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HOUSE BILL 491

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Daniel P. Silva

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING DOMICILE IN NEW MEXICO
FOR A PERSON TO BE ISSUED A COMMERCIAL DRIVER'S LICENSE;
PROHIBITING MASKING OF TRAFFIC CONTROL LAW VIOLATIONS COMMITTED
BY THE HOLDER OF A COMMERCIAL DRIVER'S LICENSE; RECONCILING
MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005;
AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN
EMERGENCY.

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

Section 1. Section 66-1-4.3 NMSA 1978 (being Laws 1990,
Chapter 120, Section 4, as amended) is amended to read:

"66-1-4.3. DEFINITIONS.--As used in the Motor Vehicle
Code:

A. "camping body" means a vehicle body primarily
designed or converted for use as temporary living quarters for

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1 recreational, camping or travel activities;

2 B. "camping trailer" means a camping body, mounted
3 on a chassis, or frame with wheels, designed to be drawn by
4 another vehicle and that has collapsible partial side walls
5 that fold for towing and unfold at the campsite;

6 C. "cancellation" means that a driver's license is
7 annulled and terminated because of some error or defect or
8 because the licensee is no longer entitled to the license, but
9 cancellation of a license is without prejudice, and application
10 for a new license may be made at any time after cancellation;

11 D. "casual sale" means the sale of a motor vehicle
12 by the registered owner of the vehicle if the owner has not
13 sold more than four vehicles in that calendar year;

14 E. "chassis" means the complete motor vehicle,
15 including standard factory equipment, exclusive of the body and
16 cab;

17 F. "collector" means a person who is the owner of
18 one or more vehicles of historic or special interest who
19 collects, purchases, acquires, trades or disposes of these
20 vehicles or parts thereof for the person's own use in order to
21 preserve, restore and maintain a similar vehicle for hobby
22 purposes;

23 G. "combination" means any connected assemblage of
24 a motor vehicle and one or more semitrailers, trailers or
25 semitrailers converted to trailers by means of a converter

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1 gear;

2 H. "combination gross vehicle weight" means the sum
3 total of the gross vehicle weights of all units of a
4 combination;

5 I. "commerce" means the transportation of persons,
6 property or merchandise for hire, compensation, profit or in
7 the furtherance of a commercial enterprise in this state or
8 between New Mexico and a place outside New Mexico, including a
9 place outside the United States;

10 J. "commercial motor vehicle" means a
11 self-propelled or towed vehicle, other than special mobile
12 equipment, used on public highways in commerce to transport
13 passengers or property when the vehicle:

14 (1) is operated interstate and has a gross
15 vehicle weight rating or gross combination weight rating, or
16 gross vehicle weight or gross combination weight, of four
17 thousand five hundred thirty-six kilograms, or ten thousand one
18 pounds or more; or is operated only in intrastate commerce and
19 has a gross vehicle weight rating or gross combination weight
20 rating, or gross vehicle weight or gross combination weight, of
21 twenty-six thousand one or more pounds;

22 (2) is designed or used to transport more than
23 eight passengers, including the driver, and is used to
24 transport passengers for compensation;

25 (3) is designed or used to transport sixteen

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1 or more [~~than fifteen~~] passengers, including the driver, and is
2 not used to transport passengers for compensation; or

3 (4) is used to transport hazardous materials
4 of the type or quantity requiring placarding under rules
5 prescribed by applicable federal or state law;

6 K. "controlled-access highway" means every highway,
7 street or roadway in respect to which owners or occupants of
8 abutting lands and other persons have no legal right of access
9 to or from the highway, street or roadway except at those
10 points only and in the manner as may be determined by the
11 public authority having jurisdiction over the highway, street
12 or roadway;

13 L. "controlled substance" means any substance
14 defined in Section 30-31-2 NMSA 1978 as a controlled substance;

15 M. "converter gear" means any assemblage of one or
16 more axles with a fifth wheel mounted thereon, designed for use
17 in a combination to support the front end of a semitrailer but
18 not permanently attached thereto. A converter gear shall not
19 be considered a vehicle, as that term is defined in Section
20 66-1-4.19 NMSA 1978, but weight attributable thereto shall be
21 included in declared gross weight;

22 N. "conviction" means:

23 (1) an unvacated adjudication of guilt, or a
24 determination that a person has violated or failed to comply
25 with the law by:

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1 (a) a court of original jurisdiction;
2 ~~[that a person has violated or failed to comply with the law;~~

3 ~~(2) an unvacated adjudication of guilt, or a~~
4 ~~determination by an authorized administrative tribunal~~
5 ~~authorized pursuant to the Implied Consent Act that a person~~
6 ~~who holds a valid commercial driver's license has violated or~~
7 ~~failed to comply with the law]; or~~

8 (b) an authorized administrative
9 tribunal;

10 ~~[(3)]~~ (2) an unvacated forfeiture of bail or
11 collateral deposited to secure ~~[the]~~ a person's appearance in
12 court;

13 ~~[(4)]~~ (3) a plea of guilty or nolo contendere
14 accepted by the court;

15 ~~[(5)]~~ (4) the payment of a fine or court cost;
16 ~~[or~~

17 ~~[(6)]~~ (5) a violation of a condition of release
18 without bail, regardless of whether the payment is rebated,
19 suspended or probated; or

20 (6) an assignment to a diversion program or a
21 driver improvement school;

22 0. "crosswalk" means:

23 (1) that part of a roadway at an intersection
24 included within the connections of the lateral lines of the
25 sidewalks on opposite sides of the highway measured from the

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1 curbs or, in the absence of curbs, from the edges of the
2 traversable roadway; and

3 (2) any portion of a roadway at an
4 intersection or elsewhere distinctly indicated for pedestrian
5 crossing by lines or other markings on the surface; and

6 P. "curb cut" means a short ramp through a curb or
7 built up to the curb."

8 Section 2. Section 66-1-4.16 NMSA 1978 (being Laws 1990,
9 Chapter 120, Section 17, as amended) is amended to read:

10 "66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle
11 Code:

12 A. "safety glazing materials" means glazing
13 materials constructed, treated or combined with other materials
14 to reduce substantially, in comparison with ordinary sheet
15 glass or plate glass, the likelihood of injury to persons by
16 objects from exterior sources or by these safety glazing
17 materials when they are cracked and broken;

18 B. "safety zone" means the area or space that is
19 officially set apart within a highway for the exclusive use of
20 pedestrians and that is protected or is so marked or indicated
21 by adequate signs as to be plainly visible at all times while
22 set apart as a safety zone;

23 C. "salvage vehicle" means a vehicle:

24 (1) other than a nonrepairable vehicle, of a
25 type subject to registration that has been wrecked, destroyed

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1 or damaged excluding, pursuant to rules issued by the
2 department, hail damage, to the extent that the owner, leasing
3 company, financial institution or the insurance company that
4 insured or is responsible for repair of the vehicle considers
5 it uneconomical to repair the vehicle and that is subsequently
6 not repaired by or for the person who owned the vehicle at the
7 time of the event resulting in damage; or

8 (2) that was determined to be uneconomical to
9 repair and for which a total loss payment is made by an
10 insurer, whether or not the vehicle is subsequently repaired,
11 if, prior to or upon making payment to the claimant, the
12 insurer obtained the agreement of the claimant to the amount of
13 the total loss settlement and informed the claimant that,
14 pursuant to rules of the department, the title must be branded
15 and submitted to the department for issuance of a salvage
16 certificate of title for the vehicle;

17 D. "school bus" means a commercial motor vehicle
18 used to transport preprimary, primary or secondary school
19 students from home to school, from school to home or to and
20 from school-sponsored events, but not including a vehicle:

21 (1) operated by a common carrier, subject to
22 and meeting all requirements of the public regulation
23 commission but not used exclusively for the transportation of
24 students;

25 (2) operated solely by a government-owned

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1 transit authority, if the transit authority meets all safety
2 requirements of the public regulation commission but is not
3 used exclusively for the transportation of students; or

4 (3) operated as a per capita feeder as defined
5 in Section 22-16-6 NMSA 1978;

6 E. "seal" means the official seal of the taxation
7 and revenue department as designated by the secretary;

8 F. "secretary" means the secretary of taxation and
9 revenue, and, except for the purposes of Sections 66-2-3
10 and 66-2-12 NMSA 1978, also includes the deputy secretary and
11 any division director delegated by the secretary;

12 G. "semitrailer" means a vehicle without motive
13 power, other than a pole trailer, designed for carrying persons
14 or property and for being drawn by a motor vehicle and so
15 constructed that some significant part of its weight and that
16 of its load rests upon or is carried by another vehicle;

17 H. "sidewalk" means a portion of street between the
18 curb lines, or the lateral lines of a roadway, and the adjacent
19 property lines, intended for the use of pedestrians;

20 I. "slow-moving vehicle" means a vehicle that is
21 ordinarily moved, operated or driven at a speed less than
22 twenty-five miles per hour;

23 J. "solid tire" means every tire of rubber or other
24 resilient material that does not depend upon compressed air for
25 the support of the load;

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1 K. "special mobile equipment" means a vehicle not
2 designed or used primarily for the transportation of persons or
3 property and incidentally operated or moved over the highways,
4 including but not limited to farm tractors, road construction
5 or maintenance machinery, ditch-digging apparatus, well-boring
6 apparatus and concrete mixers;

7 L. "specially constructed vehicle" means a vehicle
8 of a type required to be registered under the Motor Vehicle
9 Code not originally constructed under a distinctive name, make,
10 model or type by a generally recognized manufacturer of
11 vehicles and not materially altered from its original
12 construction;

13 M. "state" means a state, territory or possession
14 of the United States, the District of Columbia or any state of
15 the Republic of Mexico or the Federal District of Mexico or a
16 province of the Dominion of Canada;

17 N. "state highway" means a public highway that has
18 been designated as a state highway by the legislature, the
19 state transportation commission or the secretary of
20 transportation;

21 O. "stop", when required, means complete cessation
22 from movement;

23 P. "stop, stopping or standing", when prohibited,
24 means any stopping or standing of a vehicle, whether occupied
25 or not, except when necessary to avoid conflict with other

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1 traffic or in compliance with the directions of a police
2 officer or traffic-control sign or signal;

3 Q. "street" or "highway" means a way or place
4 generally open to the use of the public as a matter of right
5 for the purpose of vehicular travel, even though it may be
6 temporarily closed or restricted for the purpose of
7 construction, maintenance, repair or reconstruction;

8 R. "subsequent offender" means a person who was
9 previously a first offender and who again, under state law,
10 federal law or a municipal ordinance or a tribal law, has been
11 adjudicated guilty of the charge of driving a motor vehicle
12 while under the influence of intoxicating liquor or any drug
13 that rendered the person incapable of safely driving a motor
14 vehicle, regardless of whether the person's sentence was
15 suspended or deferred; and

16 S. "suspension" means that a person's driver's
17 license and privilege to drive a motor vehicle on the public
18 highways are temporarily withdrawn."

19 Section 3. Section 66-5-4 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 226, as amended) is amended to read:

21 "66-5-4. PERSONS EXEMPT FROM LICENSURE.--The following
22 persons are exempt from licensure under the Motor Vehicle Code:

23 A. ~~[any employee of the United States while driving~~
24 ~~a motor vehicle owned by or leased to the United States and~~
25 ~~being driven on official business]~~ military personnel while

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1 driving a motor vehicle owned or leased by the United States
2 department of defense;

3 B. [~~any~~] a person who is at least fifteen years of
4 age and who has in [~~his~~] immediate possession a valid driver's
5 license issued to [~~him~~] the person in [~~his~~] the person's home
6 state or country may drive a motor vehicle in this state,
7 except that the person shall obtain a license upon becoming a
8 resident and before [~~he~~] the person is employed for
9 compensation by another for the purpose of driving a motor
10 vehicle;

11 C. [~~any~~] a nonresident who is at least eighteen
12 years of age whose home state or country does not require the
13 licensing of drivers may drive a motor vehicle for a period of
14 not more than one hundred eighty days in any calendar year if
15 the motor vehicle driven is duly registered in the home state
16 or country of the nonresident;

17 D. [~~any~~] a driver of a farm tractor or implement of
18 husbandry temporarily drawn, moved or propelled on the highway;
19 and

20 E. [~~any~~] a driver of an off-highway motorcycle."

21 Section 4. Section 66-5-54 NMSA 1978 (being Laws 1989,
22 Chapter 14, Section 3, as amended) is amended to read:

23 "66-5-54. DEFINITIONS.--As used in the New Mexico
24 Commercial Driver's License Act:

25 A. "commerce" means:

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1 (1) trade, traffic or transportation within
2 the jurisdiction of the United States between a place in New
3 Mexico and a place outside of New Mexico, including a place
4 outside of the United States; and

5 (2) trade, traffic or transportation in the
6 United States that affects any trade, traffic or transportation
7 described in Paragraph (1) of this subsection;

8 B. "commercial driver's license information system"
9 means the information system created pursuant to the federal
10 Commercial Motor Vehicle Safety Act of 1986 that contains
11 information pertaining to operators of commercial motor
12 vehicles;

13 C. "commercial motor vehicle" means a motor vehicle
14 or combination of motor vehicles used in commerce to transport
15 passengers or property if the motor vehicle:

16 (1) has a gross combination weight rating of
17 more than twenty-six thousand pounds inclusive of a towed unit
18 with a gross vehicle weight rating of more than ten thousand
19 pounds;

20 (2) has a gross vehicle weight rating of more
21 than twenty-six thousand pounds;

22 (3) is designed to transport sixteen or more
23 passengers, including the driver; or

24 (4) is of any size and is used in the
25 transportation of hazardous materials, which requires the motor

1 vehicle to be placarded under applicable law;

2 D. "director" means the director of the motor
3 vehicle division of the department;

4 E. "disqualification" means:

5 (1) a suspension, revocation or cancellation
6 of a commercial driver's license by the state or jurisdiction
7 that issued the commercial driver's license;

8 (2) a withdrawal of a person's privileges to
9 drive a commercial motor vehicle by a state or other
10 jurisdiction as the result of a violation of state or local law
11 relating to motor vehicle control other than a parking, vehicle
12 weight or vehicle defect violation; and

13 (3) a determination by the federal motor
14 carrier safety administration that a person is not qualified to
15 operate a motor vehicle;

16 F. "division" means the motor vehicle division of
17 the department;

18 G. "driving a commercial motor vehicle while under
19 the influence of alcohol" means:

20 (1) driving a commercial motor vehicle while
21 the driver has an alcohol concentration in the driver's blood
22 or breath of four one hundredths or more;

23 (2) driving a commercial motor vehicle while
24 the driver is under the influence of intoxicating liquor; or

25 (3) refusal to submit to chemical tests

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1 administered pursuant to Section 66-8-107 NMSA 1978;

2 H. "employee" means an operator of a commercial
3 motor vehicle, including full-time, regularly employed drivers;
4 casual, intermittent or occasional drivers; leased drivers; and
5 independent owner-operator contractors, while in the course of
6 operating a commercial motor vehicle, who is either directly
7 employed by or under lease to an employer;

8 I. "employer" means a person, including the United
9 States, a state and a political subdivision of a state or their
10 agencies or instrumentalities, that owns or leases a commercial
11 motor vehicle or assigns employees to operate such a vehicle;

12 J. "fatality" means the death of a person as a
13 result of a motor vehicle accident;

14 K. "gross combination weight rating" means the
15 value specified by the manufacturer as the loaded weight of a
16 combination vehicle. In the absence of a value specified by
17 the manufacturer, gross combination weight rating shall be
18 determined by adding the gross vehicle weight rating of the
19 power unit and the total weight of the towed unit or units and
20 any load thereon;

21 L. "gross vehicle weight rating" means the value
22 specified by the manufacturer as the loaded weight of a single
23 vehicle;

24 M. "imminent hazard" means a condition that
25 presents a substantial likelihood that death, serious illness,

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1 severe personal injury or a substantial endangerment to health,
2 property or the environment will occur before the reasonable
3 foreseeable completion date of a formal proceeding to lessen
4 the risk of that death, illness, injury or endangerment;

5 N. "noncommercial motor vehicle" means a motor
6 vehicle or combination of motor vehicles that is not a
7 commercial motor vehicle;

8 O. "nonresident commercial driver's license" means
9 a commercial driver's license issued by another state to a
10 person domiciled in that state or by a foreign country to a
11 person domiciled in that country;

12 P. "out-of-service order" means a declaration by an
13 authorized enforcement officer of a federal, state, Canadian,
14 Mexican or local jurisdiction that a driver, a commercial motor
15 vehicle or a motor carrier operation is temporarily prohibited
16 from operating;

17 Q. "railroad-highway grade crossing violation"
18 means a violation of a provision of Section 66-7-341 or
19 66-7-343 NMSA 1978 or a violation of federal or local law or
20 rule pertaining to stopping at or crossing a railroad-highway
21 grade crossing; [~~and~~]

22 R. "serious traffic violation" means conviction of
23 any of the following if committed when operating a motor
24 vehicle:

- 25 (1) speed of fifteen miles or more per hour

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1 above the posted limits;

2 (2) reckless driving as defined by Section
3 66-8-113 NMSA 1978 or a municipal ordinance or the law of
4 another state;

5 (3) homicide by vehicle, as defined in Section
6 66-8-101 NMSA 1978;

7 (4) injury to pregnant woman by vehicle as
8 defined in Section 66-8-101.1 NMSA 1978 or a municipal
9 ordinance or the law of another state;

10 (5) any other violation of law relating to
11 motor vehicle traffic control, other than a parking violation,
12 that the secretary determines by regulation to be a serious
13 traffic violation. "Serious traffic violation" does not
14 include a vehicle weight or vehicle defect violation;

15 (6) improper or erratic lane changes in
16 violation of Section 66-7-317 NMSA 1978;

17 (7) following another vehicle too closely in
18 violation of Section 66-7-318 NMSA 1978;

19 (8) directly or indirectly causing death or
20 great bodily injury to a human being in the unlawful operation
21 of a motor vehicle in violation of Section 66-8-101 NMSA 1978;

22 (9) driving a commercial motor vehicle without
23 possession of a commercial driver's license in violation of
24 Section 66-5-59 NMSA 1978;

25 (10) driving a commercial motor vehicle

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1 without the proper class of commercial driver's license and
2 endorsements pursuant to Section 66-5-65 NMSA 1978 and the
3 Motor Carrier Safety Act for the specific vehicle group
4 operated or for the passengers or type of cargo transported; or

5 (11) driving a commercial motor vehicle
6 without obtaining a commercial driver's license in violation of
7 Section 66-5-59 NMSA 1978; and

8 S. "state of domicile" means the state in which a
9 person has a true, fixed and permanent home and principal
10 residence and to which the person has the intention of
11 returning whenever the person has been absent from that state."

12 Section 5. Section 66-5-60 NMSA 1978 (being Laws 1989,
13 Chapter 14, Section 9, as amended) is amended to read:

14 "66-5-60. COMMERCIAL DRIVER'S LICENSE--QUALIFICATIONS--
15 STANDARDS.--

16 A. The division shall not issue a commercial
17 driver's license to a person unless that person [~~is a resident~~
18 ~~of New Mexico~~] can establish that New Mexico is the person's
19 state of domicile and has passed a knowledge and skills test
20 for driving a commercial motor vehicle and for related
21 endorsements, has passed a medical fitness test and has
22 satisfied any other requirements of the New Mexico Commercial
23 Driver's License Act.

24 B. The division may authorize a person, including
25 an agency of this or another state, an employer, a private

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1 driver-training facility or other private institution or a
2 department, agency or instrumentality of local government to
3 administer the skills test specified by this section.

4 C. The director may waive the requirement of any
5 test specified in this section for a commercial driver's
6 license applicant who complies with the other provisions of the
7 New Mexico Commercial Driver's License Act through any
8 pertinent rules, regulations or contractual agreements with the
9 public education department, other governments or private
10 entities.

11 D. A commercial driver's license applicant shall
12 not take a test specified in this section more than three times
13 within one year.

14 E. If the department determines that a commercial
15 driver's license applicant has committed an offense in taking a
16 test specified in this section, the division shall not issue a
17 commercial driver's license to that applicant within one year
18 of the department's determination."

19 Section 6. Section 66-5-65 NMSA 1978 (being Laws 1989,
20 Chapter 14, Section 14, as amended) is amended to read:

21 "66-5-65. CLASSIFICATIONS--ENDORSEMENTS--RESTRICTIONS.--

22 A. Commercial driver's licenses may be issued with
23 the classifications, endorsements and restrictions enumerated
24 in Subsections B, C and D of this section, provided that the
25 applicant has passed the knowledge and skills test required by

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1 the department. The holder of a valid commercial driver's
2 license may drive all vehicles in the class for which that
3 license is issued and all lesser classes of vehicles except
4 motorcycles and vehicles that require an endorsement, unless
5 the proper endorsement appears on the license.

6 B. The following classifications shall apply to
7 commercial driver's licenses:

8 (1) class A - any combination of vehicles with
9 a gross combination weight rating of more than twenty-six
10 thousand pounds, if the gross vehicle weight rating of the
11 vehicle or vehicles being towed is in excess of ten thousand
12 pounds;

13 (2) class B - any single vehicle with a gross
14 vehicle weight rating of more than twenty-six thousand pounds
15 and any such vehicle towing a vehicle with a gross vehicle
16 weight rating of ten thousand pounds or less; and

17 (3) class C - any single vehicle or
18 combination of vehicles that does not meet either the
19 definition of Paragraph (1) or (2) of this subsection but is:

20 (a) designed to transport sixteen or
21 more passengers, including the driver; or

22 (b) used in the transportation of
23 hazardous materials, which requires the vehicle to be placarded
24 under applicable law.

25 C. The secretary, by regulation, may provide for

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1 classifications in addition to those set forth in Subsection B
2 of this section.

3 D. The following endorsements and restrictions
4 shall apply to commercial driver's licenses:

5 (1) "H" - authorizes driving a vehicle
6 transporting hazardous material;

7 (2) "L" - restricts the driver to vehicles not
8 equipped with airbrakes;

9 (3) "T" - authorizes driving a vehicle towing
10 more than one trailer;

11 (4) "P" - authorizes driving vehicles, other
12 than school buses, carrying passengers;

13 (5) "N" - authorizes driving tank vehicles;

14 (6) "X" - represents a combination of the
15 hazardous material ("H") and tank vehicle ("N") endorsements;

16 (7) "S" - authorizes driving a school bus; and

17 (8) "K" - restricts the driver to driving a
18 commercial motor vehicle in intrastate commerce only.

19 E. The department shall require an applicant
20 requesting a hazardous material ("H") endorsement to be subject
21 to a background check pursuant to the federal Uniting and
22 Strengthening America by Providing Appropriate Tools Required
23 to Intercept and Obstruct Terrorism Act of 2001. Information
24 received pursuant to a background check required by the federal
25 transportation security administration of the department of

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1 homeland security shall be kept confidential and shall be
2 released only to the subject of the background check and the
3 division. Fees charged for the background check shall be borne
4 by the subject of the background check or by the employer."

5 Section 7. Section 66-5-67 NMSA 1978 (being Laws 1989,
6 Chapter 14, Section 16, as amended) is amended to read:

7 "66-5-67. EXPIRATION AND RENEWAL--STAGGERED LICENSING
8 DURING IMPLEMENTATION PERIOD.--

9 A. Except as provided in [~~Subsection~~] Subsections C
10 and E of this section, a commercial driver's license issued
11 pursuant to the provisions of the New Mexico Commercial
12 Driver's License Act shall expire thirty days after the
13 applicant's birthday in the fourth year after the effective
14 date of the license.

15 B. The license is renewable within ninety days
16 prior to its expiration or at an earlier date as approved by
17 the secretary.

18 C. At the option of an applicant, a commercial
19 driver's license may be issued for a period of eight years,
20 provided that the applicant:

21 (1) pays the amount required for a commercial
22 driver's license issued for a term of eight years;

23 (2) otherwise qualifies for a four-year
24 commercial driver's license; and

25 (3) will not reach the age of seventy-five

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1 during the last four years of the eight-year license period.

2 D. A driver's license issued pursuant to the
3 provisions of Subsection C of this section shall expire thirty
4 days after the applicant's birthday in the eighth year after
5 the effective date of the license.

6 E. A commercial driver's license with a hazardous
7 material endorsement shall expire:

8 (1) for an applicant transferring a commercial
9 driver's license with the hazardous material endorsement, four
10 years from the date of the last background check and testing
11 for the hazardous material endorsement; or

12 (2) for an applicant adding endorsements or
13 other changes to the commercial driver's license, no later than
14 the expiration date of the commercial driver's license
15 originally issued with the hazardous material endorsement."

16 Section 8. Section 66-5-68 NMSA 1978 (being Laws 1989,
17 Chapter 14, Section 17, as amended by Laws 2005, Chapter 310,
18 Section 3 and by Laws 2005, Chapter 312, Section 7) is amended
19 to read:

20 "66-5-68. DISQUALIFICATION.--

21 A. The department shall disqualify a person from
22 driving a commercial motor vehicle for at least thirty days if
23 the federal motor carrier safety administration reports to the
24 division that the person poses an imminent hazard.

25 B. The department shall disqualify a person who

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1 holds a commercial driver's license from driving a commercial
2 motor vehicle for a period of not less than one year, which
3 shall run concurrently with any revocation or suspension action
4 for the same offense, if the person:

5 (1) refuses to submit to a chemical test when
6 requested pursuant to the provisions of the Implied Consent
7 Act;

8 (2) is twenty-one years of age or more and
9 submits to chemical testing pursuant to the Implied Consent Act
10 and the test results indicate an alcohol concentration of eight
11 one hundredths or more;

12 (3) submits to chemical testing pursuant to
13 the Implied Consent Act and the test results indicate an
14 alcohol concentration of four one hundredths or more if the
15 person is driving a commercial motor vehicle;

16 (4) is less than twenty-one years of age and
17 submits to chemical testing pursuant to the Implied Consent Act
18 and the test results indicate an alcohol concentration of two
19 one hundredths or more; or

20 (5) is convicted of a violation of:

21 (a) driving a [~~commercial~~] motor vehicle
22 while under the influence of intoxicating liquor or drugs in
23 violation of Section 66-8-102 NMSA 1978, an ordinance of a
24 municipality of this state or the law of another state;

25 (b) leaving the scene of an accident

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1 involving a commercial motor vehicle driven by the person in
2 violation of Section 66-7-201 NMSA 1978 or an ordinance of a
3 municipality of this state or the law of another state;

4 (c) using a ~~commercial~~ motor vehicle
5 in the commission of a felony;

6 (d) driving a commercial motor vehicle
7 after the driver's commercial driver's license is revoked,
8 suspended, disqualified or canceled for violations while
9 operating a commercial motor vehicle; or

10 (e) causing a fatality in the unlawful
11 operation of a motor vehicle pursuant to Section 66-8-101 NMSA
12 1978.

13 C. The department shall disqualify a person from
14 driving a commercial motor vehicle for a period of not less
15 than three years if any of the violations specified in
16 Subsection B of this section occur while transporting a
17 hazardous material required to be placarded.

18 D. The department shall disqualify a person from
19 driving a commercial motor vehicle for life if convicted of two
20 or more violations of any of the offenses specified in
21 Subsection B of this section, or any combination of those
22 offenses, arising from two or more separate incidents, but the
23 secretary may issue regulations establishing guidelines,
24 including conditions, under which a disqualification for life
25 under this subsection may be reduced to a period of not less

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1 than ten years. This subsection applies only to those offenses
2 committed after July 1, 1989.

3 E. The department shall disqualify a person from
4 driving a commercial motor vehicle for life if the person uses
5 a commercial motor vehicle in the commission of any felony
6 involving the manufacture, distribution or dispensing of a
7 controlled substance or the possession with intent to
8 manufacture, distribute or dispense a controlled substance.

9 F. The department shall disqualify a person from
10 driving a commercial motor vehicle for a period of not less
11 than sixty days if convicted of two serious traffic violations
12 or one hundred twenty days if convicted of three serious
13 traffic violations, if the violations were committed while
14 driving a commercial motor vehicle, arising from separate
15 incidents occurring within a three-year period.

16 G. The department shall disqualify a person from
17 driving a commercial motor vehicle for a period of not less
18 than one hundred eighty days nor more than two years if the
19 person is convicted of a first violation of an out-of-service
20 order while transporting hazardous materials required to be
21 placarded pursuant to the federal Hazardous Materials
22 Transportation Act or while operating a motor vehicle designed
23 to transport more than fifteen passengers, including the
24 driver. The department shall disqualify a person from driving
25 a commercial motor vehicle for a period of not less than three

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1 years nor more than five years if, during any ten-year period,
2 the person is convicted of any subsequent violations of out-of-
3 service orders, in separate incidents, while transporting
4 hazardous materials required to be placarded pursuant to that
5 act or while operating a motor vehicle designed to transport
6 more than fifteen passengers, including the driver.

7 H. The department shall disqualify a person from
8 driving a commercial motor vehicle for sixty days if:

9 (1) the person has been convicted of two
10 serious traffic violations in separate incidents within a
11 three-year period; and

12 (2) the second conviction results in
13 revocation, cancellation or suspension of the person's
14 commercial driver's license or noncommercial motor vehicle
15 driving privileges for sixty days.

16 I. The department shall disqualify a person from
17 driving a commercial motor vehicle for one hundred twenty days,
18 in addition to any other period of disqualification, if:

19 (1) the person has been convicted of more than
20 two serious traffic violations within a three-year period; and

21 (2) the third or a subsequent conviction
22 results in the revocation, cancellation or suspension of the
23 person's commercial driver's license or noncommercial motor
24 vehicle driving privileges.

25 J. When a person is disqualified from driving a

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1 commercial motor vehicle, any commercial driver's license held
2 by that person is invalidated without separate proceeding of
3 any kind and the driver is not eligible to apply for a
4 commercial driver's license until the period of time for which
5 the driver was disqualified has elapsed.

6 K. The department shall disqualify a person from
7 driving a commercial motor vehicle for not less than:

8 (1) sixty days if the person is convicted of a
9 first violation of a railroad-highway grade crossing violation;

10 (2) one hundred twenty days if, during any
11 three-year period, the person is convicted of a second
12 railroad-highway grade crossing violation in a separate
13 incident; and

14 (3) one year if, during any three-year period,
15 the person is convicted of a third or subsequent railroad-
16 highway grade crossing violation in a separate incident.

17 L. After disqualifying, suspending, revoking or
18 canceling a commercial driver's license, the department shall,
19 within ten days, update its records to reflect that action.
20 After disqualifying, suspending, revoking or canceling a
21 nonresident commercial driver's privileges, the department
22 shall, within ten days, notify the licensing authority of the
23 state that issued the commercial driver's license.

24 M. When disqualifying, suspending, revoking or
25 canceling a commercial driver's license, the department shall

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1 treat a conviction received in another state in the same manner
2 as if it was received in this state.

3 [M-] N. The department shall post and enforce any
4 disqualification sent by the federal motor carrier safety
5 administration to the department that indicates that a
6 commercial motor vehicle driver poses an imminent hazard.

7 [N-] O. The transportation security administration
8 of the department of homeland security shall provide for an
9 appeal of a disqualification for a commercial driver's license
10 hazardous materials endorsement on the basis of a background
11 check, and the department shall provide to a hazardous
12 materials applicant a copy of the procedures established by the
13 transportation security administration, on request, at the time
14 of application.

15 [O-] P. New Mexico shall conform to the federal
16 transportation security administration of the department of
17 homeland security rules and shall "look back" or review a
18 maximum of seven years for a background check."

19 Section 9. A new section of the New Mexico Commercial
20 Driver's License Act is enacted to read:

21 "[NEW MATERIAL] VIOLATION CONVICTIONS--ACTIONS TO MASK,
22 DEFER OR DIVERT--PROHIBITED.--

23 A. A person shall take no action to prevent a
24 conviction of a traffic control law violation from appearing on
25 the driving record of a commercial driver's license holder,

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1 regardless of the vehicle or state in which the violation
2 occurred, including:

3 (1) masking or deferring imposition of a
4 judgment of a traffic control law violation committed by a
5 holder of a commercial driver's license; or

6 (2) allowing a holder of a commercial driver's
7 license to enter a diversion program upon conviction of a
8 traffic control law violation.

9 B. As used in this section, "traffic control law
10 violation" does not include a parking violation."

11 Section 10. Section 66-8-102 NMSA 1978 (being Laws 1953,
12 Chapter 139, Section 54, as amended by Laws 2005, Chapter 241,
13 Section 5 and by Laws 2005, Chapter 269, Section 5) is amended
14 to read:

15 "66-8-102. PERSONS UNDER THE INFLUENCE OF INTOXICATING
16 LIQUOR OR DRUGS--AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE
17 OF INTOXICATING LIQUOR OR DRUGS--PENALTY.--

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

21 B. It is unlawful for a person who is under the
22 influence of any drug to a degree that renders [him] the person
23 incapable of safely driving a vehicle to drive a vehicle within
24 this state.

25 C. It is unlawful for:

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1 (1) a person who has an alcohol concentration
2 of eight one hundredths or more in [~~his~~] the person's blood or
3 breath to drive a vehicle within this state; or

4 (2) a person who has an alcohol concentration
5 of four one hundredths or more in [~~his~~] the person's blood or
6 breath to drive a commercial motor vehicle within this state.

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

9 (1) has an alcohol concentration of sixteen
10 one hundredths or more in [~~his~~] the person's blood or breath
11 while driving a vehicle within this state;

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

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

19 E. A person under first conviction pursuant to 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
25 extend beyond ninety days but shall not exceed one year. Upon

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1 a first conviction pursuant to this section, an offender shall
2 be sentenced to not less than twenty-four hours and not more
3 than forty-eight hours of community service. In addition, the
4 offender may be required to pay a fine of three hundred dollars
5 (\$300). The offender shall be ordered by the court to
6 participate in and complete a screening program described in
7 Subsection K of this section and to attend a driver
8 rehabilitation program for alcohol or drugs, also known as a
9 "DWI school", approved by the bureau and also may be required
10 to participate in other rehabilitative services as the court
11 shall determine to be necessary. In addition to those
12 penalties, when an offender commits aggravated driving while
13 under the influence of intoxicating liquor or drugs, the
14 offender shall be sentenced to not less than forty-eight
15 consecutive hours in jail. If an offender fails to complete,
16 within a time specified by the court, any community service,
17 screening program, treatment program or DWI school ordered by
18 the court or fails to comply with any other condition of
19 probation, the offender shall be sentenced to not less than an
20 additional forty-eight consecutive hours in jail. Any jail
21 sentence imposed pursuant to this subsection for failure to
22 complete, within a time specified by the court, any community
23 service, screening program, treatment program or DWI school
24 ordered by the court or for aggravated driving while under the
25 influence of intoxicating liquor or drugs shall not be

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1 suspended, deferred or taken under advisement. On a first
2 conviction pursuant to this section, any time spent in jail for
3 the offense prior to the conviction for that offense shall be
4 credited to any term of imprisonment fixed by the court. A
5 deferred sentence pursuant to this subsection shall be
6 considered a first conviction for the purpose of determining
7 subsequent convictions.

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

17 (1) upon a second conviction, an offender
18 shall be sentenced to a jail term of not less than ninety-six
19 consecutive hours, forty-eight hours of community service and a
20 fine of five hundred dollars (\$500). In addition to those
21 penalties, when an offender commits aggravated driving while
22 under the influence of intoxicating liquor or drugs, the
23 offender shall be sentenced to a jail term of not less than
24 ninety-six consecutive hours. If an offender fails to
25 complete, within a time specified by the court, any community

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1 service, screening program or treatment program ordered by the
2 court, the offender shall be sentenced to not less than an
3 additional seven consecutive days in jail. A penalty imposed
4 pursuant to this paragraph shall not be suspended or deferred
5 or taken under advisement; and

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

20 G. Upon a fourth conviction pursuant to this
21 section, an offender is guilty of a fourth degree felony and,
22 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
23 shall be sentenced to a term of imprisonment of eighteen
24 months, six months of which shall not be suspended, deferred or
25 taken under advisement.

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1 H. Upon a fifth conviction pursuant to this
2 section, an offender is guilty of a fourth degree felony and,
3 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
4 shall be sentenced to a term of imprisonment of two years, one
5 year of which shall not be suspended, deferred or taken under
6 advisement.

7 I. Upon a sixth conviction pursuant to this
8 section, an offender is guilty of a third degree felony and,
9 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
10 shall be sentenced to a term of imprisonment of thirty months,
11 eighteen months of which shall not be suspended, deferred or
12 taken under advisement.

13 J. Upon a seventh or subsequent conviction pursuant
14 to this section, an offender is guilty of a third degree felony
15 and, notwithstanding the provisions of Section 31-18-15 NMSA
16 1978, shall be sentenced to a term of imprisonment of three
17 years, two years of which shall not be suspended, deferred or
18 taken under advisement.

19 K. Upon any conviction pursuant to this section, an
20 offender shall be required to participate in and complete,
21 within a time specified by the court, an alcohol or drug abuse
22 screening program approved by the department of finance and
23 administration and, if necessary, a treatment program approved
24 by the court. The requirement imposed pursuant to this
25 subsection shall not be suspended, deferred or taken under

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1 advisement.

2 L. Upon a second or third conviction pursuant to
3 this section, an offender shall be required to participate in
4 and complete, within a time specified by the court:

5 (1) not less than a twenty-eight-day
6 inpatient, residential or in-custody substance abuse treatment
7 program approved by the court;

8 (2) not less than a ninety-day outpatient
9 treatment program approved by the court;

10 (3) a drug court program approved by the
11 court; or

12 (4) any other substance abuse treatment
13 program approved by the court.

14 The requirement imposed pursuant to this subsection shall
15 not be suspended, deferred or taken under advisement.

16 M. Upon a felony conviction pursuant to this
17 section, the corrections department shall provide substance
18 abuse counseling and treatment to the offender in its custody.
19 While the offender is on probation or parole under its
20 supervision, the corrections department shall also provide
21 substance abuse counseling and treatment to the offender or
22 shall require the offender to obtain substance abuse counseling
23 and treatment.

24 N. Upon a conviction pursuant to this section, an
25 offender shall be required to obtain an ignition interlock

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1 license and have an ignition interlock device installed and
2 operating on all motor vehicles driven by the offender,
3 pursuant to rules adopted by the bureau. Unless determined by
4 the sentencing court to be indigent, the offender shall pay all
5 costs associated with having an ignition interlock device
6 installed on the appropriate motor vehicles. The offender
7 shall operate only those vehicles equipped with ignition
8 interlock devices for:

9 (1) a period of one year, for a first
10 offender;

11 (2) a period of two years, for a second
12 conviction pursuant to this section;

13 (3) a period of three years, for a third
14 conviction pursuant to this section; or

15 (4) the remainder of the offender's life, for
16 a fourth or subsequent conviction pursuant to this section.

17 0. Five years from the date of conviction and every
18 five years thereafter, a fourth or subsequent offender may
19 apply to a district court for removal of the ignition interlock
20 device requirement provided in this section and for restoration
21 of a driver's license. A district court may, for good cause
22 shown, remove the ignition interlock device requirement and
23 order restoration of the license; provided that the offender
24 has not been subsequently convicted of driving a motor vehicle
25 while under the influence of intoxicating liquor or drugs.

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1 Good cause may include an alcohol screening and proof from the
2 interlock vendor that the person has not had violations of the
3 interlock device.

4 P. In the case of a first, second or third offense
5 under this section, the magistrate court has concurrent
6 jurisdiction with district courts to try the offender.

7 Q. A conviction pursuant to a municipal or county
8 ordinance in New Mexico or a law of any other jurisdiction,
9 territory or possession of the United States or of a tribe,
10 when that ordinance or law is equivalent to New Mexico law for
11 driving while under the influence of intoxicating liquor or
12 drugs, and prescribes penalties for driving while under the
13 influence of intoxicating liquor or drugs, shall be deemed to
14 be a conviction pursuant to this section for purposes of
15 determining whether a conviction is a second or subsequent
16 conviction.

17 R. In addition to any other fine or fee that may be
18 imposed pursuant to the conviction or other disposition of the
19 offense under this section, the court may order the offender to
20 pay the costs of any court-ordered screening and treatment
21 programs.

22 S. With respect to this section and notwithstanding
23 any provision of law to the contrary, if an offender's sentence
24 was suspended or deferred in whole or in part and the offender
25 violates any condition of probation, the court may impose any

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1 sentence that the court could have originally imposed and
2 credit shall not be given for time served by the offender on
3 probation.

4 T. As used in this section:

5 (1) "bodily injury" means an injury to a
6 person that is not likely to cause death or great bodily harm
7 to the person, but does cause painful temporary disfigurement
8 or temporary loss or impairment of the functions of any member
9 or organ of the person's body; and

10 (2) "commercial motor vehicle" means a motor
11 vehicle or combination of motor vehicles used in commerce to
12 transport passengers or property if the motor vehicle:

13 (a) has a gross combination weight
14 rating of more than twenty-six thousand pounds inclusive of a
15 towed unit with a gross vehicle weight rating of more than ten
16 thousand pounds;

17 (b) has a gross vehicle weight rating of
18 more than twenty-six thousand pounds;

19 (c) is designed to transport sixteen or
20 more passengers, including the driver; or

21 (d) is of any size and is used in the
22 transportation of hazardous materials, which requires the motor
23 vehicle to be placarded under applicable law [and

24 ~~(3) "conviction" means an adjudication of~~
25 ~~guilt and does not include imposition of a sentence]."~~

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1 Section 11. Section 66-8-135 NMSA 1978 (being Laws 1978,
2 Chapter 35, Section 543, as amended) is amended to read:

3 "66-8-135. RECORD OF TRAFFIC CASES.--

4 A. Every trial court judge shall keep a record of
5 every traffic complaint, uniform traffic citation and other
6 form of traffic charge filed in the judge's court or its
7 traffic violations bureau and every official action and
8 disposition of the charge by that court.

9 B. Within ten days of the later of entry of
10 judgment and sentence or failure to appear on a charge of
11 violating the Motor Vehicle Code or other law or ordinance
12 relating to motor vehicles or the final decision of any higher
13 court that reviews the matter and from which no appeal or
14 review is successfully taken, every trial court judge,
15 including children's court judges, or the clerk of the court in
16 which the entry of judgment and sentence or failure to appear
17 occurred shall prepare and forward to the department an
18 abstract of the record containing:

- 19 (1) the name and address of the defendant;
20 (2) the specific section number and common
21 name of the provision of the NMSA 1978 or local law, ordinance
22 or regulation under which the defendant was tried;
23 (3) the plea, finding of the court and
24 disposition of the charge, including fine or jail sentence or
25 both, forfeiture of bail or dismissal of the charge;

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1 (4) an itemization of costs assessed to the
2 defendant;

3 (5) the date of the hearing;

4 (6) the court's name and address;

5 (7) whether the defendant was a first or
6 subsequent offender; and

7 (8) whether the defendant was represented by
8 counsel or waived [~~his~~] the right to counsel and, if
9 represented, the name and address of counsel.

10 C. The abstract of record prepared and forwarded
11 under Subsection B of this section shall be certified as
12 correct by the person required to prepare it. With the prior
13 approval of the department, the information required by
14 Subsection B of this section may be transmitted electronically
15 to the department. Report need not be made of any disposition
16 of a charge of illegal parking or standing of a vehicle except
17 when the uniform traffic citation is used.

18 D. When the uniform traffic citation is used, the
19 court shall provide the information required by Subsection B of
20 this section in the manner prescribed by the department.

21 E. Every court of record shall also forward a like
22 report to the department upon conviction of any person of any
23 felony if a motor vehicle was used in the commission. With the
24 prior approval of the department, the information required by
25 this subsection may be submitted electronically to the

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1 department. The report shall be forwarded to the department
2 within ten days of the final decision of the court or of any
3 higher court that reviews the matter and from which the
4 decision of no appeal or review is successfully taken.

5 F. The failure or refusal of any judicial officer
6 to comply with this section is misconduct in office and grounds
7 for removal.

8 G. The department shall keep records received on
9 motorists licensed in this state at its main office. Records
10 showing a record of conviction by a court of law shall be open
11 to public inspection during business hours for [~~three years~~
12 ~~from the date of their receipt, after which they shall be~~
13 ~~destroyed by the department except for records of convictions~~
14 ~~under Sections 66-8-101 through 66-8-112 NMSA 1978, which may~~
15 ~~not be destroyed until]~~ fifty-five years from the date of their
16 receipt. Any record received on a motorist licensed in another
17 state or country shall be forwarded to the licensing authority
18 of that state or country."

19 Section 12. EMERGENCY.--It is necessary for the public
20 peace, health and safety that this act take effect immediately.