

1 HOUSE BILL 148

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

3 INTRODUCED BY

4 Jeff Steinborn and Peter Wirth

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9  
10 AN ACT

11 RELATING TO MOTOR VEHICLES; AMENDING AND ENACTING SECTIONS OF  
12 THE MOTOR VEHICLE CODE TO PROHIBIT SMOKING IN ANY MOTOR VEHICLE  
13 WHEN A MINOR IS PRESENT; ESTABLISHING PENALTIES.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

18 "[NEW MATERIAL] SMOKING PROHIBITED--VEHICLE WHERE MINOR  
19 PRESENT.--

20 A. It is unlawful for a person to smoke in any  
21 motor vehicle when a minor is present in the vehicle.

22 B. As used in this section:

23 (1) "e-cigarette":

24 (a) means any electronic oral device  
25 that is composed of either a heating element and battery or an

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1 electronic circuit and that emits an aerosol or vapor of  
2 nicotine or any other substance that is inhaled or otherwise  
3 drawn into the mouth; and

4 (b) includes any device that meets the  
5 definition in Subparagraph (a) of this paragraph, whether that  
6 device is manufactured, distributed, marketed or sold as an e-  
7 cigarette, e-cigar or e-pipe or as any other product, name or  
8 descriptor;

9 (2) "minor" means an individual who is under  
10 eighteen years of age;

11 (3) "motor vehicle" means a self-propelled  
12 device in, upon or by which any person or property is  
13 transported upon land; and

14 (4) "smoking" means:

15 (a) inhaling, exhaling, burning,  
16 carrying or holding any lighted tobacco product, including any  
17 type of cigarette, cigar or pipe or any other lighted tobacco  
18 product; or

19 (b) the operation of an e-cigarette."

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

22 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--DEFINITION--  
23 SCHEDULE OF ASSESSMENTS.--

24 A. As used in the Motor Vehicle Code, "penalty  
25 assessment misdemeanor" means violation of any of the following

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1 listed sections of the NMSA 1978 for which, except as provided  
2 in Subsections D and E of this section, the listed penalty  
3 assessment is established:

4 COMMON NAME OF OFFENSE SECTION VIOLATED PENALTY ASSESSMENT

5 Improper display of

6 registration plate 66-3-18 \$ 25.00

7 Failure to notify of

8 change of name or address 66-3-23 25.00

9 Lost or damaged registration,

10 plate or title 66-3-24 20.00

11 Permitting unauthorized

12 minor to drive 66-5-40 50.00

13 Permitting unauthorized

14 person to drive 66-5-41 25.00

15 Failure to obey sign 66-7-104 10.00

16 Failure to obey signal 66-7-105 10.00

17 Speeding 66-7-301

18 (1) up to and including

19 ten miles an hour

20 over the speed limit 15.00

21 (2) from eleven up to

22 and including fifteen

23 miles an hour

24 over the speed limit 30.00

25 (3) from sixteen up to

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|    |                               |          |        |
|----|-------------------------------|----------|--------|
| 1  | and including twenty          |          |        |
| 2  | miles an hour over the        |          |        |
| 3  | speed limit                   |          | 65.00  |
| 4  | (4) from twenty-one up to     |          |        |
| 5  | and including twenty-five     |          |        |
| 6  | miles an hour                 |          |        |
| 7  | over the speed limit          |          | 100.00 |
| 8  | (5) from twenty-six up to     |          |        |
| 9  | and including thirty          |          |        |
| 10 | miles an hour over the        |          |        |
| 11 | speed limit                   |          | 125.00 |
| 12 | (6) from thirty-one up to     |          |        |
| 13 | and including thirty-five     |          |        |
| 14 | miles an hour over the        |          |        |
| 15 | speed limit                   |          | 150.00 |
| 16 | (7) more than thirty-five     |          |        |
| 17 | miles an hour over the        |          |        |
| 18 | speed limit                   |          | 200.00 |
| 19 | Unfastened safety belt        | 66-7-372 | 25.00  |
| 20 | Child not in restraint device |          |        |
| 21 | or seat belt                  | 66-7-369 | 25.00  |
| 22 | Minimum speed                 | 66-7-305 | 10.00  |
| 23 | Speeding                      | 66-7-306 | 15.00  |
| 24 | Improper starting             | 66-7-324 | 10.00  |
| 25 | Improper backing              | 66-7-354 | 10.00  |

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|----|------------------------|---------------------------|--------|
| 1  | Improper lane          | 66-7-308                  | 10.00  |
| 2  | Improper lane          | 66-7-313                  | 10.00  |
| 3  | Improper lane          | 66-7-316                  | 10.00  |
| 4  | Improper lane          | 66-7-317                  | 10.00  |
| 5  | Improper lane          | 66-7-319                  | 10.00  |
| 6  | Improper passing       | 66-7-309 through 66-7-312 | 10.00  |
| 7  | Improper passing       | 66-7-315                  | 10.00  |
| 8  | Controlled access      |                           |        |
| 9  | violation              | 66-7-320                  | 10.00  |
| 10 | Controlled access      |                           |        |
| 11 | violation              | 66-7-321                  | 10.00  |
| 12 | Improper turning       | 66-7-322                  | 10.00  |
| 13 | Improper turning       | 66-7-323                  | 10.00  |
| 14 | Improper turning       | 66-7-325                  | 10.00  |
| 15 | Following too closely  | 66-7-318                  | 10.00  |
| 16 | Failure to yield       | 66-7-328 through 66-7-331 | 10.00  |
| 17 | Failure to yield       | 66-7-332                  | 50.00  |
| 18 | Failure to yield       | 66-7-332.1                | 25.00  |
| 19 | Pedestrian violation   | 66-7-333                  | 10.00  |
| 20 | Pedestrian violation   | 66-7-340                  | 10.00  |
| 21 | Failure to stop        | 66-7-342 and 66-7-344     |        |
| 22 |                        | through 66-7-346          | 10.00  |
| 23 | Railroad-highway grade |                           |        |
| 24 | crossing violation     | 66-7-341 and 66-7-343     | 150.00 |
| 25 | Passing school bus     | 66-7-347                  | 100.00 |

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| 1  | Failure to signal           | 66-7-325 through 66-7-327 | 10.00  |
| 2  | Failure to secure load      | 66-7-407                  | 100.00 |
| 3  | Operation without oversize- |                           |        |
| 4  | overweight permit           | 66-7-413                  | 50.00  |
| 5  | Transport of reducible      |                           |        |
| 6  | load with special           |                           |        |
| 7  | permit more than six miles  |                           |        |
| 8  | from a border crossing      | 66-7-413                  | 100.00 |
| 9  | Improper equipment          | 66-3-801                  |        |
| 10 |                             | through 66-3-851          | 25.00  |
| 11 | Improper equipment          | 66-3-901                  | 20.00  |
| 12 | Improper emergency          |                           |        |
| 13 | signal                      | 66-3-853 through 66-3-857 | 10.00  |
| 14 | Minor on motorcycle         |                           |        |
| 15 | without helmet              | 66-7-356                  | 300.00 |
| 16 | Operation interference      | 66-7-357                  | 50.00  |
| 17 | Littering                   | 66-7-364                  | 300.00 |
| 18 | Improper parking            | 66-7-349 through 66-7-352 |        |
| 19 |                             | and 66-7-353              | 5.00   |
| 20 | Improper parking            | 66-3-852                  | 5.00   |
| 21 | Failure to dim lights       | 66-3-831                  | 10.00  |
| 22 | Riding in or towing         |                           |        |
| 23 | occupied house trailer      | 66-7-366                  | 5.00   |
| 24 | Improper opening of doors   | 66-7-367                  | 5.00   |
| 25 | No slow-moving vehicle      |                           |        |

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| 1  | emblem or flashing          |                                      |                |
| 2  | amber light                 | 66-3-887                             | 5.00           |
| 3  | Open container - first      |                                      |                |
| 4  | violation                   | 66-8-138                             | 25.00          |
| 5  | Texting while driving -     | <del>[Section 1 of this</del>        |                |
| 6  | first violation             | <del>2014 act]</del> <u>66-7-374</u> | 25.00          |
| 7  | Texting while driving -     | <del>[Section 1 of this</del>        |                |
| 8  | subsequent violation        | <del>2014 act]</del> <u>66-7-374</u> | 50.00          |
| 9  | <u>Smoking with minor</u>   |                                      |                |
| 10 | <u>present in vehicle -</u> | <u>Section 1 of this</u>             |                |
| 11 | <u>first violation</u>      | <u>2015 act</u>                      | <u>300.00</u>  |
| 12 | <u>Smoking with minor</u>   |                                      |                |
| 13 | <u>present in vehicle -</u> | <u>Section 1 of this</u>             |                |
| 14 | <u>subsequent violation</u> | <u>2015 act</u>                      | <u>500.00.</u> |

15 B. The term "penalty assessment misdemeanor" does  
16 not include a violation that has caused or contributed to the  
17 cause of an accident resulting in injury or death to a person.

18 C. When an alleged violator of a penalty assessment  
19 misdemeanor elects to accept a notice to appear in lieu of a  
20 notice of penalty assessment, a fine imposed upon later  
21 conviction shall not exceed the penalty assessment established  
22 for the particular penalty assessment misdemeanor and probation  
23 imposed upon a suspended or deferred sentence shall not exceed  
24 ninety days.

25 D. The penalty assessment for speeding in violation

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1 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978  
2 is twice the penalty assessment established in Subsection A of  
3 this section for the equivalent miles per hour over the speed  
4 limit.

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

10 F. Upon a second conviction for transport of a  
11 reducible load with a permit for excessive size or weight  
12 pursuant to Subsection N of Section 66-7-413 NMSA 1978 more  
13 than six miles from a port-of-entry facility on the border with  
14 Mexico, the penalty assessment shall be five hundred dollars  
15 (\$500). Upon a third or subsequent conviction, the penalty  
16 assessment shall be one thousand dollars (\$1,000)."