

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

March 14, 2007

Mr. Speaker:

Your **JUDICIARY COMMITTEE**, to whom has been referred
SENATE BILL 443

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 14, after the semicolon, insert "PROVIDING FOR THE ADMISSIBILITY OF CHEMICAL TESTS TAKEN MORE THAN THREE HOURS AFTER DRIVING; ESTABLISHING MINIMUM HOURS FOR COMMUNITY SERVICE;".

2. On page 3, lines 20 and 21, strike "and not more than forty-eight hours".

3. On page 5, line 12, after the comma, insert "not less than".

4. On page 6, line 1, after the comma, insert "not less than".

5. On page 11, between lines 18 and 19, insert the following new section:

"Section 2. Section 66-8-110 NMSA 1978 (being Laws 1978, Chapter 35, Section 518, as amended by Laws 2003, Chapter 51, Section 12 and by Laws 2003, Chapter 90, Section 5) is amended to read:

"66-8-110. USE OF TESTS IN CRIMINAL ACTIONS OR CIVIL ACTIONS--LEVELS OF INTOXICATION--MANDATORY CHARGING.--

A. The results of a test performed pursuant to the Implied Consent Act may be introduced into evidence in any civil action or criminal action arising out of the acts alleged to have been committed by the person tested for driving a motor vehicle while under the influence of intoxicating liquor or drugs.

B. When the blood or breath of the person tested contains:

(1) an alcohol concentration of less than four one hundredths, it shall be presumed that the person was not under the

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influence of intoxicating liquor;

(2) an alcohol concentration of at least four one hundredths but less than eight one hundredths:

(a) no presumption shall be made that the person either was or was not under the influence of intoxicating liquor, unless the person is driving a commercial motor vehicle; and

(b) the amount of alcohol in the person's blood or breath may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor; or

(3) an alcohol concentration of four one hundredths or more and the person is driving a commercial vehicle, it shall be presumed that the person is under the influence of intoxicating liquor.

C. The arresting officer shall charge the person tested with a violation of Section 66-8-102 NMSA 1978 when the blood or breath of the person contains an alcohol concentration of:

(1) eight one hundredths or more; or

(2) four one hundredths or more if the person is driving a commercial motor vehicle.

D. When a person is less than twenty-one years of age and the blood or breath of the person contains an alcohol concentration of two one hundredths or more, the person's driving privileges shall be revoked pursuant to the provisions of the Implied Consent Act.

E. If the test performed pursuant to the Implied Consent Act is administered more than three hours after the person was driving a vehicle, the test result may be introduced as evidence of the alcohol concentration in the person's blood or breath at the time of the test and the trier of fact shall determine what weight to give the test result for the purpose of determining a violation of Section 66-8-102 NMSA 1978.

~~E.~~ F. The determination of alcohol concentration shall

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be based on the grams of alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of breath.

[F.] G. The presumptions in Subsection B of this section do not limit the introduction of other competent evidence concerning whether the person was under the influence of intoxicating liquor.

[G.] H. If a person is convicted of driving a motor vehicle while under the influence of intoxicating liquor, the trial judge shall [~~be required to~~] inquire into the past driving record of the person before sentence is entered in the matter."".

Respectfully submitted,

Al Park, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Barela, Foley, Martinez, Stewart, Swisstack, Youngberg

Absent: None

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