

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 85

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

AN ACT

RELATING TO PUBLIC EDUCATION; PROVIDING FOR THE SUSPENSION OR
POSTPONEMENT OF DRIVING PRIVILEGES OF SCHOOL-AGE PERSONS WHO
ARE IN VIOLATION OF THE COMPULSORY SCHOOL ATTENDANCE LAW.

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

SECTION 1. Section 22-12-7 NMSA 1978 (being Laws 1967,
Chapter 16, Section 175, as amended) is amended to read:

"22-12-7. ENFORCEMENT OF ATTENDANCE LAW--HABITUAL
TRUANTS--PENALTY--SUSPENSION OR DENIAL OF DRIVING PRIVILEGES--
APPEAL TO SCHOOL DISTRICT, DEPARTMENT AND DISTRICT COURT.--

A. Each local school board and each governing body
of a charter school or private school shall initiate the
enforcement of the provisions of the Compulsory School
Attendance Law for students enrolled in their respective
schools.

.199487.2

underscored material = new
[bracketed material] = delete

1 B. To initiate enforcement of the provisions of the
2 Compulsory School Attendance Law against ~~[an]~~ a student who is
3 a habitual truant, a local school board or governing body of a
4 charter school or private school or its authorized
5 representatives shall give written notice of the habitual
6 truancy by mail to or by personal service on the parent of the
7 student subject to and in noncompliance with the provisions of
8 the Compulsory School Attendance Law. The notice shall include
9 a date, time and place for the parent to meet with the local
10 school district, charter school or private school to develop
11 intervention strategies that focus on keeping the student in an
12 educational setting.

13 C. If unexcused absences continue after written
14 notice of habitual truancy as provided in Subsection B of this
15 section has occurred, the student shall be reported to the
16 juvenile probation ~~[services]~~ office of the judicial district
17 where the student resides for an investigation as to whether
18 the student shall be considered to be a neglected child or a
19 child in a family in need of services because of habitual
20 truancy and thus subject to the provisions of the Children's
21 Code. The juvenile probation ~~[services]~~ office may send a
22 written notice to a parent of the student directing the parent
23 and student to report to the juvenile probation ~~[services]~~
24 office to discuss services for the student or the family. ~~[In~~
25 ~~addition to any other disposition, the children's court may~~

1 ~~order the habitual truant's driving privileges to be suspended~~
2 ~~for a specified time not to exceed ninety days on the first~~
3 ~~finding of habitual truancy and not to exceed one year for a~~
4 ~~subsequent finding of habitual truancy.]~~

5 D. If, after review by the juvenile probation
6 office where the student resides, a determination and finding
7 is made that the habitual truancy by the student may have been
8 caused by the parent of the student, then the matter [~~will~~]
9 shall be referred by the juvenile probation office to the
10 district attorney's office or any law enforcement agency having
11 jurisdiction for appropriate investigation and filing of
12 charges allowed under the Compulsory School Attendance Law.
13 Charges against the parent may be filed in metropolitan court,
14 magistrate court or district court.

15 E. A parent of the student who, after receiving
16 written notice as provided in Subsection B of this section and
17 after the matter has been reviewed in accordance with
18 Subsection D of this section, knowingly allows the student to
19 continue to violate the Compulsory School Attendance Law [~~shall~~
20 ~~be~~] is guilty of a petty misdemeanor. Upon the first
21 conviction, a fine of not less than twenty-five dollars
22 (\$25.00) or more than one hundred dollars (\$100) may be
23 imposed, or the parent of the student may be ordered to perform
24 community service. If violations of the Compulsory School
25 Attendance Law continue, upon the second and subsequent

.199487.2

1 convictions, the parent of the student who knowingly allows the
2 student to continue to violate the Compulsory School Attendance
3 Law ~~[shall be]~~ is guilty of a petty misdemeanor and shall be
4 subject to a fine of not more than five hundred dollars (\$500)
5 or imprisonment for a definite term not to exceed six months or
6 both.

7 F. ~~[The provisions of this section shall apply~~
8 ~~beginning July 1, 2004.]~~ Starting with the 2016-2017 school
9 year, when a student in grade eight through twelve accumulates
10 ten or more unexcused absences in a school year and becomes a
11 habitual truant:

12 (1) a school shall give to the student's
13 parent a notice of noncompliance with the Compulsory School
14 Attendance Law containing:

15 (a) the name, date of birth and address
16 of the student;

17 (b) a statement that the student is in
18 noncompliance with the Compulsory School Attendance Law due to
19 habitual truancy and the number and dates of unexcused
20 absences; and

21 (c) notice of the opportunity for the
22 student and the student's parent to request an optional meeting
23 with the school principal or head administrator within two
24 weeks to: 1) commit to the student returning to school and
25 complying with the Compulsory School Attendance Law; 2) contest

1 the occurrences and number of the student's unexcused absences;
2 3) provide evidence that the student is no longer subject to
3 the Compulsory School Attendance Law; or 4) request a hardship
4 waiver pursuant to department rule to fulfill unavoidable
5 employment or family medical caregiving duties;

6 (2) a school district or charter school shall
7 give to the student's parent and the motor vehicle division of
8 the taxation and revenue department a state-provided
9 certification of noncompliance with the Compulsory School
10 Attendance Law no less than thirty days after the notice of
11 noncompliance with the Compulsory School Attendance Law is sent
12 to the parent pursuant to Paragraph (1) of this subsection if
13 the student remains noncompliant, unless the student has been
14 granted a hardship waiver pursuant to Item 4) of Subparagraph
15 (c) of Paragraph (1) of this subsection prior to the issuance
16 of a state-provided certification of noncompliance;

17 (3) upon the motor vehicle division's receipt
18 of a state-provided certification of noncompliance with the
19 Compulsory School Attendance Law, the motor vehicle division
20 shall suspend or deny the issuance of an instruction permit,
21 driver's license or provisional license to a student pursuant
22 to the Motor Vehicle Code until the student reaches the age of
23 eighteen years; and

24 (4) following the suspension or denial of an
25 instruction permit, driver's license or provisional license,

.199487.2

1 the student may:

2 (a) request a meeting with the school
3 district or charter school to provide evidence supporting a
4 request that the school district or charter school provide to
5 the motor vehicle division a certification that the student is
6 in compliance with or is no longer subject to the Compulsory
7 School Attendance Law;

8 (b) appeal the school district's or
9 charter school's determination by requesting a hearing and
10 final decision from the department pursuant to its rules; and

11 (c) appeal the department's final
12 decision to the district court for the county in which the
13 student resides pursuant to Section 39-3-1.1 NMSA 1978."

14 SECTION 2. A new section of the Public School Code is
15 enacted to read:

16 "[NEW MATERIAL] REPORTING.--No later than November 15,
17 2017 and each subsequent year, the department, in collaboration
18 with the motor vehicle division of the taxation and revenue
19 department and school districts and charter schools, shall
20 submit an annual statewide report to the governor, the
21 legislative education study committee and the legislative
22 finance committee on the implementation of the Compulsory
23 School Attendance Law. The annual statewide report shall
24 include to the extent available:

25 A. aggregate data for each middle school, high

.199487.2

underscored material = new
[bracketed material] = delete

1 school, school district and charter school regarding
2 implementation of Subsection F of Section 22-12-7 NMSA 1978 and
3 Section 3 of this 2015 act, including:

4 (1) the number of students who accumulated the
5 equivalent of ten days or more of unexcused absences within a
6 school year;

7 (2) the number of state-provided
8 certifications of noncompliance issued pursuant to the
9 Compulsory School Attendance Law;

10 (3) the number of students who were denied the
11 issuance of or incurred the suspension of an instruction
12 permit, driver's license or provisional license due to
13 noncompliance with the Compulsory School Attendance Law and the
14 number of:

15 (a) students who had more than one
16 denial or suspension; and

17 (b) instruction permits, driver's
18 licenses or provisional licenses that were denied or suspended
19 and were subsequently granted or reinstated as a consequence of
20 compliance with the Compulsory School Attendance Law; and

21 (4) the number of hardship waivers granted
22 pursuant to Item 4) of Subparagraph (c) of Paragraph (1) of
23 Subsection F of Section 22-12-7 NMSA 1978; and

24 B. an evaluation of any improvement in academic
25 achievement attributable to implementation of the Compulsory

.199487.2

1 School Attendance Law, including, to the extent applicable, for
2 each middle school, high school, school district and charter
3 school:

4 (1) the students' mathematics assessment
5 scores;

6 (2) the students' English language arts
7 assessment scores;

8 (3) the four-year cohort graduation rate; and

9 (4) the most recent grade received under the
10 A-B-C-D-F Schools Rating Act."

11 SECTION 3. A new section of the Motor Vehicle Code is
12 enacted to read:

13 "[NEW MATERIAL] AUTHORITY OF DIVISION TO SUSPEND LICENSE
14 OF SCHOOL-AGE PERSON.--

15 A. The division is authorized:

16 (1) upon receipt of a state-provided
17 certification of noncompliance with the Compulsory School
18 Attendance Law, pursuant to Section 22-12-7 NMSA 1978, to
19 suspend or deny the granting of an instruction permit, driver's
20 license or provisional license, without a preliminary hearing,
21 of a school-age person as defined in Section 22-1-2 NMSA 1978
22 until the school-age person reaches the age of eighteen years;
23 and

24 (2) upon receipt of a state-provided
25 certification that the school-age person is in compliance with

.199487.2

1 or is no longer subject to the Compulsory School Attendance
2 Law, to:

3 (a) reinstate a suspended instruction
4 permit, driver's license or provisional license of a school-age
5 person; or

6 (b) grant an instruction permit,
7 driver's license or provisional license to a school-age person
8 pursuant to the Motor Vehicle Code.

9 B. The division may adopt and promulgate rules to
10 implement the provisions of this section."