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SENATE BILL 307

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Kent L. Cravens

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR
OR DRUGS; PROVIDING FOR SEIZURE AND FORFEITURE OF A VEHICLE
DRIVEN BY A PERSON WHOSE DRIVER'S LICENSE IS REVOKED FOR
DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.

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

Section 1. Section 66-5-39 NMSA 1978 (being Laws 1978,
Chapter 35, Section 261, as amended) is amended to read:

"66-5-39. DRIVING WHILE LICENSE SUSPENDED OR REVOKED--
[PROVIDING] PENALTIES.--

A. Any person who drives a motor vehicle on any
public highway of this state at a time when [~~his~~] the person's
privilege to do so is suspended or revoked and who knows or
should have known that [~~his~~] the person's license was suspended
or revoked is guilty of a misdemeanor and shall be charged with

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1 a violation of this section. Upon conviction, the person shall
2 be punished, notwithstanding the provisions of Section 31-18-13
3 NMSA 1978, by imprisonment for not less than four days or more
4 than three hundred sixty-four days or participation for an
5 equivalent period of time in a certified alternative sentencing
6 program, and there may be imposed in addition a fine of not
7 more than one thousand dollars (\$1,000). When a person pays
8 any or all of the cost of participating in a certified
9 alternative sentencing program, the court may apply that
10 payment as a deduction to any fine imposed by the court.

11 Notwithstanding any other provision of law for suspension or
12 deferment of execution of a sentence, if the person's privilege
13 to drive was revoked for driving while under the influence of
14 intoxicating liquor or drugs or a violation of the Implied
15 Consent Act, upon conviction under this section, that person
16 shall be punished by imprisonment for not less than seven
17 consecutive days and shall be fined not less than three hundred
18 dollars (\$300) or not more than one thousand dollars (\$1,000)
19 and the fine and imprisonment shall not be suspended, deferred
20 or taken under advisement. No other disposition by plea of
21 guilty to any other charge in satisfaction of a charge under
22 this section shall be authorized if the person's privilege to
23 drive was revoked for driving while under the influence of
24 intoxicating liquor or drugs or a violation of the Implied
25 Consent Act. Any municipal ordinance prohibiting driving with

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1 a suspended or revoked license shall provide penalties no less
2 stringent than provided in this section.

3 ~~[B. In addition to any other penalties imposed~~
4 ~~pursuant to the provisions of this section]~~

5 B. When a person is arrested pursuant to the
6 provisions of this section and the person's privilege to drive
7 was revoked for driving under the influence of intoxicating
8 liquor or drugs or for a violation of the Implied Consent Act,
9 the motor vehicle the person was driving shall be seized upon
10 arrest. If the person arrested is the owner of the vehicle,
11 the vehicle shall be subject to forfeiture to the state
12 pursuant to the provisions of the Forfeiture Act. If the
13 person arrested is not the owner of the vehicle, the owner may
14 obtain the vehicle upon submission of an affidavit to the
15 division affirming that the owner will not allow a person
16 without a valid driver's license to operate the owner's
17 vehicle. The division shall keep the affidavit with the
18 vehicle's registration records, and if a person without a valid
19 driver's license is thereafter found to be driving the vehicle,
20 the vehicle shall be subject to forfeiture to the state
21 pursuant to the provisions of the Forfeiture Act.

22 C. Except for a person whose license was revoked
23 for driving under the influence of intoxicating liquor or drugs
24 or for a violation of the Implied Consent Act, when a person is
25 convicted pursuant to the provisions of this section or a

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1 municipal ordinance that prohibits driving on a suspended or
2 revoked license, the motor vehicle the person was driving shall
3 be immobilized by an immobilization device for thirty days,
4 unless immobilization of the motor vehicle poses an imminent
5 danger to the health, safety or employment of the convicted
6 person's immediate family or the family of the owner of the
7 motor vehicle. The convicted person shall bear the cost of
8 immobilizing the motor vehicle.

9 ~~[G-]~~ D. The division, upon receiving a record of
10 the conviction of any person under this section upon a charge
11 of driving a vehicle while the license of the person was
12 suspended, shall extend the period of suspension for an
13 additional like period, and if the conviction was upon a charge
14 of driving while a license was revoked, the division shall not
15 issue a new license for an additional period of one year from
16 the date the person would otherwise have been entitled to apply
17 for a new license."

18 Section 2. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2009.