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SENATE BILL 427

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

INTRODUCED BY

Roman M. Maes III

AN ACT

RELATING TO CHILD SUPPORT; PROVIDING EXCEPTIONS TO PENALTIES FOR NONPAYMENT OF CHILD SUPPORT TO ALLOW A PERSON TO SEEK OR MAINTAIN GAINFUL EMPLOYMENT; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 40-4A-16 NMSA 1978 (being Laws 1985, Chapter 105, Section 19) is amended to read:

"40-4A-16. REMEDIES IN ADDITION TO OTHER LAWS. -- [The]

A. Except as provided for in Subsection B of this section, rights, remedies, duties and penalties created by the Support Enforcement Act are in addition to any other rights, remedies, duties and penalties created by any other law.

B. An obligor shall not be incarcerated for

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1 nonpayment under an order of support if the incarceration would  
2 prevent him from seeking or maintaining gainful employment.  
3 Nothing in this subsection shall be construed to preclude the  
4 incarceration of an obligor for a violation other than  
5 nonpayment under an order of support if the other violation  
6 permits or requires incarceration. "

7 Section 2. Section 40-5A-4 NMSA 1978 (being Laws 1995,  
8 Chapter 25, Section 4, as amended) is amended to read:

9 "40-5A-4. APPLICATION FOR LICENSE. --

10 A. Except as provided for in Subsection B of this  
11 section, a person who submits an application for a license  
12 issued by a board is not eligible for issuance of the license  
13 if he is not in compliance [~~with a judgment and order for~~  
14 ~~support or subpoenas or warrants relating to paternity or child~~  
15 ~~support proceedings].~~ A board that denies or proposes to deny  
16 the application on the grounds that [~~he~~] the applicant is not  
17 in compliance [~~with a judgment and order for support or~~  
18 ~~subpoenas or warrants relating to paternity or child support~~  
19 ~~proceedings]~~ shall advise the applicant in writing of the  
20 grounds for denial of his application and his right, if any, to  
21 a hearing. The applicant shall have a right to a hearing if,  
22 pursuant to applicable law governing hearings, the denial of  
23 the application on other grounds would have entitled the  
24 applicant to a hearing. The application shall be reinstated  
25 if, within thirty days of the date of the notice, the applicant

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1 provides the board with a certified statement from the  
2 department that he is in compliance [~~with a judgment and order~~  
3 ~~for support or subpoenas or warrants relating to paternity or~~  
4 ~~child support proceedings~~].

5 B. A person may apply for a restricted commercial  
6 or operator's license as provided for in Section 66-5-19 NMSA  
7 1978 if the restriction limits the use of his commercial or  
8 operator's license to seek or maintain gainful employment."

9 Section 3. Section 40-5A-5 NMSA 1978 (being Laws 1995,  
10 Chapter 25, Section 5, as amended) is amended to read:

11 "40-5A-5. RENEWAL OF LICENSE. --

12 A. Except as provided for in Subsection B of this  
13 section, a licensee who seeks renewal of his license from a  
14 board is not eligible to have the license renewed if he is not  
15 in compliance [~~with a judgment and order for support or~~  
16 ~~subpoenas or warrants relating to paternity or child support~~  
17 ~~proceedings~~]. A board that denies or proposes to deny the  
18 renewal of a license on the grounds that the licensee is not in  
19 compliance [~~with a judgment and order for support or subpoenas~~  
20 ~~or warrants relating to paternity or child support proceedings~~]  
21 shall advise the licensee in writing of the grounds for the  
22 denial or proposed denial and his right to a hearing. The  
23 licensee shall have a right to a hearing on the denial of the  
24 renewal of his license pursuant to the applicable law governing  
25 hearings. The application for renewal shall be reinstated if,

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1 within thirty days of the date of the notice, the licensee  
2 provides the board with a certified statement from the  
3 department that he is in compliance [~~with a judgment and order~~  
4 ~~for support or subpoenas or warrants relating to paternity or~~  
5 ~~child support proceedings~~].

6 B. A person may seek renewal of his commercial or  
7 operator's license as a restricted license as provided for in  
8 Section 66-5-19 NMSA 1978 if the restriction limits the use of  
9 his commercial license or operator's license to seek or  
10 maintain gainful employment."

11 Section 4. Section 40-5A-6 NMSA 1978 (being Laws 1995,  
12 Chapter 25, Section 6, as amended) is amended to read:

13 "40-5A-6. SUSPENSION OR REVOCATION OF LICENSE. --

14 A. Except as provided for in Subsection B of this  
15 section, the failure of a licensee to be in compliance [~~with a~~  
16 ~~judgment and order for support or subpoena or warrants relating~~  
17 ~~to paternity or child support proceedings]~~ is grounds for  
18 suspension or revocation of a license. The proceeding shall be  
19 conducted by a board pursuant to the law governing suspension  
20 and revocation proceedings for the license.

21 B. A person may, if there are grounds for  
22 suspension or revocation of his license, apply for a restricted  
23 commercial or operator's license as provided for in Section 66-  
24 5-19 NMSA 1978 if the restriction limits the use of his  
25 commercial or operator's license to seek or maintain gainful

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1 employment. "

2 Section 5. Section 66-5-19 NMSA 1978 (being Laws 1978,  
3 Chapter 35, Section 241) is amended to read:

4 "66-5-19. RESTRICTED LICENSES. --

5 A. The ~~[division]~~ department, upon issuing a  
6 driver's license, ~~[shall have]~~ has authority, whenever good  
7 cause appears, to impose restrictions, including the shortening  
8 of the licensure period suitable to the licensee's driving  
9 ability with respect to the type of or special mechanical  
10 control devices required on a motor vehicle ~~[which]~~ that the  
11 licensee may operate or such other restrictions applicable to  
12 the licensee as the ~~[division]~~ department may determine to be  
13 appropriate to assure the safe operation of a motor vehicle by  
14 the licensee. At age seventy-five and thereafter, the  
15 applicant shall renew his license on a yearly basis at no cost  
16 to the applicant.

17 B. The ~~[division]~~ department may either issue a  
18 special restricted license or may set forth such restrictions  
19 upon the usual license form.

20 C. The ~~[division]~~ department may issue a restricted  
21 license for driving during daylight hours only to some  
22 visually-handicapped persons who fail the usual eyesight test.  
23 The ~~[medical]~~ health standards advisory board created pursuant  
24 to the provisions of Section 66-5-6 NMSA 1978 shall evaluate  
25 the extent of the visual handicap and its effect on the driving

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1 ability of the applicant and, based on ~~[their]~~ its  
2 recommendations, the director may issue a restricted license  
3 under the following conditions:

4 (1) the applicant has no record of moving  
5 violations;

6 (2) the necessity of the license is shown to  
7 the satisfaction of the director; and

8 (3) the applicant satisfies the provisions of  
9 Section ~~[64-5-206 NMSA 1953]~~ 66-5-206 NMSA 1978 relating to  
10 proof of financial responsibility.

11 D. The ~~[division]~~ department may, upon receiving  
12 satisfactory evidence of any violation of the restrictions of  
13 the license, suspend the ~~[same]~~ license, but the licensee  
14 ~~[shall be]~~ is entitled to a hearing as upon a suspension under  
15 Sections ~~[64-5-1 through 64-5-47 NMSA 1953]~~ 66-5-1 through  
16 66-5-47 NMSA 1978.

17 E. The department may issue a special restricted  
18 license that restricts the use of a commercial or operator's  
19 license to seek or maintain gainful employment.

20 ~~[E.]~~ F. It is a misdemeanor for any person to  
21 operate a motor vehicle in any manner in violation of the  
22 restrictions imposed in a restricted license issued to him."