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HOUSE BILL 611

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

INTRODUCED BY

LORENZO A. LARRANAGA

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING AND ENACTING CERTAIN
SECTIONS OF THE NMSA 1978 TO PROVIDE FOR SUSPENSION OF A
DRIVER'S LICENSE IF THE LICENSEE WITHDRAWS FROM SCHOOL.

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

Section 1. A new section of the Compulsory School
Attendance Law is enacted to read:

"[NEW MATERIAL] SCHOOL ATTENDANCE AS CONDITION OF
LICENSING FOR PRIVILEGE OF OPERATION OF A MOTOR VEHICLE. --

A. As used in this section, "withdrawal" means more
than ten consecutive or fifteen days total unexcused absences
during a single semester except as provided in Subsection A of
Section 22-12-2 NMSA 1978. For the purposes of this section,
"withdrawal" includes unexcused absences due to suspension or
expulsion from school or imprisonment in a jail or penitentiary.

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1 B. The motor vehicle division of the taxation and
2 revenue department shall deny a license or instruction permit
3 for the operation of a motor vehicle to any person under the age
4 of eighteen who does not at the time of application present a
5 diploma or other certificate of graduation issued to the person
6 from a high school of this state or any other state, or
7 documentation provided on a form approved by the department of
8 education indicating that the person is:

9 (1) enrolled and making satisfactory progress
10 in a course leading to a general educational development
11 certificate from a state-approved or tribal-approved institution
12 or organization, or has obtained that certificate;

13 (2) enrolled in a secondary school or home
14 school of this state or any other state;

15 (3) excused from school pursuant to Subsection
16 A of Section 22-12-2 NMSA 1978; or

17 (4) absent from school due to a personal or
18 family hardship.

19 C. The certified school administrator of a public
20 school or the chief administrator of a private school, a home
21 school or a state institution shall provide documentation of
22 enrollment status on a form approved by the department of
23 education upon request to any student under the age of eighteen
24 who is properly enrolled in a school under the jurisdiction of
25 the certified school administrator or the chief administrator

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1 for presentation to the motor vehicle division of the taxation
2 and revenue department on application for or reinstatement of an
3 instruction permit or license to operate a motor vehicle.

4 D. Whenever a student under the age of eighteen
5 withdraws from school, except as provided in Subsection A of
6 Section 22-12-2 NMSA 1978 or for reasons related to personal or
7 family hardship, the certified school administrator or the chief
8 administrator shall notify the licensee that his license shall
9 be suspended under the provisions of Subsection C of Section
10 66-5-30 NMSA 1978. The licensee or the parent or guardian of
11 the licensee shall have fifteen calendar days from the receipt
12 of notice of pending license suspension to request a hearing
13 with the certified school administrator or chief administrator,
14 as applicable, for the purpose of appealing. The hearing shall
15 be conducted within thirty calendar days after the certified
16 school administrator or chief administrator, as applicable,
17 receives the request. If the licensee or the parent or guardian
18 of the licensee does not request a hearing or if the appeal is
19 unsuccessful, the certified school administrator or chief
20 administrator, as applicable, shall immediately notify the motor
21 vehicle division of the taxation and revenue department and the
22 department shall suspend the licensee's driver's license."

23 Section 2. Section 66-5-5 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 227, as amended) is amended to read:

25 "66-5-5. PERSONS NOT TO BE LICENSED. --The division shall

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1 not issue a driver's license under the Motor Vehicle Code to any
2 person:

3 A. who is under the age of sixteen years, except the
4 division may, in its discretion, issue:

5 (1) a restricted instruction permit or a
6 restricted license to ~~[students]~~ a student fourteen years of age
7 or over, enrolled in and attending a driver-education course
8 that includes a DWI education and prevention component approved
9 by the bureau or offered by a public school;

10 (2) a license to any person fifteen years of
11 age or older who has satisfactorily completed a driver-education
12 course that is approved by the bureau or offered by a public
13 school and that includes both a DWI education and prevention
14 component and practice driving; and

15 (3) to any person thirteen years of age or
16 older who passes an examination prescribed by the division, a
17 license restricted to the operation of a motorcycle, provided:

18 (a) the motor is not in excess of one
19 hundred cubic centimeters displacement;

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

22 (c) the director approves and certifies
23 motorcycles as not in excess of one hundred cubic centimeters
24 displacement and by regulation provides for a method of
25 identification of such motorcycles by all law enforcement

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Underscored material = new
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1 officers;

2 B. whose license or driving privilege has been
3 suspended or denied, during the period of suspension or denial,
4 or to any person whose license has been revoked, except as
5 provided in Section 66-5-32 NMSA 1978;

6 C. who is an habitual drunkard, an habitual user of
7 narcotic drugs or an habitual user of any drug to a degree
8 [~~which~~] that renders him incapable of safely driving a motor
9 vehicle;

10 D. who, within any ten-year period, is three times
11 convicted of driving a motor vehicle while under the influence
12 of intoxicating liquor or narcotic drug regardless of whether
13 the convictions are under the laws or ordinances of this state
14 or any municipality or county of this state or under the laws or
15 ordinances of any other state, the District of Columbia or any
16 governmental subdivision thereof. Ten years after being so
17 convicted for the third time, the person may apply to any
18 district court of this state for restoration of the license, and
19 the court, upon good cause being shown, may order restoration of
20 the license applied for; provided that the person has not been
21 subsequently convicted of driving a motor vehicle while under
22 the influence of intoxicating liquor or drug in the ten-year
23 period prior to his request for restoration of his license.
24 Upon issuance of the order of restoration, a certified copy
25 shall immediately be forwarded to the division, and if the

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1 person is otherwise qualified for the license applied for, the
2 three previous convictions shall not prohibit issuance of the
3 license applied for. Should the person be subsequently once
4 convicted of driving a motor vehicle while under the influence
5 of intoxicating liquor or drug, the division shall revoke his
6 license for five years, after which time he may apply for
7 restoration of his license as provided in this subsection;

8 E. who has previously been afflicted with or who is
9 suffering from any mental disability or disease [~~which~~] that
10 would render him unable to drive a motor vehicle with safety
11 upon the highways and who has not, at the time of application,
12 been restored to health;

13 F. who is required by the Motor Vehicle Code to take
14 an examination, unless he has successfully passed the
15 examination;

16 G. who is required under the laws of this state to
17 deposit proof of financial responsibility and who has not
18 deposited the proof;

19 H. when the director has good cause to believe that
20 the operation of a motor vehicle on the highways by the person
21 would be inimical to public safety or welfare; [~~or~~]

22 I. as a motorcycle driver who is less than eighteen
23 years of age and who has not presented a certificate or other
24 evidence of having successfully completed a motorcycle driver-
25 education program licensed or offered in conformance with

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1 regulations of the bureau; or

2 J. who is under the age of eighteen and who does not
3 at the time of application present a diploma or other
4 certificate of graduation issued to the person from a high
5 school of this state or any other state, or documentation that
6 the person is:

7 (1) enrolled and making satisfactory progress
8 in a course leading to a general educational development
9 certificate from a state-approved or tribal-approved institution
10 or organization or has obtained such certificate;

11 (2) enrolled in a secondary school of this
12 state or any other state;

13 (3) excused from school pursuant to Subsection
14 A of Section 22-12-2 NMSA 1978; or

15 (4) absent from school due to a personal or
16 family hardship. "

17 Section 3. Section 66-5-30 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 252, as amended) is amended to read:

19 "66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE
20 LICENSE. --

21 A. The division is authorized to suspend the license
22 of a driver without preliminary hearing upon a showing by its
23 records or other sufficient evidence that the licensee:

24 (1) has been convicted of an offense for which
25 mandatory revocation of license is required upon conviction;

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1 (2) has been convicted as a driver in any
2 accident resulting in the death or personal injury of another or
3 serious property damage;

4 (3) has been convicted with such frequency of
5 offenses against traffic laws or regulations governing motor
6 vehicles as to indicate a disrespect for traffic laws and a
7 disregard for the safety of other persons on the highways;

8 (4) is an habitually reckless or negligent
9 driver of a motor vehicle;

10 (5) is incompetent to drive a motor vehicle;

11 (6) has permitted an unlawful or fraudulent use
12 of the license;

13 (7) has been convicted of an offense in another
14 state which if committed in this state would be grounds for
15 suspension or revocation;

16 (8) has violated provisions stipulated by a
17 district court in limitation of certain driving privileges;

18 (9) has failed to fulfill a signed promise to
19 appear or notice to appear in court as evidenced by notice from
20 a court, whenever appearance is required by law or by the court
21 as a consequence of any charge or conviction under the Motor
22 Vehicle Code;

23 (10) has failed to pay a penalty assessment
24 within thirty days of the date of issuance; or

25 (11) has accumulated seven points, but less

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1 than eleven points, and when the division has received a
2 recommendation from a municipal or magistrate judge that the
3 [~~licensee~~] license be suspended for a period not to exceed three
4 months.

5 B. Upon suspending the license of any person as
6 authorized in this section, the division shall immediately
7 notify the licensee in writing and upon his request shall afford
8 him an opportunity for a hearing as early as practicable within
9 not to exceed twenty days, not counting Saturdays, Sundays and
10 legal holidays, after receipt of the request in the county
11 wherein the licensee resides unless the division and the
12 licensee agree that the hearing may be held in some other
13 county; provided that the hearing request is received within
14 twenty days from the date that the suspension was deposited in
15 the United States mail. The director may, in his discretion,
16 extend the twenty-day period. Upon the hearing, the director or
17 his duly authorized agent may administer oaths and may issue
18 subpoenas for the attendance of witnesses and the production of
19 relevant books and papers and may require a reexamination of the
20 licensee. Upon the hearing, the division shall either rescind
21 its order of suspension or, good cause appearing therefor, may
22 continue, modify or extend the suspension of the license or
23 revoke the license.

24 C. The division is authorized to suspend the license
25 of a licensee under the age of eighteen without a hearing

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1 whenever:

2 (1) the licensee withdraws from school as
3 defined in the Compulsory School Attendance Law;

4 (2) the division receives from the certified
5 school administrator or the chief administrator, as applicable,
6 of the licensee's school, notification that the student has
7 withdrawn for reasons other than personal or family hardship;

8 (3) the division within five days of receipt of
9 the notice from the certified school administrator or chief
10 administrator sends notice by certified mail, return receipt
11 requested, to the licensee that his license shall be suspended;

12 and

13 (4) the licensee's appeal of the pending
14 license suspension action to the certified school administrator
15 or chief administrator, as applicable, as provided in the
16 Compulsory School Attendance Law, is unsuccessful. "

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 611

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

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 1 Against

Yes: 8

No: Pederson

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

Absent: None

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