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HOUSE BILL 545

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO DRIVING PRIVILEGES; REQUIRING AN APPLICANT FOR AN INSTRUCTION PERMIT OR A PROVISIONAL LICENSE TO BE ENROLLED IN AND ATTENDING SCHOOL; AMENDING SECTIONS OF THE MOTOR VEHICLE CODE.

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

Section 1. Section 66-5-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 227, as amended) is amended to read:

"66-5-5. PERSONS NOT TO BE LICENSED. --The division shall not issue a driver's license under the Motor Vehicle Code to any person:

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

(1) an instruction permit to a ~~[person]~~
student fifteen years of age or over who is enrolled in and

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1 attending school and who is enrolled in and attending or has
2 completed a driver education course that includes a DWI
3 education and prevention component approved by the bureau or
4 offered by a public school;

5 (2) a provisional license to any ~~[person]~~
6 student fifteen years and six months of age or older who is
7 enrolled in and attending school:

8 (a) who has completed a driver
9 education course approved by the bureau or offered by a public
10 school that includes a DWI education and prevention component
11 and has had an instruction permit for at least six months; and

12 (b) who has successfully completed a
13 practice driving component;

14 (3) a driver's license to any person sixteen
15 years and six months of age or older:

16 (a) who has had a provisional license
17 for the twelve-month period immediately preceding the date of
18 the application for the driver's license;

19 (b) who has complied with restrictions
20 on that license;

21 (c) who has not been convicted of a
22 traffic violation that was committed during the ninety days
23 prior to applying for a driver's license; and

24 (d) who has not been adjudicated for an
25 offense involving the use of alcohol or drugs during that

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1 period and who has no pending adjudications alleging an
2 offense involving the use of alcohol or drugs at the time of
3 his application; and

4 (4) to any person thirteen years of age or
5 older who passes an examination prescribed by the division, a
6 license restricted to the operation of a motorcycle, provided:

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

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

11 (c) the director approves and certifies
12 motorcycles as not in excess of one hundred cubic centimeters
13 displacement and by ~~[regulation]~~ rule provides for a method of
14 identification of such motorcycles by all law enforcement
15 officers;

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

20 C. who is an habitual drunkard, an habitual user
21 of narcotic drugs or an habitual user of any drug to a degree
22 ~~[which]~~ that renders him incapable of safely driving a motor
23 vehicle;

24 D. who, within any ten-year period, is three times
25 convicted of driving a motor vehicle while under the influence

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1 of intoxicating liquor or narcotic drug regardless of whether
2 the convictions are under the laws or ordinances of this state
3 or any municipality or county of this state or under the laws
4 or ordinances of any other state, the District of Columbia or
5 any governmental subdivision thereof. Ten years after being
6 so convicted for the third time, the person may apply to any
7 district court of this state for restoration of the license,
8 and the court, upon good cause being shown, may order
9 restoration of the license applied for; provided that the
10 person has not been subsequently convicted of driving a motor
11 vehicle while under the influence of intoxicating liquor or
12 drug in the ten-year period prior to his request for
13 restoration of his license. Upon issuance of the order of
14 restoration, a certified copy shall immediately be forwarded
15 to the division, and if the person is otherwise qualified for
16 the license applied for, the three previous convictions shall
17 not prohibit issuance of the license applied for. Should the
18 person be subsequently once convicted of driving a motor
19 vehicle while under the influence of intoxicating liquor or
20 drug, the division shall revoke his license for five years,
21 after which time he may apply for restoration of his license
22 as provided in this subsection;

23 E. who has previously been afflicted with or who
24 is suffering from any mental disability or disease [~~which~~
25 that would render him unable to drive a motor vehicle with

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1 safety upon the highways and who has not, at the time of
2 application, been restored to health;

3 F. who is required by the Motor Vehicle Code to
4 take an examination, unless he has successfully passed the
5 examination;

6 G. who is required under the laws of this state to
7 deposit proof of financial responsibility and who has not
8 deposited the proof;

9 H. when the director has good cause to believe
10 that the operation of a motor vehicle on the highways by the
11 person would be inimical to public safety or welfare; or

12 I. as a motorcycle driver who is less than
13 eighteen years of age and who has not presented a certificate
14 or other evidence of having successfully completed a
15 motorcycle driver education program licensed or offered in
16 conformance with ~~[regulations]~~ rules of the bureau. "

17 Section 2. Section 66-5-8 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 230, as amended) is amended to read:

19 "66-5-8. PROVISIONAL LICENSES--INSTRUCTION PERMITS--
20 DRIVER EDUCATION STUDENTS--TEMPORARY LICENSES.--

21 A. A ~~[person]~~ student fifteen years and six months
22 of age or older who is enrolled in and attending school and
23 who has completed a driver education course that includes a
24 DWI prevention and education program approved by the bureau or
25 offered by a public school, who has had an instruction permit

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1 for at least six months, and who has successfully completed a
2 practice driving component may apply to the division for a
3 provisional license. Successful completion of a practice
4 driving component shall include not less than fifty hours of
5 actual driving by the applicant, including not less than ten
6 hours of night driving. The applicant's parent or guardian
7 shall certify that the applicant has completed the practice
8 driving component.

9 B. When operating a motor vehicle, a provisional
10 licensee may be accompanied by not more than one passenger
11 under the age of twenty-one who is not a member of the
12 licensee's immediate family. A provisional license entitles
13 the licensee, while having the license in his immediate
14 possession, to operate a motor vehicle upon the public
15 highways between the hours of 5:00 a.m. and midnight. A
16 provisional licensee may drive at any hour if:

- 17 (1) accompanied by a licensed driver twenty-
18 one years of age or older;
- 19 (2) required by family necessity as evidenced
20 by a signed statement of a parent or guardian;
- 21 (3) required by medical necessity as
22 evidenced by a signed statement from medical personnel;
- 23 (4) driving to and from work as evidenced by
24 a signed statement from the licensee's employer;
- 25 (5) driving to and from school or a religious

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1 activity as evidenced by a signed statement of a school or
2 religious official or a parent or guardian; or

3 (6) required due to a medical emergency.

4 C. A provisional license shall not be issued to [a
5 ~~person~~] an applicant convicted of a traffic violation in the
6 ninety days prior to applying for a provisional license. A
7 provisional license shall be in such form as to be readily
8 distinguishable from an unrestricted driver's license and
9 shall contain an indication that the licensee may drive
10 without supervision.

11 D. [~~Any person~~] A student fifteen years of age or
12 older who is enrolled in and attending school and who is
13 enrolled in and attending or has completed a driver education
14 course that includes a DWI prevention and education program
15 approved by the bureau or offered by a public school may apply
16 to the division for an instruction permit. The division, in
17 its discretion after the applicant has successfully passed all
18 parts of the examination other than the driving test, may
19 issue to the applicant an instruction permit. This permit
20 entitles the applicant, while having the permit in his
21 immediate possession, to drive a motor vehicle upon the public
22 highways for a period of six months when accompanied by a
23 licensed driver twenty-one years of age or older who has been
24 licensed for at least three years in this state or in another
25 state and who is occupying a seat beside the driver except in

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1 the event the permittee is operating a motorcycle.

2 E. A ~~[person]~~ student fifteen years of age or
3 older who is ~~[a student]~~ enrolled in and attending school and
4 who is enrolled in and attending a driver education course
5 that is approved by the bureau or offered by a public school
6 and that includes both a DWI education and prevention
7 component and practice driving component may drive a motor
8 vehicle on the highways of this state even though he has not
9 reached the legal age to be eligible for a driver's license or
10 a provisional license. In completing the practice driving
11 component, a person may only operate a motor vehicle on a
12 public highway if:

13 (1) an approved instructor is occupying a
14 seat beside the person; or

15 (2) a licensed driver twenty-one years of age
16 or older who has been licensed for at least three years in
17 this state or another state is occupying a seat beside the
18 person.

19 F. The division in its discretion may issue a
20 temporary driver's permit to an applicant for a driver's
21 license permitting him to operate a motor vehicle while the
22 division is completing its investigation and determination of
23 all facts relative to the applicant's right to receive a
24 driver's license. The permit shall be in his immediate
25 possession while operating a motor vehicle, and it shall be

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1 invalid when the applicant's license has been issued or for
2 good cause has been refused.

3 G. [~~Any~~] A holder of an instruction permit for a
4 motorcycle shall not carry any other passenger while operating
5 a motorcycle. "

6 Section 3. EFFECTIVE DATE. -- The effective date of the
7 provisions of this act is July 1, 2001.

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