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HOUSE BILL 415

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

CISCO MCSORLEY

AN ACT

RELATING TO MOTOR VEHICLES; AUTHORIZING THE USE OF CONVICTIONS FROM OTHER JURISDICTIONS FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS AS PRIOR CONVICTIONS; AMENDING A SECTION OF THE MOTOR VEHICLE CODE.

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

Section 1. Section 66-8-102 NMSA 1978 (being Laws 1953, Chapter 139, Section 54, as amended) is amended to read:

"66-8-102. PERSONS UNDER INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--PENALTY.--

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

B. It is unlawful for any person who is under the

1 influence of any drug to a degree that renders him incapable of
2 safely driving a vehicle to drive any vehicle within this state.

3 C. It is unlawful for any person who has an alcohol
4 concentration of eight one-hundredths or more in his blood or
5 breath to drive any vehicle within this state.

6 D. Aggravated driving while under the influence of
7 intoxicating liquor or drugs consists of a person who:

8 (1) has an alcohol concentration of sixteen
9 one-hundredths or more in his blood or breath while driving any
10 vehicle within this state;

11 (2) has caused bodily injury to a human being
12 as a result of the unlawful operation of a motor vehicle while
13 driving under the influence of intoxicating liquor or drugs; or

14 (3) refused to submit to chemical testing, as
15 provided for in the Implied Consent Act, and in the judgment of
16 the court, based upon evidence of intoxication presented to the
17 court, the person was under the influence of intoxicating liquor
18 or drugs.

19 E. Every person under first conviction under this
20 section shall be punished, notwithstanding the provisions of
21 Section 31-18-13 NMSA 1978, by imprisonment for not more than
22 ninety days or by a fine of not more than five hundred dollars
23 (\$500), or both; provided that if the sentence is suspended in
24 whole or in part or deferred, the period of probation may extend
25 beyond ninety days but shall not exceed one year. Upon a first

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1 conviction under this section, an offender may be sentenced to
2 not less than forty-eight hours of community service or a fine
3 of three hundred dollars (\$300). The offender shall be ordered
4 by the court to attend a driver rehabilitation program for
5 alcohol or drugs, also known as a "DWI school", approved by the
6 traffic safety bureau of the state highway and transportation
7 department and also may be required to participate in other
8 rehabilitative services as the court shall determine to be
9 necessary. In addition to those penalties, when an offender
10 commits aggravated driving while under the influence of
11 intoxicating liquor or drugs, the offender shall be sentenced to
12 not less than forty-eight consecutive hours in jail. If an
13 offender fails to complete, within a time specified by the
14 court, any community service, screening program, treatment
15 program or DWI school ordered by the court, the offender shall
16 be sentenced to not less than an additional forty-eight
17 consecutive hours in jail. Any jail sentence imposed under this
18 subsection for failure to complete, within a time specified by
19 the court, any community service, screening program, treatment
20 program or DWI school ordered by the court or for aggravated
21 driving while under the influence of intoxicating liquor or
22 drugs shall not be suspended, deferred or taken under
23 advisement. On a first conviction under this section, any time
24 spent in jail for the offense prior to the conviction for that
25 offense shall be credited to any term of imprisonment fixed by

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1 the court. A deferred sentence under this subsection shall be
2 considered a first conviction for the purpose of determining
3 subsequent convictions.

4 F. A second or third conviction under this section
5 shall be punished, notwithstanding the provisions of Section
6 31-18-13 NMSA 1978, by imprisonment for not more than three
7 hundred sixty-four days or by a fine of not more than one
8 thousand dollars (\$1,000), or both; provided that if the
9 sentence is suspended in whole or in part, the period of
10 probation may extend beyond one year but shall not exceed five
11 years. Notwithstanding any provision of law to the contrary for
12 suspension or deferment of execution of a sentence:

13 (1) upon a second conviction, each offender
14 shall be sentenced to a jail term of not less than seventy-two
15 consecutive hours, forty-eight hours of community service and a
16 fine of five hundred dollars (\$500). In addition to those
17 penalties, when an offender commits aggravated driving while
18 under the influence of intoxicating liquor or drugs, the
19 offender shall be sentenced to a jail term of not less than
20 ninety-six consecutive hours. If an offender fails to complete,
21 within a time specified by the court, any community service,
22 screening program or treatment program ordered by the court, the
23 offender shall be sentenced to not less than an additional seven
24 consecutive days in jail. A penalty imposed pursuant to this
25 paragraph shall not be suspended or deferred or taken under

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1 advisement; and

2 (2) upon a third conviction, an offender shall
3 be sentenced to a jail term of not less than thirty consecutive
4 days and a fine of seven hundred fifty dollars (\$750). In
5 addition to those penalties, when an offender commits aggravated
6 driving while under the influence of intoxicating liquor or
7 drugs, the offender shall be sentenced to a jail term of not
8 less than sixty consecutive days. If an offender fails to
9 complete, within a time specified by the court, any screening
10 program or treatment program ordered by the court, the offender
11 shall be sentenced to not less than an additional sixty
12 consecutive days in jail. A penalty imposed pursuant to this
13 paragraph shall not be suspended or deferred or taken under
14 advisement.

15 G. Upon a fourth or subsequent conviction under this
16 section, an offender is guilty of a fourth degree felony, as
17 provided in Section 31-18-15 NMSA 1978, and shall be sentenced
18 to a jail term of not less than six months, which shall not be
19 suspended or deferred or taken under advisement.

20 H. Upon any conviction under this section, an
21 offender shall be required to participate in and complete,
22 within a time specified by the court, an alcohol or drug abuse
23 screening program and if necessary, a treatment program approved
24 by the court.

25 I. In the case of a first, second or third offense

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1 under this section, the magistrate court has concurrent
2 jurisdiction with district courts to try the offender.

3 J. A conviction under a municipal or county
4 ordinance in New Mexico or a law of any other jurisdiction,
5 territory or possession of the United States prescribing
6 penalties for driving while under the influence of intoxicating
7 liquor or drugs shall be deemed to be a conviction under this
8 section for purposes of determining whether a conviction is a
9 second or subsequent conviction.

10 K. In addition to any other fine or fee which may be
11 imposed pursuant to the conviction or other disposition of the
12 offense under this section, the court may order the offender to
13 pay the costs of any court-ordered screening and treatment
14 programs.

15 L. As used in this section:

16 (1) "bodily injury" means an injury to a person
17 that is not likely to cause death or great bodily harm to the
18 person, but does cause painful temporary disfigurement or
19 temporary loss or impairment of the functions of any member or
20 organ of the person's body; and

21 (2) "conviction" means an adjudication of guilt
22 and does not include imposition of a sentence."

23 Section 2. EFFECTIVE DATE. -- The effective date of the
24 provisions of this act is July 1, 1996.

State of New Mexico House of Representatives

FORTY- SECOND LEGISLATURE

SECOND SESSION, 1996

February 5, 1996

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 415

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
APPROPRIATIONS & FINANCE COMMITTEE.

Respectfully submitted,

Cisco McSorley, Chairman

FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

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Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Baca, King, Sanchez, R. G. , Stewart, McSorley

Absent: None

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State of New Mexico House of Representatives

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 7, 1996

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to
whom has been referred

HOUSE BILL 415

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Max Coll, Chairman

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 13 For 0 Against

Yes: 13

Excused: Bird, Buffett, Coll, Martinez, Watchman

Absent: None

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 12, 1996

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 415

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
FINANCE COMMITTEE.

Respectfully submitted,

Janice D. Paster, Chairman

Adopted _____ Not Adopted _____

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: None

Absent: Carraro, Sanchez, Tsosie

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 14, 1996

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

HOUSE BILL 415

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Ben D. Altamirano, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

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Date _____

The roll call vote was 8 For 0 Against
Yes: 8
No: 0
Excused: Donisthorpe, Duran, Ingle, Kidd, Kysar
Absent: None

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