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HOUSE BILL 488

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; INCREASING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS WHILE A LICENSE IS SUSPENDED OR REVOKED FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; PROVIDING PENALTIES.

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

**SECTION 1.** Section 66-5-39 NMSA 1978 (being Laws 1978, Chapter 35, Section 261, as amended) is amended to read:

"66-5-39. DRIVING WHILE LICENSE SUSPENDED--PENALTIES.--

A. Any person who drives a motor vehicle on any public highway of this state at a time when the person's privilege to do so is suspended and who knows or should have known that the person's license was suspended is guilty of a misdemeanor and shall be charged with a violation of this

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1 section. Upon conviction, the person shall be punished,  
2 notwithstanding the provisions of Section 31-18-13 NMSA 1978,  
3 by imprisonment for not less than four days or more than three  
4 hundred sixty-four days or participation for an equivalent  
5 period of time in a certified alternative sentencing program,  
6 and there may be imposed in addition a fine of not more than  
7 one thousand dollars (\$1,000). When a person pays any or all  
8 of the cost of participating in a certified alternative  
9 sentencing program, the court may apply that payment as a  
10 deduction to any fine imposed by the court. Any municipal  
11 ordinance prohibiting driving with a suspended license shall  
12 provide penalties no less stringent than provided in this  
13 section.

14 B. In addition to any other penalties imposed  
15 pursuant to the provisions of this section, when a person is  
16 convicted pursuant to the provisions of this section or a  
17 municipal ordinance that prohibits driving on a suspended  
18 license, the motor vehicle the person was driving may be  
19 immobilized by an immobilization device for thirty days, unless  
20 immobilization of the motor vehicle poses an imminent danger to  
21 the health, safety or employment of the convicted person's  
22 immediate family or the family of the owner of the motor  
23 vehicle. The convicted person shall bear the cost of  
24 immobilizing the motor vehicle.

25 C. The division, upon receiving a record of the

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1 conviction of any person under this section, shall extend the  
2 period of suspension for an additional like period.

3 D. A person who drives a motor vehicle while under  
4 the influence of intoxicating liquor or drugs at a time when  
5 the person's privilege to drive is suspended for driving under  
6 the influence of intoxicating liquor or drugs or a violation of  
7 the Implied Consent Act is guilty of a fourth degree felony."

8 SECTION 2. Section 66-5-39.1 NMSA 1978 (being Laws 2013,  
9 Chapter 163, Section 3) is amended to read:

10 "66-5-39.1. DRIVING WHILE LICENSE REVOKED--PENALTIES.--

11 A. A person who drives a motor vehicle on a public  
12 highway of this state at a time when the person's privilege to  
13 do so is revoked and who knows or should have known that the  
14 person's license was revoked is guilty of a misdemeanor and  
15 shall be charged with a violation of this section. Upon  
16 conviction, the person shall be punished, notwithstanding the  
17 provisions of Section 31-18-13 NMSA 1978, by imprisonment for  
18 not less than four days or more than three hundred sixty-four  
19 days or by participation for an equivalent period of time in a  
20 certified alternative sentencing program, and there may be  
21 imposed in addition a fine of not more than one thousand  
22 dollars (\$1,000). When a person pays any or all of the cost of  
23 participating in a certified alternative sentencing program,  
24 the court may apply that payment as a deduction to any fine  
25 imposed by the court.

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1           B. Notwithstanding any other provision of law for  
2 suspension or deferment of execution of a sentence, if the  
3 person's privilege to drive was revoked for driving under the  
4 influence of intoxicating liquor or drugs or a violation of the  
5 Implied Consent Act, upon conviction pursuant to this section,  
6 the person shall be punished by imprisonment for not less than  
7 seven consecutive days and shall be fined not less than three  
8 hundred dollars (\$300) and not more than one thousand dollars  
9 (\$1,000) and the fine and imprisonment shall not be suspended,  
10 deferred or taken under advisement. No other disposition by  
11 plea of guilty to any other charge in satisfaction of a charge  
12 under this section shall be authorized if the person's  
13 privilege to drive was revoked for driving under the influence  
14 of intoxicating liquor or drugs or a violation of the Implied  
15 Consent Act. Any municipal ordinance prohibiting driving with  
16 a revoked license shall provide penalties no less stringent  
17 than provided in this section.

18           C. In addition to any other penalties imposed  
19 pursuant to this section, when a person is convicted pursuant  
20 to the provisions of this section or a municipal ordinance that  
21 prohibits driving on a revoked license, the motor vehicle the  
22 person was driving shall be immobilized by an immobilization  
23 device for thirty days, unless immobilization of the motor  
24 vehicle poses an imminent danger to the health, safety or  
25 employment of the convicted person's immediate family or the

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1 family of the owner of the motor vehicle. The convicted person  
2 shall bear the cost of immobilizing the motor vehicle.

3 D. The division, upon receiving a record of the  
4 conviction of any person under this section, shall not issue a  
5 new license for an additional period of one year from the date  
6 the person would otherwise have been entitled to apply for a  
7 new license.

8 E. A person who drives a motor vehicle while under  
9 the influence of intoxicating liquor or drugs at a time when  
10 the person's privilege to drive is revoked for driving under  
11 the influence of intoxicating liquor or drugs or a violation of  
12 the Implied Consent Act is guilty of a fourth degree felony."