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**SENATE BILL 368**

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

**INTRODUCED BY**

**William H. Payne**

**AN ACT**

**RELATING TO MOTOR VEHICLES; CREATING THE CRIME OF FAILURE TO  
PAY FOR FUEL; PROVIDING PENALTIES.**

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

**Section 1. Section 66-5-30 NMSA 1978 (being Laws 1978,  
Chapter 35, Section 252, as amended) is amended to read:**

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

**A. The division is authorized to suspend the  
instruction permit, driver's license or provisional license of  
a driver without preliminary hearing upon a showing by its  
records or other sufficient evidence that the licensee:**

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

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

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

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

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

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

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

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

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

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

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1 (11) has accumulated seven points, but less  
2 than eleven points, and when the division has received a  
3 recommendation from a municipal or magistrate judge that the  
4 license be suspended for a period not to exceed three months;  
5 or

6 (12) has been convicted of failure to pay for  
7 fuel as provided in Section 2 of this act.

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

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1 modify or extend the suspension of the license or revoke the  
2 license. "

3 Section 2. A new section of Chapter 66, Article 5 NMSA  
4 1978 is enacted to read:

5 "[NEW MATERIAL] FAILURE TO PAY FOR FUEL. --

6 A. A person who dispenses fuel into the tank of a  
7 motor vehicle and fails to pay for the fuel dispensed is  
8 guilty of a misdemeanor.

9 B. Upon a first conviction of violating Subsection  
10 A of this section, the director may suspend the license or  
11 permit to drive and any nonresident's operating privilege for  
12 not to exceed six months. Upon a second or subsequent  
13 conviction of violating Subsection A of this section, the  
14 director may suspend the license or permit to drive and any  
15 nonresident's operating privilege for not to exceed one year. "