

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 17

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO MOTOR VEHICLES; PROHIBITING TEXTING WHILE DRIVING;
PROVIDING EXCEPTIONS; PROVIDING PENALTIES.

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

SECTION 1. A new section of the Motor Vehicle Code is
enacted to read:

"~~[NEW MATERIAL]~~ TEXTING WHILE DRIVING.--

A. A person shall not read or view a text message
or type on a handheld mobile communication device for any
purpose while driving a motor vehicle, except to summon medical
or other emergency help.

B. As used in this section:

(1) "driving" means being in actual physical
control of a motor vehicle on a highway or street and includes
being temporarily stopped because of traffic or at a traffic

1 light, but "driving" excludes operating a motor vehicle when
2 the vehicle has pulled over to the side of or off of an active
3 roadway and has stopped at a location in which it can safely
4 remain stationary;

5 (2) "handheld mobile communication device"
6 means a wireless communication device that is designed to
7 receive and transmit text or image messages, but "handheld
8 mobile communication device" excludes global positioning or
9 navigation systems, devices that are physically or
10 electronically integrated into a motor vehicle and voice-
11 operated or hands-free devices that allow the user to write,
12 send or read a text message without the use of a hand except to
13 activate, deactivate or initiate a feature or function; and

14 (3) "text message" means a digital
15 communication transmitted or intended to be transmitted between
16 communication devices and includes electronic mail, an instant
17 message, a text or image communication and a command or request
18 to an internet site; but "text message" excludes communications
19 through the use of a computer-aided dispatch service by law
20 enforcement or rescue personnel."

21 SECTION 2. Section 66-8-116 NMSA 1978 (being Laws 1978,
22 Chapter 35, Section 524, as amended) is amended to read:

23 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--
24 DEFINITION--SCHEDULE OF ASSESSMENTS.--

25 A. As used in the Motor Vehicle Code, "penalty

1 assessment misdemeanor" means violation of any of the following
 2 listed sections of the NMSA 1978 for which, except as provided
 3 in Subsections D and E of this section, the listed penalty
 4 assessment is established:

5 COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY
6		ASSESSMENT
7 Permitting unlicensed		
8 minor to drive	66-5-40	\$ 10.00
9 Failure to obey sign	66-7-104	10.00
10 Failure to obey signal	66-7-105	10.00
11 Speeding	66-7-301	
12 (1) up to and including		
13 ten miles an hour		
14 over the speed limit		15.00
15 (2) from eleven up to		
16 and including fifteen		
17 miles an hour		
18 over the speed limit		30.00
19 (3) from sixteen up to		
20 and including twenty		
21 miles an hour over the		
22 speed limit		65.00
23 (4) from twenty-one up to		
24 and including twenty-five		
25 miles an hour		

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1	over the speed limit		100.00
2	(5) from twenty-six up to		
3	and including thirty		
4	miles an hour over the		
5	speed limit		125.00
6	(6) from thirty-one up to		
7	and including thirty-five		
8	miles an hour over the		
9	speed limit		150.00
10	(7) more than thirty-five		
11	miles an hour over the		
12	speed limit		200.00
13	Unfastened safety belt	66-7-372	25.00
14	Child not in restraint device		
15	or seat belt	66-7-369	25.00
16	Minimum speed	66-7-305	10.00
17	Speeding	66-7-306	15.00
18	Improper starting	66-7-324	10.00
19	Improper backing	66-7-354	10.00
20	Improper lane	66-7-308	10.00
21	Improper lane	66-7-313	10.00
22	Improper lane	66-7-316	10.00
23	Improper lane	66-7-317	10.00
24	Improper lane	66-7-319	10.00
25	Improper passing	66-7-309 through 66-7-312	10.00

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1	Improper passing	66-7-315	10.00
2	Controlled access		
3	violation	66-7-320	10.00
4	Controlled access		
5	violation	66-7-321	10.00
6	Improper turning	66-7-322	10.00
7	Improper turning	66-7-323	10.00
8	Improper turning	66-7-325	10.00
9	Following too closely	66-7-318	10.00
10	Failure to yield	66-7-328 through 66-7-331	10.00
11	Failure to yield	66-7-332	50.00
12	Failure to yield	66-7-332.1	25.00
13	Pedestrian violation	66-7-333	10.00
14	Pedestrian violation	66-7-340	10.00
15	Failure to stop	66-7-342 and 66-7-344	
16		through 66-7-346	10.00
17	Railroad-highway grade		
18	crossing violation	66-7-341 and 66-7-343	150.00
19	Passing school bus	66-7-347	100.00
20	Failure to signal	66-7-325 through 66-7-327	10.00
21	Failure to secure load	66-7-407	100.00
22	Operation without oversize-		
23	overweight permit	66-7-413	50.00
24	Transport of reducible		
25	load with special		

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1	permit more than six miles		
2	from a border crossing	66-7-413	100.00
3	Improper equipment	66-3-801	10.00
4	Improper equipment	66-3-901	20.00
5	Improper emergency		
6	signal	66-3-853 through 66-3-857	10.00
7	Operation interference	66-7-357	5.00
8	Littering	66-7-364	300.00
9	Improper parking	66-7-349 through 66-7-352	
10		and 66-7-353	5.00
11	Improper parking	66-3-852	5.00
12	Failure to dim lights	66-3-831	10.00
13	Riding in or towing		
14	occupied house trailer	66-7-366	5.00
15	Improper opening of doors	66-7-367	5.00
16	No slow-moving vehicle		
17	emblem or flashing		
18	amber light	66-3-887	5.00
19	Open container - first		
20	violation	66-8-138	25.00
21	<u>Texting while driving -</u>	<u>Section 1 of this</u>	
22	<u>first violation</u>	<u>2013 act</u>	<u>25.00</u>
23	<u>Texting while driving -</u>	<u>Section 1 of this</u>	
24	<u>second violation</u>	<u>2013 act</u>	<u>50.00.</u>

25 B. The term "penalty assessment misdemeanor" does not

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1 include a violation that has caused or contributed to the cause
2 of an accident resulting in injury or death to a person.

3 C. When an alleged violator of a penalty assessment
4 misdemeanor elects to accept a notice to appear in lieu of a
5 notice of penalty assessment, a fine imposed upon later
6 conviction shall not exceed the penalty assessment established
7 for the particular penalty assessment misdemeanor and probation
8 imposed upon a suspended or deferred sentence shall not exceed
9 ninety days.

10 D. The penalty assessment for speeding in violation
11 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978
12 is twice the penalty assessment established in Subsection A of
13 this section for the equivalent miles per hour over the speed
14 limit.

15 E. Upon a second conviction for operation without a
16 permit for excessive size or weight pursuant to Section
17 66-7-413 NMSA 1978, the penalty assessment shall be two hundred
18 fifty dollars (\$250). Upon a third or subsequent conviction,
19 the penalty assessment shall be five hundred dollars (\$500).

20 F. Upon a second conviction for transport of a
21 reducible load with a permit for excessive size or weight
22 pursuant to Subsection N of Section 66-7-413 NMSA 1978 more
23 than six miles from a port-of-entry facility on the border with
24 Mexico, the penalty assessment shall be five hundred dollars
25 (\$500). Upon a third or subsequent conviction, the penalty

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1 assessment shall be one thousand dollars (\$1,000)."

2 SECTION 3. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2013.

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underscoring material = new
~~[bracketed material]~~ = delete