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HOUSE BILL 404

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Tim D. Lewis

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR
OR DRUGS; AMENDING THE IGNITION INTERLOCK LICENSING REQUIREMENT
TO PROVIDE THAT A PERSON WITH ONLY ONE PRIOR CONVICTION FOR
DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS IN
ANOTHER JURISDICTION MAY OBTAIN A NEW MEXICO DRIVER'S LICENSE
UPON PROOF OF COMPLETION OF ALL CONDITIONS OF THE PERSON'S
SENTENCE.

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

SECTION 1. Section 66-5-5 NMSA 1978 (being Laws 1978,
Chapter 35, Section 227, as amended) is amended to read:

"66-5-5. PERSONS NOT TO BE LICENSED.--The division shall
not issue a driver's license under the Motor Vehicle Code to
any person:

A. who is under the age of eighteen years, except

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1 the division may, in its discretion, issue:

2 (1) an instruction permit to a person fifteen
3 years of age or older who is enrolled in and attending or has
4 completed a driver education course approved by the bureau that
5 includes a DWI education and prevention component;

6 (2) a provisional license to a person fifteen
7 years and six months of age or older:

8 (a) who has completed a driver education
9 course approved by the bureau or offered by a public school
10 that includes a DWI education and prevention component and has
11 had an instruction permit for at least six months as provided
12 in Section 66-5-8 NMSA 1978; and

13 (b) who has successfully completed a
14 practice driving component;

15 (3) a driver's license to a person sixteen
16 years and six months of age or older:

17 (a) who has had a provisional license
18 for at least a twelve-month period immediately preceding the
19 date of the application for the driver's license as provided in
20 Section 66-5-9 NMSA 1978;

21 (b) who has complied with restrictions
22 on that license; and

23 (c) who has not been adjudicated for an
24 offense involving the use of alcohol or drugs during the
25 twelve-month period immediately preceding the application for

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1 the driver's license and who has no pending adjudications
2 alleging an offense involving the use of alcohol or drugs at
3 the time of application; and

4 (4) to a person thirteen years of age or older
5 who passes an examination prescribed by the division, a license
6 restricted to the operation of a motorcycle, provided:

7 (a) the motorcycle is not in excess of
8 one hundred cubic centimeters displacement;

9 (b) no holder of an initial license may
10 carry any other passenger while driving a motorcycle; and

11 (c) the director approves and certifies
12 motorcycles as not in excess of one hundred cubic centimeters
13 displacement and by rule provides for a method of
14 identification of such motorcycles by all law enforcement
15 officers;

16 B. whose license or driving privilege has been
17 suspended or denied, during the period of suspension or denial,
18 or to any person whose license has been revoked, except as
19 provided in Section 66-5-32 NMSA 1978 and the Ignition
20 Interlock Licensing Act;

21 C. who is an habitual user of narcotic drugs or
22 alcohol or an habitual user of any drug to a degree that
23 renders the person incapable of safely driving a motor vehicle;

24 D. who is four or more times convicted of driving a
25 motor vehicle while under the influence of intoxicating liquor

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1 or narcotic drug regardless of whether the convictions are
2 under the laws or ordinances of this state or any municipality
3 or county of this state or under the laws or ordinances of any
4 other state, the District of Columbia or any governmental
5 subdivision thereof, except as provided in the Ignition
6 Interlock Licensing Act. Five years from the date of the
7 fourth conviction and every five years thereafter, the person
8 may apply to any district court of this state for restoration
9 of the license, and the court, upon good cause being shown, may
10 order restoration of the license applied for; provided that the
11 person has not been subsequently convicted of driving a motor
12 vehicle while under the influence of intoxicating liquor or
13 drugs. Upon issuance of the order of restoration, a certified
14 copy shall immediately be forwarded to the division, and if the
15 person is otherwise qualified for the license applied for, the
16 four previous convictions shall not prohibit issuance of the
17 license;

18 E. who was convicted of the person's most recent
19 offense on or after June 17, 2005 of driving a motor vehicle
20 while under the influence of intoxicating liquor or drugs
21 pursuant to the laws or ordinances of any other state, the
22 District of Columbia or any governmental subdivision thereof,
23 unless the person obtains an ignition interlock license as
24 provided in the Ignition Interlock Licensing Act for a period
25 of one year for a first conviction; a period of two years for a

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1 second conviction; a period of three years for a third
2 conviction; or the remainder of the offender's life for a
3 fourth or subsequent conviction, subject to a five-year review
4 as provided in Subsection D of this section. Upon presentation
5 of proof satisfactory to the division, the division may credit
6 time spent by a person operating a motor vehicle with an
7 ignition interlock or comparable device, as a condition of the
8 person's sentence for a conviction in another jurisdiction
9 [~~pursuant to this subsection~~], against the ignition interlock
10 time requirements imposed by this subsection. The division
11 shall promulgate rules necessary for granting credit to persons
12 who participate in comparable out-of-state programs following a
13 conviction for driving a motor vehicle while under the
14 influence of intoxicating liquor or drugs. The requirements of
15 this subsection shall not apply to a person who:

16 (1) has only one conviction for driving a
17 motor vehicle while under the influence of intoxicating liquor
18 or drugs pursuant to the laws or ordinances of any other state,
19 the District of Columbia or any governmental subdivision
20 thereof, and presents proof satisfactory to the division that
21 the person completed all conditions of the person's sentence
22 for a conviction in the other jurisdiction, whether or not
23 installation of an ignition interlock device was a condition of
24 the sentence; or

25 (2) applies for a driver's license ten years

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1 or more from the date of the person's last conviction, except
2 for a person who is subject to lifetime driver's license
3 revocation for a conviction in another jurisdiction pursuant to
4 this subsection;

5 F. who has previously been afflicted with or who is
6 suffering from any mental disability or disease that would
7 render the person unable to drive a motor vehicle with safety
8 upon the highways and who has not, at the time of application,
9 been restored to health;

10 G. who is required by the Motor Vehicle Code to
11 take an examination, unless the person has successfully passed
12 the examination;

13 H. who is required under the laws of this state to
14 deposit proof of financial responsibility and who has not
15 deposited the proof;

16 I. when the director has good cause to believe that
17 the operation of a motor vehicle on the highways by the person
18 would be inimical to public safety or welfare; or

19 J. as a motorcycle driver who is less than eighteen
20 years of age and who has not presented a certificate or other
21 evidence of having successfully completed a motorcycle driver
22 education program licensed or offered in conformance with rules
23 of the bureau."

24 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is July 1, 2015.

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