

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 recreational, camping or travel activities;

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

C. "cancellation" means that a driver's license is
annulled and terminated because of some error or defect or
because the licensee is no longer entitled to the license,

1 but cancellation of a license is without prejudice, and
2 application for a new license may be made at any time after
3 cancellation;

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

7 E. "chassis" means the complete motor vehicle,
8 including standard factory equipment, exclusive of the body
9 and cab;

10 F. "collector" means a person who is the owner of
11 one or more vehicles of historic or special interest who
12 collects, purchases, acquires, trades or disposes of these
13 vehicles or parts thereof for the person's own use in order
14 to preserve, restore and maintain a similar vehicle for hobby
15 purposes;

16 G. "combination" means any connected assemblage of
17 a motor vehicle and one or more semitrailers, trailers or
18 semitrailers converted to trailers by means of a converter
19 gear;

20 H. "combination gross vehicle weight" means the
21 sum total of the gross vehicle weights of all units of a
22 combination;

23 I. "commerce" means the transportation of persons,
24 property or merchandise for hire, compensation, profit or in
25 the furtherance of a commercial enterprise in this state or

1 between New Mexico and a place outside New Mexico, including
2 a place outside the United States;

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

7 (1) is operated interstate and has a gross
8 vehicle weight rating or gross combination weight rating, or
9 gross vehicle weight or gross combination weight, of four
10 thousand five hundred thirty-six kilograms, or ten thousand
11 one pounds or more; or is operated only in intrastate
12 commerce and has a gross vehicle weight rating or gross
13 combination weight rating, or gross vehicle weight or gross
14 combination weight, of twenty-six thousand one or more
15 pounds;

16 (2) is designed or used to transport more
17 than eight passengers, including the driver, and is used to
18 transport passengers for compensation;

19 (3) is designed or used to transport sixteen
20 or more passengers, including the driver, and is not used to
21 transport passengers for compensation; or

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

25 K. "controlled-access highway" means every

1 highway, street or roadway in respect to which owners or
2 occupants of abutting lands and other persons have no legal
3 right of access to or from the highway, street or roadway
4 except at those points only and in the manner as may be
5 determined by the public authority having jurisdiction over
6 the highway, street or roadway;

7 L. "controlled substance" means any substance
8 defined in Section 30-31-2 NMSA 1978 as a controlled
9 substance;

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

18 N. "conviction" means:

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

22 (a) a court of original jurisdiction;

23 or

24 (b) an authorized administrative
25 tribunal if the person who has violated the law or failed to

1 comply with the law holds a valid commercial driver's
2 license;

3 (2) an unvacated forfeiture of bail or
4 collateral deposited to secure a person's appearance in
5 court;

6 (3) a plea of guilty or nolo contendere
7 accepted by the court;

8 (4) the payment of a fine or court cost;

9 (5) a violation of a condition of release
10 without bail, regardless of whether the payment is rebated,
11 suspended or probated; or

12 (6) an assignment to a diversion program or
13 a driver improvement school;

14 O. "crosswalk" means:

15 (1) that part of a roadway at an
16 intersection included within the connections of the lateral
17 lines of the sidewalks on opposite sides of the highway
18 measured from the curbs or, in the absence of curbs, from the
19 edges of the traversable roadway; and

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

23 P. "curb cut" means a short ramp through a curb
24 or built up to the curb."

25 Section 2. Section 66-1-4.16 NMSA 1978 (being Laws

1 1990, Chapter 120, Section 17, as amended) is amended to
2 read:

3 "66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle
4 Code:

5 A. "safety glazing materials" means glazing
6 materials constructed, treated or combined with other
7 materials to reduce substantially, in comparison with
8 ordinary sheet glass or plate glass, the likelihood of injury
9 to persons by objects from exterior sources or by these
10 safety glazing materials when they are cracked and broken;

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

16 C. "salvage vehicle" means a vehicle:

17 (1) other than a nonrepairable vehicle, of
18 a type subject to registration that has been wrecked,
19 destroyed or damaged excluding, pursuant to rules issued by
20 the department, hail damage, to the extent that the owner,
21 leasing company, financial institution or the insurance
22 company that insured or is responsible for repair of the
23 vehicle considers it uneconomical to repair the vehicle and
24 that is subsequently not repaired by or for the person who
25 owned the vehicle at the time of the event resulting in

1 damage; or

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

11 D. "school bus" means a commercial motor vehicle
12 used to transport preprimary, primary or secondary school
13 students from home to school, from school to home or to and
14 from school-sponsored events, but not including a vehicle:

15 (1) operated by a common carrier, subject
16 to and meeting all requirements of the public regulation
17 commission but not used exclusively for the transportation of
18 students;

19 (2) operated solely by a government-owned
20 transit authority, if the transit authority meets all safety
21 requirements of the public regulation commission but is not
22 used exclusively for the transportation of students; or

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

25 E. "seal" means the official seal of the taxation SB 435
Page 7

1 and revenue department as designated by the secretary;

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

6 G. "semitrailer" means a vehicle without motive
7 power, other than a pole trailer, designed for carrying
8 persons or property and for being drawn by a motor vehicle
9 and so constructed that some significant part of its weight
10 and that of its load rests upon or is carried by another
11 vehicle;

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

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

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

21 K. "special mobile equipment" means a vehicle not
22 designed or used primarily for the transportation of persons
23 or property and incidentally operated or moved over the
24 highways, including but not limited to farm tractors, road
25 construction or maintenance machinery, ditch-digging

1 apparatus, well-boring apparatus and concrete mixers;

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

8 M. "state" means a state, territory or possession
9 of the United States, the District of Columbia or any state
10 of the Republic of Mexico or the Federal District of Mexico
11 or a province of the Dominion of Canada;

12 N. "state highway" means a public highway that
13 has been designated as a state highway by the legislature,
14 the state transportation commission or the secretary of
15 transportation;

16 O. "stop", when required, means complete
17 cessation from movement;

18 P. "stop, stopping or standing", when prohibited,
19 means any stopping or standing of a vehicle, whether occupied
20 or not, except when necessary to avoid conflict with other
21 traffic or in compliance with the directions of a police
22 officer or traffic-control sign or signal;

23 Q. "street" or "highway" means a way or place
24 generally open to the use of the public as a matter of right
25 for the purpose of vehicular travel, even though it may be

1 temporarily closed or restricted for the purpose of
2 construction, maintenance, repair or reconstruction;

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

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

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

16 "66-5-4. PERSONS EXEMPT FROM LICENSURE.--The following
17 persons are exempt from licensure under the Motor Vehicle
18 Code:

19 A. military personnel while driving a motor
20 vehicle owned or leased by the United States department of
21 defense;

22 B. a person who is at least fifteen years of age
23 and who has in immediate possession a valid driver's license
24 issued to the person in the person's home state or country
25 may drive a motor vehicle in this state, except that the

1 person shall obtain a license upon becoming a resident and
2 before the person is employed for compensation by another for
3 the purpose of driving a motor vehicle;

4 C. a nonresident who is at least eighteen years
5 of age whose home state or country does not require the
6 licensing of drivers may drive a motor vehicle for a period
7 of not more than one hundred eighty days in any calendar year
8 if the motor vehicle driven is duly registered in the home
9 state or country of the nonresident;

10 D. a driver of a farm tractor or implement of
11 husbandry temporarily drawn, moved or propelled on the
12 highway; and

13 E. a driver of an off-highway motorcycle."

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

16 "66-5-54. DEFINITIONS.--As used in the New Mexico
17 Commercial Driver's License Act:

18 A. "commerce" means:

19 (1) trade, traffic or transportation within
20 the jurisdiction of the United States between a place in New
21 Mexico and a place outside of New Mexico, including a place
22 outside of the United States; and

23 (2) trade, traffic or transportation in the
24 United States that affects any trade, traffic or
25 transportation described in Paragraph (1) of this subsection;

1 B. "commercial driver's license information
2 system" means the information system created pursuant to the
3 federal Commercial Motor Vehicle Safety Act of 1986 that
4 contains information pertaining to operators of commercial
5 motor vehicles;

6 C. "commercial motor vehicle" means a motor
7 vehicle or combination of motor vehicles used in commerce to
8 transport passengers or property if the motor vehicle:

9 (1) has a gross combination weight rating
10 of more than twenty-six thousand pounds inclusive of a towed
11 unit with a gross vehicle weight rating of more than ten
12 thousand pounds;

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

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

17 (4) is of any size and is used in the
18 transportation of hazardous materials, which requires the
19 motor vehicle to be placarded under applicable law;

20 D. "director" means the director of the motor
21 vehicle division of the department;

22 E. "disqualification" means:

23 (1) a suspension, revocation or
24 cancellation of a commercial driver's license by the state or
25 jurisdiction that issued the commercial driver's license;

1 (2) a withdrawal of a person's privileges
2 to drive a commercial motor vehicle by a state or other
3 jurisdiction as the result of a violation of state or local
4 law relating to motor vehicle control other than a parking,
5 vehicle weight or vehicle defect violation; and

6 (3) a determination by the federal motor
7 carrier safety administration that a person is not qualified
8 to operate a motor vehicle;

9 F. "division" means the motor vehicle division of
10 the department;

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

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

16 (2) driving a commercial motor vehicle
17 while the driver is under the influence of intoxicating
18 liquor; or

19 (3) refusal to submit to chemical tests
20 administered pursuant to Section 66-8-107 NMSA 1978;

21 H. "employee" means an operator of a commercial
22 motor vehicle, including full-time, regularly employed
23 drivers; casual, intermittent or occasional drivers; leased
24 drivers; and independent owner-operator contractors, while in
25 the course of operating a commercial motor vehicle, who is

1 either directly employed by or under lease to an employer;

2 I. "employer" means a person, including the
3 United States, a state and a political subdivision of a state
4 or their agencies or instrumentalities, that owns or leases a
5 commercial motor vehicle or assigns employees to operate such
6 a vehicle;

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

9 K. "gross combination weight rating" means the
10 value specified by the manufacturer as the loaded weight of a
11 combination vehicle. In the absence of a value specified by
12 the manufacturer, gross combination weight rating shall be
13 determined by adding the gross vehicle weight rating of the
14 power unit and the total weight of the towed unit or units
15 and any load thereon;

16 L. "gross vehicle weight rating" means the value
17 specified by the manufacturer as the loaded weight of a
18 single vehicle;

19 M. "imminent hazard" means a condition that
20 presents a substantial likelihood that death, serious
21 illness, severe personal injury or a substantial endangerment
22 to health, property or the environment will occur before the
23 reasonable foreseeable completion date of a formal proceeding
24 to lessen the risk of that death, illness, injury or
25 endangerment;

1 N. "noncommercial motor vehicle" means a motor
2 vehicle or combination of motor vehicles that is not a
3 commercial motor vehicle;

4 O. "nonresident commercial driver's license"
5 means a commercial driver's license issued by another state
6 to a person domiciled in that state or by a foreign country
7 to a person domiciled in that country;

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

13 Q. "railroad-highway grade crossing violation"
14 means a violation of a provision of Section 66-7-341 or
15 66-7-343 NMSA 1978 or a violation of federal or local law or
16 rule pertaining to stopping at or crossing a railroad-highway
17 grade crossing;

18 R. "serious traffic violation" means conviction
19 of any of the following if committed when operating a motor
20 vehicle:

21 (1) speed of fifteen miles or more per hour
22 above the posted limits;

23 (2) reckless driving as defined by Section
24 66-8-113 NMSA 1978 or a municipal ordinance or the law of
25 another state;

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

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

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

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

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

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

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

23 (10) driving a commercial motor vehicle
24 without the proper class of commercial driver's license and
25 endorsements pursuant to Section 66-5-65 NMSA 1978 and the

1 Motor Carrier Safety Act for the specific vehicle group
2 operated or for the passengers or type of cargo transported;
3 or

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

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

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

23 B. The division may authorize a person, including
24 an agency of this or another state, an employer, a private
25 driver-training facility or other private institution or a

1 department, agency or instrumentality of local government to
2 administer the skills test specified by this section.

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

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

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

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

20 "66-5-65. CLASSIFICATIONS--ENDORSEMENTS--
21 RESTRICTIONS.--

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

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

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

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

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

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

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

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

1 C. The secretary, by regulation, may provide for
2 classifications in addition to those set forth in Subsection
3 B of this section.

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

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

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

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

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

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

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

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

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

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

1 Information received pursuant to a background check required
2 by the federal transportation security administration of the
3 department of homeland security shall be kept confidential
4 and shall be released only to the subject of the background
5 check and the division. Fees charged for the background
6 check shall be borne by the subject of the background check
7 or by the employer."

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

10 "66-5-67. EXPIRATION AND RENEWAL--STAGGERED LICENSING
11 DURING IMPLEMENTATION PERIOD.--

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

18 B. The license is renewable within ninety days
19 prior to its expiration or at an earlier date as approved by
20 the secretary.

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

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

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

3 (3) will not reach the age of seventy-five
4 during the last four years of the eight-year license period.

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

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

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

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

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

23 "66-5-68. DISQUALIFICATION.--

24 A. The department shall disqualify a person from
25 driving a commercial motor vehicle for at least thirty days

1 if the federal motor carrier safety administration reports to
2 the division that the person poses an imminent hazard.

3 B. The department shall disqualify a person who
4 holds a commercial driver's license from driving a commercial
5 motor vehicle for a period of not less than one year, which
6 shall run concurrently with any revocation or suspension
7 action for the same offense, if the person:

8 (1) refuses to submit to a chemical test
9 when requested pursuant to the provisions of the Implied
10 Consent Act;

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

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

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

23 (5) is convicted of a violation of:

24 (a) driving a motor vehicle while
25 under the influence of intoxicating liquor or drugs in

1 violation of Section 66-8-102 NMSA 1978, an ordinance of a
2 municipality of this state or the law of another state;

3 (b) leaving the scene of an accident
4 involving a commercial motor vehicle driven by the person in
5 violation of Section 66-7-201 NMSA 1978 or an ordinance of a
6 municipality of this state or the law of another state;

7 (c) using a motor vehicle in the
8 commission of a felony;

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

13 (e) causing a fatality in the unlawful
14 operation of a motor vehicle pursuant to Section 66-8-101
15 NMSA 1978.

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

21 D. The department shall disqualify a person from
22 driving a commercial motor vehicle for life if convicted of
23 two or more violations of any of the offenses specified in
24 Subsection B of this section, or any combination of those
25 offenses, arising from two or more separate incidents, but

1 the secretary may issue regulations establishing guidelines,
2 including conditions, under which a disqualification for life
3 under this subsection may be reduced to a period of not less
4 than ten years. This subsection applies only to those
5 offenses committed after July 1, 1989.

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

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

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

1 designed to transport more than fifteen passengers, including
2 the driver. The department shall disqualify a person from
3 driving a commercial motor vehicle for a period of not less
4 than three years nor more than five years if, during any
5 ten-year period, the person is convicted of any subsequent
6 violations of out-of-service orders, in separate incidents,
7 while transporting hazardous materials required to be
8 placarded pursuant to that act or while operating a motor
9 vehicle designed to transport more than fifteen passengers,
10 including the driver.

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

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

16 (2) the second conviction results in
17 revocation, cancellation or suspension of the person's
18 commercial driver's license or noncommercial motor vehicle
19 driving privileges for sixty days.

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

24 (1) the person has been convicted of more
25 than two serious traffic violations within a three-year

1 period; and

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

6 J. When a person is disqualified from driving a
7 commercial motor vehicle, any commercial driver's license
8 held by that person is invalidated without separate
9 proceeding of any kind and the driver is not eligible to
10 apply for a commercial driver's license until the period of
11 time for which the driver was disqualified has elapsed.

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

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

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

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

25 L. After disqualifying, suspending, revoking or

1 canceling a commercial driver's license, the department
2 shall, within ten days, update its records to reflect that
3 action. After disqualifying, suspending, revoking or
4 canceling a nonresident commercial driver's privileges, the
5 department shall, within ten days, notify the licensing
6 authority of the state that issued the commercial driver's
7 license.

8 M. When disqualifying, suspending, revoking or
9 canceling a commercial driver's license, the department shall
10 treat a conviction received in another state in the same
11 manner as if it was received in this state.

12 N. The department shall post and enforce any
13 disqualification sent by the federal motor carrier safety
14 administration to the department that indicates that a
15 commercial motor vehicle driver poses an imminent hazard.

16 O. The transportation security administration of
17 the department of homeland security shall provide for an
18 appeal of a disqualification for a commercial driver's
19 license hazardous materials endorsement on the basis of a
20 background check, and the department shall provide to a
21 hazardous materials applicant a copy of the procedures
22 established by the transportation security administration, on
23 request, at the time of application.

24 P. New Mexico shall conform to the federal
25 transportation security administration of the department of

1 homeland security rules and shall "look back" or review a
2 maximum of seven years for a background check."

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

5 "VIOLATION CONVICTIONS--ACTIONS TO MASK, DEFER OR
6 DIVERT--PROHIBITED.--

7 A. A person shall take no action to prevent a
8 conviction of a traffic control law violation from appearing
9 on the driving record of a commercial driver's license
10 holder, regardless of the vehicle or state in which the
11 violation occurred, including:

12 (1) masking or deferring imposition of a
13 judgment of a traffic control law violation committed by a
14 holder of a commercial driver's license; or

15 (2) allowing a holder of a commercial
16 driver's license to enter a diversion program upon conviction
17 of a traffic control law violation.

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

20 Section 10. Section 66-8-102 NMSA 1978 (being Laws
21 1953, Chapter 139, Section 54, as amended by Laws 2005,
22 Chapter 241, Section 5 and by Laws 2005, Chapter 269, Section
23 5) is amended to read:

24 "66-8-102. PERSONS UNDER THE INFLUENCE OF INTOXICATING
25 LIQUOR OR DRUGS--AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE

1 OF INTOXICATING LIQUOR OR DRUGS--PENALTY.--

2 A. It is unlawful for a person who is under the
3 influence of intoxicating liquor to drive a vehicle within
4 this state.

5 B. It is unlawful for a person who is under the
6 influence of any drug to a degree that renders the person
7 incapable of safely driving a vehicle to drive a vehicle
8 within this state.

9 C. It is unlawful for:

10 (1) a person who has an alcohol
11 concentration of eight one hundredths or more in the person's
12 blood or breath to drive a vehicle within this state; or

13 (2) a person who has an alcohol
14 concentration of four one hundredths or more in the person's
15 blood or breath to drive a commercial motor vehicle within
16 this state.

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

19 (1) has an alcohol concentration of sixteen
20 one hundredths or more in the person's blood or breath while
21 driving a vehicle within this state;

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

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

6 E. A person under first conviction pursuant to
7 this section shall be punished, notwithstanding the
8 provisions of Section 31-18-13 NMSA 1978, by imprisonment for
9 not more than ninety days or by a fine of not more than five
10 hundred dollars (\$500), or both; provided that if the
11 sentence is suspended in whole or in part or deferred, the
12 period of probation may extend beyond ninety days but shall
13 not exceed one year. Upon a first conviction pursuant to
14 this section, an offender shall be sentenced to not less than
15 twenty-four hours and not more than forty-eight hours of
16 community service. In addition, the offender may be required
17 to pay a fine of three hundred dollars (\$300). The offender
18 shall be ordered by the court to participate in and complete
19 a screening program described in Subsection K of this section
20 and to attend a driver rehabilitation program for alcohol or
21 drugs, also known as a "DWI school", approved by the bureau
22 and also may be required to participate in other
23 rehabilitative services as the court shall determine to be
24 necessary. In addition to those penalties, when an offender
25 commits aggravated driving while under the influence of

1 intoxicating liquor or drugs, the offender shall be sentenced
2 to not less than forty-eight consecutive hours in jail. If
3 an offender fails to complete, within a time specified by the
4 court, any community service, screening program, treatment
5 program or DWI school ordered by the court or fails to comply
6 with any other condition of probation, the offender shall be
7 sentenced to not less than an additional forty-eight
8 consecutive hours in jail. Any jail sentence imposed
9 pursuant to this subsection for failure to complete, within a
10 time specified by the court, any community service, screening
11 program, treatment program or DWI school ordered by the court
12 or for aggravated driving while under the influence of
13 intoxicating liquor or drugs shall not be suspended, deferred
14 or taken under advisement. On a first conviction pursuant to
15 this section, any time spent in jail for the offense prior to
16 the conviction for that offense shall be credited to any term
17 of imprisonment fixed by the court. A deferred sentence
18 pursuant to this subsection shall be considered a first
19 conviction for the purpose of determining subsequent
20 convictions.

21 F. A second or third conviction pursuant to this
22 section shall be punished, notwithstanding the provisions of
23 Section 31-18-13 NMSA 1978, by imprisonment for not more than
24 three hundred sixty-four days or by a fine of not more than
25 one thousand dollars (\$1,000), or both; provided that if the

1 sentence is suspended in whole or in part, the period of
2 probation may extend beyond one year but shall not exceed
3 five years. Notwithstanding any provision of law to the
4 contrary for suspension or deferment of execution of a
5 sentence:

6 (1) upon a second conviction, an offender
7 shall be sentenced to a jail term of not less than ninety-six
8 consecutive hours, forty-eight hours of community service and
9 a fine of five hundred dollars (\$500). In addition to those
10 penalties, when an offender commits aggravated driving while
11 under the influence of intoxicating liquor or drugs, the
12 offender shall be sentenced to a jail term of not less than
13 ninety-six consecutive hours. If an offender fails to
14 complete, within a time specified by the court, any community
15 service, screening program or treatment program ordered by
16 the court, the offender shall be sentenced to not less than
17 an additional seven consecutive days in jail. A penalty
18 imposed pursuant to this paragraph shall not be suspended or
19 deferred or taken under advisement; and

20 (2) upon a third conviction, an offender
21 shall be sentenced to a jail term of not less than thirty
22 consecutive days, ninety-six hours of community service and a
23 fine of seven hundred fifty dollars (\$750). In addition to
24 those penalties, when an offender commits aggravated driving
25 while under the influence of intoxicating liquor or drugs,

1 the offender shall be sentenced to a jail term of not less
2 than sixty consecutive days. If an offender fails to
3 complete, within a time specified by the court, any community
4 service, screening program or treatment program ordered by
5 the court, the offender shall be sentenced to not less than
6 an additional sixty consecutive days in jail. A penalty
7 imposed pursuant to this paragraph shall not be suspended or
8 deferred or taken under advisement.

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

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

21 I. Upon a sixth conviction pursuant to this
22 section, an offender is guilty of a third degree felony and,
23 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
24 shall be sentenced to a term of imprisonment of thirty
25 months, eighteen months of which shall not be suspended,

1 deferred or taken under advisement.

2 J. Upon a seventh or subsequent conviction
3 pursuant to this section, an offender is guilty of a third
4 degree felony and, notwithstanding the provisions of Section
5 31-18-15 NMSA 1978, shall be sentenced to a term of
6 imprisonment of three years, two years of which shall not be
7 suspended, deferred or taken under advisement.

8 K. Upon any conviction pursuant to this section,
9 an offender shall be required to participate in and complete,
10 within a time specified by the court, an alcohol or drug
11 abuse screening program approved by the department of finance
12 and administration and, if necessary, a treatment program
13 approved by the court. The requirement imposed pursuant to
14 this subsection shall not be suspended, deferred or taken
15 under advisement.

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

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

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

24 (3) a drug court program approved by the
25 court; or

1 (4) any other substance abuse treatment
2 program approved by the court.

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

5 M. Upon a felony conviction pursuant to this
6 section, the corrections department shall provide substance
7 abuse counseling and treatment to the offender in its
8 custody. While the offender is on probation or parole under
9 its supervision, the corrections department shall also
10 provide substance abuse counseling and treatment to the
11 offender or shall require the offender to obtain substance
12 abuse counseling and treatment.

13 N. Upon a conviction pursuant to this section, an
14 offender shall be required to obtain an ignition interlock
15 license and have an ignition interlock device installed and
16 operating on all motor vehicles driven by the offender,
17 pursuant to rules adopted by the bureau. Unless determined
18 by the sentencing court to be indigent, the offender shall
19 pay all costs associated with having an ignition interlock
20 device installed on the appropriate motor vehicles. The
21 offender shall operate only those vehicles equipped with
22 ignition interlock devices for:

23 (1) a period of one year, for a first
24 offender;

25 (2) a period of two years, for a second

1 conviction pursuant to this section;

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

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

7 O. Five years from the date of conviction and
8 every five years thereafter, a fourth or subsequent offender
9 may apply to a district court for removal of the ignition
10 interlock device requirement provided in this section and for
11 restoration of a driver's license. A district court may, for
12 good cause shown, remove the ignition interlock device
13 requirement and order restoration of the license; provided
14 that the offender has not been subsequently convicted of
15 driving a motor vehicle while under the influence of
16 intoxicating liquor or drugs. Good cause may include an
17 alcohol screening and proof from the interlock vendor that
18 the person has not had violations of the interlock device.

19 P. In the case of a first, second or third
20 offense under this section, the magistrate court has
21 concurrent jurisdiction with district courts to try the
22 offender.

23 Q. A conviction pursuant to a municipal or county
24 ordinance in New Mexico or a law of any other jurisdiction,
25 territory or possession of the United States or of a tribe,

1 when that ordinance or law is equivalent to New Mexico law
2 for driving while under the influence of intoxicating liquor
3 or drugs, and prescribes penalties for driving while under
4 the influence of intoxicating liquor or drugs, shall be
5 deemed to be a conviction pursuant to this section for
6 purposes of determining whether a conviction is a second or
7 subsequent conviction.

8 R. In addition to any other fine or fee that may
9 be imposed pursuant to the conviction or other disposition of
10 the offense under this section, the court may order the
11 offender to pay the costs of any court-ordered screening and
12 treatment programs.

13 S. With respect to this section and
14 notwithstanding any provision of law to the contrary, if an
15 offender's sentence was suspended or deferred in whole or in
16 part and the offender violates any condition of probation,
17 the court may impose any sentence that the court could have
18 originally imposed and credit shall not be given for time
19 served by the offender on probation.

20 T. As used in this section:

21 (1) "bodily injury" means an injury to a
22 person that is not likely to cause death or great bodily harm
23 to the person, but does cause painful temporary disfigurement
24 or temporary loss or impairment of the functions of any
25 member or organ of the person's body; and

1 (2) "commercial motor vehicle" means a
2 motor vehicle or combination of motor vehicles used in
3 commerce to transport passengers or property if the motor
4 vehicle:

5 (a) has a gross combination weight
6 rating of more than twenty-six thousand pounds inclusive of a
7 towed unit with a gross vehicle weight rating of more than
8 ten thousand pounds;

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

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

13 (d) is of any size and is used in the
14 transportation of hazardous materials, which requires the
15 motor vehicle to be placarded under applicable law."

16 Section 11. Section 66-8-135 NMSA 1978 (being Laws
17 1978, Chapter 35, Section 543, as amended) is amended to
18 read:

19 "66-8-135. RECORD OF TRAFFIC CASES.--

20 A. Every trial court judge shall keep a record of
21 every traffic complaint, uniform traffic citation and other
22 form of traffic charge filed in the judge's court or its
23 traffic violations bureau and every official action and
24 disposition of the charge by that court.

25 B. Within ten days of the later of entry of

1 judgment and sentence or failure to appear on a charge of
2 violating the Motor Vehicle Code or other law or ordinance
3 relating to motor vehicles or the final decision of any
4 higher court that reviews the matter and from which no appeal
5 or review is successfully taken, every trial court judge,
6 including children's court judges, or the clerk of the court
7 in which the entry of judgment and sentence or failure to
8 appear occurred shall prepare and forward to the department
9 an abstract of the record containing:

10 (1) the name and address of the defendant;

11 (2) the specific section number and common
12 name of the provision of the NMSA 1978 or local law,
13 ordinance or regulation under which the defendant was tried;

14 (3) the plea, finding of the court and
15 disposition of the charge, including fine or jail sentence or
16 both, forfeiture of bail or dismissal of the charge;

17 (4) an itemization of costs assessed to the
18 defendant;

19 (5) the date of the hearing;

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

21 (7) whether the defendant was a first or
22 subsequent offender; and

23 (8) whether the defendant was represented
24 by counsel or waived the right to counsel and, if
25 represented, the name and address of counsel.

1 C. The abstract of record prepared and forwarded
2 under Subsection B of this section shall be certified as
3 correct by the person required to prepare it. With the prior
4 approval of the department, the information required by
5 Subsection B of this section may be transmitted
6 electronically to the department. Report need not be made of
7 any disposition of a charge of illegal parking or standing of
8 a vehicle except when the uniform traffic citation is used.

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

12 E. Every court of record shall also forward a
13 like report to the department upon conviction of any person
14 of any felony if a motor vehicle was used in the commission.
15 With the prior approval of the department, the information
16 required by this subsection may be submitted electronically
17 to the department. The report shall be forwarded to the
18 department within ten days of the final decision of the court
19 or of any higher court that reviews the matter and from which
20 the decision of no appeal or review is successfully taken.

21 F. The failure or refusal of any judicial officer
22 to comply with this section is misconduct in office and
23 grounds for removal.

24 G. Except as set forth in Subsection H of this
25 section for records of a person holding a commercial driver's

1 license, the department shall keep records received on
2 motorists licensed in this state at its main office. Records
3 showing a record of conviction by a court of law shall be
4 open to public inspection during business hours for three
5 years from the date of their receipt, after which they shall
6 be destroyed by the department except for records of
7 convictions under Sections 66-8-101 through 66-8-112 NMSA
8 1978, which may not be destroyed until fifty-five years from
9 the date of their receipt. Any record received on a motorist
10 licensed in another state or country shall be forwarded to
11 the licensing authority of that state or country.

12 H. The department shall keep records received on
13 a person holding a commercial driver's license in its main
14 office. Records showing a record of conviction by a court of
15 law shall be open to public inspection during business hours
16 for fifty-five years from the date of their receipt. Any
17 record received on a person holding a commercial driver's
18 license licensed in another state or country shall be
19 forwarded to the licensing authority of that state or
20 country."

21 Section 12. EMERGENCY.--It is necessary for the public
22 peace, health and safety that this act take effect
23 immediately. _____