited license or permit thirty days
3 after suspension or revocation of his license if the person
4 pays every fee, ~~meets~~ the criteria for limited driving
5 privileges established in rules by the department and provides
6 the department with documentation of the following:

7 (1) that the person is enrolled in a DWI
8 school approved by the traffic safety bureau and an approved
9 alcohol screening program;

10 (2) proof of financial responsibility
11 pursuant to the provisions of the Mandatory Financial
12 Responsibility Act; and

13 (3) if the person's driver's license is
14 revoked pursuant to the provisions of Paragraph (3) of
15 Subsection C of Section 66-8-111 NMSA 1978, [~~the person shall~~
16 ~~provide~~] proof that each motor vehicle to be operated by the
17 person, if he receives a limited license, shall be equipped
18 with an ignition interlock device installed and operated
19 pursuant to rules adopted by the traffic safety bureau; and
20 [~~either~~]:

21 (a) proof of gainful employment or
22 gainful self-employment and that the person needs a limited
23 license to travel to and from his place of employment; [~~or~~]

24 [~~(4)~~] (b) proof that the person is
25 enrolled in school and needs a limited license to travel to

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1 and from school; or

2 (c) proof that the person is enrolled
3 in a court-ordered treatment program and needs a limited
4 license to travel to and from the treatment program.

5 C. A person who is convicted a second or third
6 time for driving under the influence of intoxicating liquor or
7 drugs may apply for and shall receive a limited license thirty
8 days after suspension or revocation of his license if the
9 person pays every fee, meets the criteria for limited driving
10 privileges established in rule by the department and provides
11 the department with documented proof:

12 (1) of enrollment in a DWI school approved by
13 the traffic safety bureau and an approved alcohol screening
14 program;

15 (2) of financial responsibility pursuant to
16 the provisions of the Mandatory Financial Responsibility Act;
17 and [either]

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

21 (4) of enrollment in school and that the
22 person needs a limited license to travel to and from school;
23 or

24 (5) of enrollment in a court-ordered
25 treatment program and that the person needs a limited license

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1 to travel to and from the treatment program.

2 D. In addition to the requirements set forth in
3 Subsection C of this section, a person who is convicted a
4 second or third time for driving under the influence of
5 intoxicating liquor or drugs shall provide the department with
6 his judgment and sentence. The judgment and sentence shall
7 attest that the person will be on probation for the entire
8 period that a limited license will be in effect and that, as a
9 condition of probation, the person shall provide proof that
10 each motor vehicle to be operated by the person is equipped
11 with an ignition interlock device installed and operated
12 pursuant to rules adopted by the traffic safety bureau. The
13 ignition interlock device shall be installed on the
14 appropriate motor vehicle at the person's expense.

15 E. Upon receipt of a fully completed application
16 that complies with statutes and rules for a limited license
17 and payment of the fee specified in this subsection, the
18 department shall issue a limited license or permit to the
19 applicant showing the limitations specified in the approved
20 application. For each limited license or permit to drive, the
21 applicant shall pay to the department a fee of forty-five
22 dollars (\$45.00), which shall be transferred to the state
23 highway and transportation department. All money collected
24 under this subsection shall be used for DWI prevention and
25 education programs for elementary and secondary school

. 133825. 2

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1 students. The state highway and transportation department
2 shall coordinate with the department of health to ensure that
3 there is no program duplication. The limited license or
4 permit to drive may be suspended as provided in Section
5 66-5-30 NMSA 1978.

6 F. The department, within twenty days of denial of
7 an application for a limited driver's license or permit
8 pursuant to this section, shall afford the applicant a hearing
9 in the county in which the applicant resides, unless the
10 department and the licensee agree that the hearing may be held
11 in some other county. The department may extend the twenty-
12 day period, provided that the extension is in writing and made
13 no later than fifteen days after receipt of an application.
14 Upon hearing, the hearing officer designated by the department
15 may administer oaths and may issue subpoenas for the
16 attendance of witnesses and the production of relevant books
17 and papers. The hearing officer shall make specific findings
18 as to whether the applicant has shown proof of financial
19 responsibility for the future and enrollment in an approved
20 DWI school and an approved alcohol screening program and meets
21 established uniform criteria for limited driving privileges
22 adopted by rule of the department. The hearing officer shall
23 enter an order either approving or denying the applicant's
24 request for a limited license or permit to drive. If any of
25 the specific findings set forth in this subsection are not

. 133825. 2

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1 found by the hearing officer, the applicant's request for a
2 limited license or permit shall not be approved.

3 G. A person adversely affected by an order of the
4 hearing officer may seek review within thirty days in the
5 district court in the county in which he resides. On review,
6 it is for the court to determine only whether the applicant
7 met the requirements in this section for issuance of a limited
8 license or permit to drive."

9 Section 2. EFFECTIVE DATE. --The effective date of the
10 provisions of this act is July 1, 2001.