

1 HOUSE BILL 131

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Tim D. Lewis

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10 AN ACT

11 RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR
12 OR DRUGS; PROVIDING FOR INCREASES IN THE TIME REQUIRED FOR A
13 PERSON'S LICENSE TO BE REVOKED AND TO USE AN IGNITION INTERLOCK
14 DEVICE AND OBTAIN AN IGNITION INTERLOCK LICENSE DEPENDING ON
15 THE BLOOD OR BREATH ALCOHOL CONCENTRATION; PROVIDING THAT
16 PERSONS WHO REFUSE TO SUBMIT TO A CHEMICAL TEST WILL BE
17 CONSIDERED TO HAVE HAD A BLOOD OR BREATH ALCOHOL CONCENTRATION
18 OF SIXTEEN ONE HUNDREDTHS AT TIME OF ARREST FOR PURPOSES OF
19 DETERMINING THE LENGTH OF LICENSE REVOCATION AND THEIR
20 INTERLOCK REQUIREMENT; PROVIDING THAT PERSONS WHO DO NOT OBTAIN
21 AN IGNITION INTERLOCK DEVICE AND LICENSE SHALL BE REQUIRED TO
22 MAINTAIN SOBRIETY.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

25 SECTION 1. Section 66-5-5 NMSA 1978 (being Laws 1978,

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1 Chapter 35, Section 227, as amended) is amended to read:

2 "66-5-5. PERSONS NOT TO BE LICENSED.--The division shall
3 not issue a driver's license under the Motor Vehicle Code to
4 any person:

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

7 (1) an instruction permit to a person fifteen
8 years of age or older who is enrolled in and attending or has
9 completed a driver education course approved by the bureau that
10 includes a DWI education and prevention component;

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

13 (a) who has completed a driver education
14 course approved by the bureau or offered by a public school
15 that includes a DWI education and prevention component and has
16 had an instruction permit for at least six months as provided
17 in Section 66-5-8 NMSA 1978; and

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

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

22 (a) who has had a provisional license
23 for at least a twelve-month period immediately preceding the
24 date of the application for the driver's license as provided in
25 Section 66-5-9 NMSA 1978;

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

3 (c) who has not been adjudicated for an
4 offense involving the use of alcohol or drugs during the
5 twelve-month period immediately preceding the application for
6 the driver's license and who has no pending adjudications
7 alleging an offense involving the use of alcohol or drugs at
8 the time of application; and

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

12 (a) the motorcycle is not in excess of
13 one hundred cubic centimeters displacement;

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

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

21 B. whose license or driving privilege has been
22 suspended or denied, during the period of suspension or denial,
23 or to any person whose license has been revoked, except as
24 provided in Section 66-5-32 NMSA 1978 and the Ignition
25 Interlock Licensing Act;

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1 C. who is an habitual user of narcotic drugs or
2 alcohol or an habitual user of any drug to a degree that
3 renders the person incapable of safely driving a motor vehicle;

4 D. who ~~[is four or more times convicted of]~~ has had
5 that person's driving privilege or driver's license revoked for
6 the remainder of the offender's life for driving a motor
7 vehicle while under the influence of intoxicating liquor or
8 narcotic drug regardless of whether the convictions are under
9 the laws or ordinances of this state or any municipality or
10 county of this state or under the laws or ordinances of any
11 other state, the District of Columbia or any governmental
12 subdivision thereof, except as provided in the Ignition
13 Interlock Licensing Act. Five years from the date of the
14 ~~[fourth]~~ last conviction and every five years thereafter, the
15 person may apply to any district court of this state for
16 restoration of the license, and the court, upon good cause
17 being shown, may order restoration of the license applied for;
18 provided that the person has not been subsequently convicted of
19 driving a motor vehicle while under the influence of
20 intoxicating liquor or drugs. Upon issuance of the order of
21 restoration, a certified copy shall immediately be forwarded to
22 the division, and if the person is otherwise qualified for the
23 license applied for, the four previous convictions shall not
24 prohibit issuance of the license;

25 E. who was convicted on or after June 17, 2005 of

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1 driving a motor vehicle while under the influence of
2 intoxicating liquor or drugs pursuant to the laws or ordinances
3 of any other state, the District of Columbia or any
4 governmental subdivision thereof, unless the person obtains an
5 ignition interlock license as provided in the Ignition
6 Interlock Licensing Act for a period of one year for a first
7 conviction; a period of two years for a second conviction; a
8 period of three years for a third conviction; or the remainder
9 of the offender's life for a fourth or subsequent conviction,
10 subject to a five-year review as provided in Subsection D of
11 this section. Upon presentation of proof satisfactory to the
12 division, the division may credit time spent by a person
13 operating a motor vehicle with an ignition interlock or
14 comparable device, as a condition of the person's sentence for
15 a conviction in another jurisdiction pursuant to this
16 subsection, against the ignition interlock time requirements
17 imposed by this subsection. The division shall promulgate
18 rules necessary for granting credit to persons who participate
19 in comparable out-of-state programs following a conviction for
20 driving a motor vehicle while under the influence of
21 intoxicating liquor or drugs. The requirements of this
22 subsection shall not apply to a person who applies for a
23 driver's license ten years or more from the date of the
24 person's last conviction, except for a person who is subject to
25 lifetime driver's license revocation for a conviction in

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1 another jurisdiction pursuant to this subsection;

2 F. who has previously been afflicted with or who is
3 suffering from any mental disability or disease that would
4 render the person unable to drive a motor vehicle with safety
5 upon the highways and who has not, at the time of application,
6 been restored to health;

7 G. who is required by the Motor Vehicle Code to
8 take an examination, unless the person has successfully passed
9 the examination;

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

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

16 J. as a motorcycle driver who is less than eighteen
17 years of age and who has not presented a certificate or other
18 evidence of having successfully completed a motorcycle driver
19 education program licensed or offered in conformance with rules
20 of the bureau."

21 **SECTION 2.** Section 66-5-29 NMSA 1978 (being Laws 1978,
22 Chapter 35, Section 251, as amended) is amended to read:

23 "66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION.--

24 A. The division shall immediately revoke the
25 driving privilege or driver's license of a driver upon

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1 receiving a record of the driver's adjudication as a delinquent
2 for or conviction of any of the following offenses, whether the
3 offense is under any state law or local ordinance, when the
4 conviction or adjudication has become final:

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

7 (2) any offense rendering a person a "first
8 offender" as defined in the Motor Vehicle Code;

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

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

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

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

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

23 B. Except as provided in the Ignition Interlock
24 Licensing Act and in Subsection C, D, E or F of this section, a
25 person whose driving privilege or driver's license has been

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1 revoked under this section shall not be entitled to apply for
2 or receive a new license until one year from the date that the
3 conviction is final and all rights to an appeal have been
4 exhausted.

5 C. A person who, upon adjudication as a delinquent
6 for driving while under the influence of intoxicating liquor or
7 drugs or a conviction pursuant to Section 66-8-102 NMSA 1978,
8 is subject to revocation of the driving privilege or driver's
9 license under this section for an offense pursuant to which the
10 person was also subject to revocation of the driving privilege
11 or driver's license pursuant to Section 66-8-111 NMSA 1978
12 shall have the person's driving privilege or driver's license
13 revoked for that offense for a combined period of time equal
14 to:

15 ~~[(1) one year for a first offender; or~~

16 ~~(2) for a subsequent offender:~~

17 ~~(a) two years for a second conviction;~~

18 ~~(b) three years for a third conviction;~~

19 or

20 ~~(c) the remainder of the offender's life~~
21 ~~for a fourth or subsequent conviction, subject to a five-year~~
22 ~~review, as provided in Sections 66-5-5 and 66-8-102 NMSA 1978.]~~

23 (1) for a first offender:

24 (a) one year, if the blood or breath of
25 the person contained an alcohol concentration below sixteen one

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1 hundredths;

2 (b) two years, if the blood or breath of
3 the person contained an alcohol concentration from sixteen one
4 hundredths to below twenty-four one hundredths; and

5 (c) four years, if the blood or breath
6 of the person contained an alcohol concentration of twenty-four
7 one hundredths or greater;

8 (2) for a second conviction:

9 (a) two years, if the blood or breath of
10 the person contained an alcohol concentration below sixteen one
11 hundredths;

12 (b) four years, if the blood or breath
13 of the person contained an alcohol concentration from sixteen
14 one hundredths to below twenty-four one hundredths; and

15 (c) the remainder of the offender's life
16 if the blood or breath of the person contained an alcohol
17 concentration of twenty-four one hundredths or greater, subject
18 to a five-year review, as provided in Sections 66-5-5 and
19 66-8-102 NMSA 1978;

20 (3) for a third conviction:

21 (a) three years, if the blood or breath
22 of the person contained an alcohol concentration below sixteen
23 one hundredths; and

24 (b) the remainder of the offender's life
25 if the blood or breath of the person contained an alcohol

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1 concentration of sixteen one hundredths or greater, subject to
2 a five-year review, as provided in Sections 66-5-5 and 66-8-102
3 NMSA 1978; and

4 (4) for a fourth or subsequent conviction, for
5 the remainder of the offender's life, subject to a five-year
6 review, as provided in Sections 66-5-5 and 66-8-102 NMSA 1978.

7 D. The division shall apply the license revocation
8 provisions of Subsection C of this section and the provisions
9 of Subsection D of Section 66-5-5 NMSA 1978 to a person who was
10 three or more times convicted of driving a motor vehicle under
11 the influence of intoxicating liquor or drugs and who has a
12 driver's license revocation pursuant to the law in effect prior
13 to June 17, 2005, upon the request of the person and if the
14 person has had an ignition interlock license for three years or
15 more and has proof from the ignition interlock vendor of no
16 violations of the ignition interlock device in the previous six
17 months.

18 E. Upon receipt of an order from a court pursuant
19 to Section 32A-2-19 NMSA 1978 or Subsection G of Section
20 32A-2-22 NMSA 1978, the division shall revoke the driver's
21 license or driving privileges for a period of time in
22 accordance with these provisions.

23 F. Upon receipt from a district court of a record
24 of conviction for the offense of shooting at or from a motor
25 vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978 or

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1 of a conviction for a conspiracy or an attempt to commit that
2 offense, the division shall revoke the driver's license or
3 driving privileges of the convicted person. A person whose
4 driver's license or driving privilege has been revoked pursuant
5 to the provisions of this subsection shall not be entitled to
6 apply for or receive any new driver's license or driving
7 privilege until one year from the date that the conviction is
8 final and all rights to an appeal have been exhausted."

9 SECTION 3. Section 66-8-102 NMSA 1978 (being Laws 1953,
10 Chapter 139, Section 54, as amended) is amended to read:

11 "66-8-102. DRIVING UNDER THE INFLUENCE OF INTOXICATING
12 LIQUOR OR DRUGS--AGGRAVATED DRIVING UNDER THE INFLUENCE OF
13 INTOXICATING LIQUOR OR DRUGS--PENALTIES.--

14 A. It is unlawful for a person who is under the
15 influence of intoxicating liquor to drive a vehicle within this
16 state.

17 B. It is unlawful for a person who is under the
18 influence of any drug to a degree that renders the person
19 incapable of safely driving a vehicle to drive a vehicle within
20 this state.

21 C. It is unlawful for:

22 (1) a person to drive a vehicle in this state
23 if the person has an alcohol concentration of eight one
24 hundredths or more in the person's blood or breath within three
25 hours of driving the vehicle and the alcohol concentration

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1 results from alcohol consumed before or while driving the
2 vehicle; or

3 (2) a person to drive a commercial motor
4 vehicle in this state if the person has an alcohol
5 concentration of four one hundredths or more in the person's
6 blood or breath within three hours of driving the commercial
7 motor vehicle and the alcohol concentration results from
8 alcohol consumed before or while driving the vehicle.

9 D. Aggravated driving under the influence of
10 intoxicating liquor or drugs consists of:

11 (1) driving a vehicle in this state with an
12 alcohol concentration of sixteen one hundredths or more in the
13 driver's blood or breath within three hours of driving the
14 vehicle and the alcohol concentration results from alcohol
15 consumed before or while driving the vehicle;

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

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

24 E. A first conviction pursuant to this section
25 shall be punished, notwithstanding the provisions of Section

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1 31-18-13 NMSA 1978, by imprisonment for not more than ninety
2 days or by a fine of not more than five hundred dollars (\$500),
3 or both; provided that if the sentence is suspended in whole or
4 in part or deferred, the period of probation may extend beyond
5 ninety days but shall not exceed [~~one year~~] four years. Upon a
6 first conviction pursuant to this section, an offender shall be
7 sentenced to not less than twenty-four hours of community
8 service. In addition, the offender may be required to pay a
9 fine of three hundred dollars (\$300). The offender shall be
10 ordered by the court to participate in and complete a screening
11 program described in Subsection K of this section and to attend
12 a driver rehabilitation program for alcohol or drugs, also
13 known as a "DWI school", approved by the bureau and also may be
14 required to participate in other rehabilitative services as the
15 court shall determine to be necessary. In addition to those
16 penalties, when an offender commits aggravated driving under
17 the influence of intoxicating liquor or drugs, the offender
18 shall be sentenced to not less than forty-eight consecutive
19 hours in jail. If an offender fails to complete, within a time
20 specified by the court, any community service, screening
21 program, treatment program or DWI school ordered by the court
22 or fails to comply with any other condition of probation, the
23 offender shall be sentenced to not less than an additional
24 forty-eight consecutive hours in jail. Any jail sentence
25 imposed pursuant to this subsection for failure to complete,

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

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

21 (1) upon a second conviction, an offender
22 shall be sentenced to a jail term of not less than ninety-six
23 consecutive hours, not less than forty-eight hours of community
24 service and a fine of five hundred dollars (\$500). In addition
25 to those penalties, when an offender commits aggravated driving

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

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

24 G. Upon a fourth conviction pursuant to this
25 section, an offender is guilty of a fourth degree felony and,

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1 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
2 shall be sentenced to a term of imprisonment of eighteen
3 months, six months of which shall not be suspended, deferred or
4 taken under advisement.

5 H. Upon a fifth conviction pursuant to this
6 section, an offender is guilty of a fourth degree felony and,
7 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
8 shall be sentenced to a term of imprisonment of two years, one
9 year of which shall not be suspended, deferred or taken under
10 advisement.

11 I. Upon a sixth conviction pursuant to this
12 section, an offender is guilty of a third degree felony and,
13 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
14 shall be sentenced to a term of imprisonment of thirty months,
15 eighteen months of which shall not be suspended, deferred or
16 taken under advisement.

17 J. Upon a seventh or subsequent conviction pursuant
18 to this section, an offender is guilty of a third degree felony
19 and, notwithstanding the provisions of Section 31-18-15 NMSA
20 1978, shall be sentenced to a term of imprisonment of three
21 years, two years of which shall not be suspended, deferred or
22 taken under advisement.

23 K. Upon any conviction pursuant to this section, an
24 offender shall be required to participate in and complete,
25 within a time specified by the court, an alcohol or drug abuse

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1 screening program approved by the department of finance and
2 administration and, if necessary, a treatment program approved
3 by the court. The requirement imposed pursuant to this
4 subsection shall not be suspended, deferred or taken under
5 advisement.

6 L. Upon a second or third conviction pursuant to
7 this section, an offender shall be required to participate in
8 and complete, within a time specified by the court:

9 (1) not less than a twenty-eight-day
10 inpatient, residential or in-custody substance abuse treatment
11 program approved by the court;

12 (2) not less than a ninety-day outpatient
13 treatment program approved by the court;

14 (3) a drug court program approved by the
15 court; or

16 (4) any other substance abuse treatment
17 program approved by the court.

18 The requirement imposed pursuant to this subsection shall
19 not be suspended, deferred or taken under advisement.

20 M. Upon a felony conviction pursuant to this
21 section, the corrections department shall provide substance
22 abuse counseling and treatment to the offender in its custody.

23 While the offender is on probation or parole under its
24 supervision, the corrections department shall also provide
25 substance abuse counseling and treatment to the offender or

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1 shall require the offender to obtain substance abuse counseling
2 and treatment.

3 N. Upon a conviction pursuant to this section, an
4 offender shall be required to obtain an ignition interlock
5 license and have an ignition interlock device installed and
6 operating on all motor vehicles driven by the offender,
7 pursuant to rules adopted by the [~~traffic safety~~] bureau.
8 Unless determined by the bureau to be indigent, the offender
9 shall pay all costs associated with having an ignition
10 interlock device installed on the appropriate motor vehicles.
11 The offender shall operate only those vehicles equipped with
12 ignition interlock devices for:

13 ~~(1) a period of one year, for a first~~
14 ~~offender;~~

15 ~~(2) a period of two years, for a second~~
16 ~~conviction pursuant to this section;~~

17 ~~(3) a period of three years, for a third~~
18 ~~conviction pursuant to this section; or~~

19 ~~(4) the remainder of the offender's life, for~~
20 ~~a fourth or subsequent conviction pursuant to this section.]~~

21 (1) if a first offender:

22 (a) one year, if the blood or breath of
23 the person contained an alcohol concentration below sixteen one
24 hundredths;

25 (b) two years, if the blood or breath of

1 the person contained an alcohol concentration from sixteen one
2 hundredths to below twenty-four one hundredths; and

3 (c) four years, if the blood or breath
4 of the person contained an alcohol concentration of twenty-four
5 one hundredths or greater;

6 (2) upon a second conviction pursuant to this
7 section:

8 (a) two years, if the blood or breath of
9 the person contained an alcohol concentration below sixteen one
10 hundredths;

11 (b) four years, if the blood or breath
12 of the person contained an alcohol concentration from sixteen
13 one hundredths to below twenty-four one hundredths; and

14 (c) the remainder of the offender's life
15 if the blood or breath of the person contained an alcohol
16 concentration of twenty-four one hundredths or greater, subject
17 to a five-year review, as provided in Section 66-5-5 NMSA 1978
18 and Subsection P of this section;

19 (3) upon a third conviction pursuant to this
20 section:

21 (a) three years, if the blood or breath
22 of the person contained an alcohol concentration below sixteen
23 one hundredths; and

24 (b) the remainder of the offender's life
25 if the blood or breath of the person contained an alcohol

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1 concentration of sixteen one hundredths or greater, subject to
2 a five-year review, as provided in Section 66-5-5 NMSA 1978 and
3 Subsection P of this section; and

4 (4) upon a fourth or subsequent conviction
5 pursuant to this section, for the remainder of the offender's
6 life, subject to a five-year review, as provided in Section
7 66-5-5 NMSA 1978 and Subsection P of this section.

8 O. An offender who refuses to submit to chemical
9 testing at time of arrest under the Implied Consent Act shall
10 be considered to have had a blood or breath alcohol
11 concentration of sixteen one hundredths for the purposes of
12 establishing an ignition interlock requirement period under
13 Subsection N of this section.

14 ~~[O-]~~ P. Five years from the date of conviction and
15 every five years thereafter, ~~[a fourth or subsequent offender]~~
16 an offender with a lifetime interlock device requirement may
17 apply to a district court for removal of the ignition interlock
18 device requirement provided in this section and for restoration
19 of a driver's license. A district court may, for good cause
20 shown, remove the ignition interlock device requirement and
21 order restoration of the license; provided that the offender
22 has not been subsequently convicted of driving a motor vehicle
23 under the influence of intoxicating liquor or drugs. Good
24 cause may include an alcohol screening and proof from the
25 interlock vendor that the person has not had violations of the

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1 interlock device.

2 [P-] Q. An offender who obtains an ignition
3 interlock license and installs an ignition interlock device
4 prior to conviction shall be given credit at sentencing for the
5 time period the ignition interlock device has been in use.

6 R. An offender who has not installed an ignition
7 interlock device and has not obtained an ignition interlock
8 license shall be required to maintain sobriety and to
9 participate in a court-approved sobriety monitoring program for
10 the same period as the ignition interlock requirement in
11 Subsection N of this section. Sobriety shall be monitored at
12 least daily. After twelve months of monitored sobriety, the
13 court may reduce the frequency of monitoring. Failure to
14 maintain sobriety or to comply with the monitoring program
15 shall result in a jail term of not less than forty-eight hours
16 for each failure to maintain sobriety or to comply with the
17 monitoring program. The jail term may not be served on a
18 community release or an electronic monitoring program. A jail
19 term imposed under this subsection is not limited by the
20 maximum imprisonment terms specified in Subsection E or F of
21 this section. Unless determined by the court to be indigent,
22 the offender shall pay all costs associated with sobriety
23 monitoring. Upon the offender installing an ignition interlock
24 device and obtaining an ignition interlock license, the court
25 may suspend the sobriety maintenance and monitoring

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1 requirements. The time spent successfully maintaining sobriety
2 shall be credited toward the time required in Subsection N of
3 this section to have the ignition interlock device and license.

4 [Q-] S. In the case of a first, second or third
5 offense under this section, the magistrate court has concurrent
6 jurisdiction with district courts to try the offender.

7 [R-] T. A conviction pursuant to a municipal or
8 county ordinance in New Mexico or a law of any other
9 jurisdiction, territory or possession of the United States or
10 of a tribe, when that ordinance or law is equivalent to New
11 Mexico law for driving under the influence of intoxicating
12 liquor or drugs, and prescribes penalties for driving under the
13 influence of intoxicating liquor or drugs, shall be deemed to
14 be a conviction pursuant to this section for purposes of
15 determining whether a conviction is a second or subsequent
16 conviction.

17 [S-] U. In addition to any other fine or fee that
18 may be imposed pursuant to the conviction or other disposition
19 of the offense under this section, the court may order the
20 offender to pay the costs of any court-ordered screening and
21 treatment programs.

22 [T-] V. With respect to this section and
23 notwithstanding any provision of law to the contrary, if an
24 offender's sentence was suspended or deferred in whole or in
25 part and the offender violates any condition of probation, the

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1 court may impose any sentence that the court could have
2 originally imposed and credit shall not be given for time
3 served by the offender on probation.

4 ~~[U-]~~ W. As used in this section:

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

10 (2) "commercial motor vehicle" means a motor
11 vehicle or combination of motor vehicles used in commerce to
12 transport passengers or property if the motor vehicle:

13 (a) has a gross combination weight
14 rating of more than twenty-six thousand pounds inclusive of a
15 towed unit with a gross vehicle weight rating of more than ten
16 thousand pounds;

17 (b) has a gross vehicle weight rating of
18 more than twenty-six thousand pounds;

19 (c) is designed to transport sixteen or
20 more passengers, including the driver; or

21 (d) is of any size and is used in the
22 transportation of hazardous materials, which requires the motor
23 vehicle to be placarded under applicable law."

24 **SECTION 4. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is July 1, 2015.

.198282.4