

SENATE BILL 613

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

INTRODUCED BY

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AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; RECOMPILING SECTIONS OF THE MOTOR VEHICLE CODE; CREATING THE DRIVING UNDER THE INFLUENCE CODE AND THE DUI ACT; REPEALING SECTIONS OF LAW.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Driving Under the Influence Code".

SECTION 2. [NEW MATERIAL] DEFINITION--"BODILY INJURY".-- As used in the Driving Under the Influence Code, "bodily injury" means an injury to a person that is not likely to cause death or great bodily harm to the person but causes painful temporary disfigurement or temporary loss or impairment of the functions of a member or organ of the person's body.

SECTION 3. [NEW MATERIAL] DEFINITION--"BUREAU".--As used .197808.4

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1 in the Driving Under the Influence Code, "bureau" means the
2 traffic safety bureau of the department of transportation.

3 SECTION 4. [NEW MATERIAL] DEFINITION--"COMBINATION".--As
4 used in the Driving Under the Influence Code, "combination"
5 means "combination" as defined in the Motor Vehicle Code.

6 SECTION 5. [NEW MATERIAL] DEFINITION--"COMMERCE".--As
7 used in the Driving Under the Influence Code, "commerce" means
8 "commerce" as defined in the Motor Vehicle Code.

9 SECTION 6. [NEW MATERIAL] DEFINITION--"COMMERCIAL MOTOR
10 VEHICLE".--As used in the Driving Under the Influence Code,
11 "commercial motor vehicle" means "commercial motor vehicle" as
12 defined in the Motor Vehicle Code.

13 SECTION 7. [NEW MATERIAL] DEFINITION--"CONTROLLED
14 SUBSTANCE".--As used in the Driving Under the Influence Code,
15 "controlled substance" means a substance defined in Section
16 30-31-2 NMSA 1978 as a controlled substance.

17 SECTION 8. [NEW MATERIAL] DEFINITION--"CONVICTION".--As
18 used in the Driving Under the Influence Code, "conviction":

19 A. means:

20 (1) a finding of guilt in the trial court in
21 regard to which the violator has waived or exhausted all rights
22 to appeal;

23 (2) a plea of guilty or nolo contendere
24 accepted by the court; or

25 (3) an unvacated forfeiture of bail or

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1 collateral deposited to secure a person's appearance in court;
2 and

3 B. does not include a conditional discharge as
4 provided in Section 31-20-13 NMSA 1978 or a deferred sentence
5 when the terms of the deferred sentence are met.

6 SECTION 9. [NEW MATERIAL] DEFINITION--"DENIED".--As used
7 in the Driving Under the Influence Code, "denied" means the
8 department has refused to issue an instruction permit, driver's
9 license or provisional license pursuant to the provisions of
10 Subsection D or E of Section 66-5-5 NMSA 1978.

11 SECTION 10. [NEW MATERIAL] DEFINITION--"DEPARTMENT".--As
12 used in the Driving Under the Influence Code, "department"
13 means the taxation and revenue department, the secretary of
14 taxation and revenue or any employee of the department
15 exercising authority lawfully delegated to that employee by the
16 secretary.

17 SECTION 11. [NEW MATERIAL] DEFINITION--"DRIVER".--As used
18 in the Driving Under the Influence Code, "driver" means
19 "driver" as defined in the Motor Vehicle Code.

20 SECTION 12. [NEW MATERIAL] DEFINITION--"DRIVER'S
21 LICENSE".--As used in the Driving Under the Influence Code,
22 "driver's license" means "driver's license" as defined in the
23 Motor Vehicle Code.

24 SECTION 13. [NEW MATERIAL] DEFINITION--"FIRST
25 OFFENDER".--As used in the Driving Under the Influence Code,
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1 "first offender" means a person who for the first time pursuant
2 to state or federal law or a municipal ordinance or a tribal
3 law has been adjudicated guilty of the charge of driving a
4 motor vehicle while under the influence of intoxicating liquor
5 or any other drug that renders the person incapable of safely
6 driving a motor vehicle, regardless of whether the person's
7 sentence was suspended or deferred.

8 SECTION 14. [NEW MATERIAL] DEFINITION--"HAZARDOUS
9 MATERIAL".--As used in the Driving Under the Influence Code,
10 "hazardous material" means "hazardous material" as defined in
11 the Motor Vehicle Code.

12 SECTION 15. [NEW MATERIAL] DEFINITION--"IGNITION
13 INTERLOCK DEVICE".--As used in the Driving Under the Influence
14 Code, "ignition interlock device" means a device, approved by
15 the bureau, that prevents the operation of a motor vehicle by
16 an intoxicated or impaired person.

17 SECTION 16. [NEW MATERIAL] DEFINITION--"IGNITION
18 INTERLOCK LICENSE".--As used in the Driving Under the Influence
19 Code, "ignition interlock license" means a driver's license
20 issued to a person by the department that allows that person to
21 operate a motor vehicle with an ignition interlock device after
22 that person's driving privilege or driver's license has been
23 revoked or denied. The department shall clearly mark an
24 ignition interlock license to distinguish it from other
25 driver's licenses.

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1 SECTION 17. [NEW MATERIAL] DEFINITION--"LICENSE".--As
2 used in the Driving Under the Influence Code, "license",
3 without modification, means "license" as defined in the Motor
4 Vehicle Code.

5 SECTION 18. [NEW MATERIAL] DEFINITION--"MAIL".--As used
6 in the Driving Under the Influence Code, "mail" means an item
7 properly addressed with postage prepaid delivered by the United
8 States postal service or any other public or private enterprise
9 primarily engaged in the transport and delivery of letters,
10 packages and other parcels.

11 SECTION 19. [NEW MATERIAL] DEFINITION--"MOTOR VEHICLE".--
12 As used in the Driving Under the Influence Code, "motor
13 vehicle" means "motor vehicle" as defined in the Motor Vehicle
14 Code.

15 SECTION 20. [NEW MATERIAL] DEFINITION--"NONRESIDENT".--As
16 used in the Driving Under the Influence Code, "nonresident"
17 means every person who is not a resident of this state.

18 SECTION 21. [NEW MATERIAL] DEFINITION--"NONRESIDENT'S
19 OPERATING PRIVILEGE".--As used in the Driving Under the
20 Influence Code, "nonresident's operating privilege" means
21 "nonresident's operating privilege" as defined in the Motor
22 Vehicle Code.

23 SECTION 22. [NEW MATERIAL] DEFINITION--"POLICE
24 OFFICER".--As used in the Driving Under the Influence Code,
25 "police officer" means every officer authorized to direct or

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1 regulate traffic or to make arrests for violations of the Motor
2 Vehicle Code or the Driving Under the Influence Code.

3 SECTION 23. [NEW MATERIAL] DEFINITION--"REVOCATION".--As
4 used in the Driving Under the Influence Code, "revocation"
5 means that the driver's license and privilege to drive a motor
6 vehicle on the public highways are terminated and shall not be
7 renewed or restored, except as provided in the Driving Under
8 the Influence Code.

9 SECTION 24. [NEW MATERIAL] DEFINITION--"REVOKED".--As
10 used in the Driving Under the Influence Code, "revoked" means
11 the department, pursuant to the provisions of Section 66-5-29
12 NMSA 1978 or Section 55 of the Driving Under the Influence
13 Code, has terminated a person's driving privilege or driver's
14 license for driving while under the influence of intoxicating
15 liquor or drugs.

16 SECTION 25. [NEW MATERIAL] DEFINITION--"SUBSEQUENT
17 OFFENDER".--As used in the Driving Under the Influence Code,
18 "subsequent offender" means a person who was previously a first
19 offender and who again, under state law, federal law or a
20 municipal ordinance or a tribal law, has been adjudicated
21 guilty of the charge of driving a motor vehicle while under the
22 influence of intoxicating liquor or any drug that rendered the
23 person incapable of safely driving a motor vehicle, regardless
24 of whether the person's sentence was suspended or deferred.

25 SECTION 26. [NEW MATERIAL] DEFINITION--"SUSPENSION".--As

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1 used in the Driving Under the Influence Code, "suspension"
2 means "suspension" as defined in the Motor Vehicle Code.

3 SECTION 27. [NEW MATERIAL] DEFINITION--"VEHICLE".--As
4 used in the Driving Under the Influence Code, "vehicle" means
5 "vehicle" as defined in the Motor Vehicle Code.

6 SECTION 28. A new section of the Driving Under the
7 Influence Code is enacted to read:

8 "[NEW MATERIAL] SHORT TITLE.--Sections 28 through 49 of
9 the Driving Under the Influence Code may be cited as the "DUI
10 Act"."

11 SECTION 29. A new section of the Driving Under the
12 Influence Code is enacted to read:

13 "[NEW MATERIAL] DEFINITION.--As used in the DUI Act,
14 "commercial motor vehicle" means a motor vehicle or combination
15 of motor vehicles used in commerce to transport passengers or
16 property if the motor vehicle:

17 A. has a gross combination weight rating of more
18 than twenty-six thousand pounds, inclusive of a towed unit with
19 a gross vehicle weight rating of more than ten thousand pounds;

20 B. has a gross vehicle weight rating of more than
21 twenty-six thousand pounds;

22 C. is designed to transport sixteen or more
23 passengers, including the driver; or

24 D. is of any size and is used in the transportation
25 of hazardous materials, which requires the motor vehicle to be

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1 placarded under applicable law."

2 SECTION 30. A new section of the Driving Under the
3 Influence Code is enacted to read:

4 "[NEW MATERIAL] DRIVING UNDER THE INFLUENCE OF
5 INTOXICATING LIQUOR OR DRUGS.--

6 A. It is unlawful for a person who is under the
7 influence of intoxicating liquor to drive a vehicle within this
8 state.

9 B. It is unlawful for a person who is under the
10 influence of a drug to a degree that renders the person
11 incapable of safely driving a vehicle to drive a vehicle within
12 this state."

13 SECTION 31. A new section of the Driving Under the
14 Influence Code is enacted to read:

15 "[NEW MATERIAL] UNLAWFUL ALCOHOL CONCENTRATIONS.--It is
16 unlawful for a person to drive:

17 A. a vehicle in this state if the person has an
18 alcohol concentration of eight one hundredths or more in the
19 person's blood or breath within three hours of driving the
20 vehicle and the alcohol concentration results from alcohol
21 consumed before or while driving the vehicle; or

22 B. a commercial motor vehicle in this state if the
23 person has an alcohol concentration of four one hundredths or
24 more in the person's blood or breath within three hours of
25 driving the commercial motor vehicle and the alcohol

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1 concentration results from alcohol consumed before or while
2 driving the vehicle."

3 SECTION 32. A new section of the Driving Under the
4 Influence Code is enacted to read:

5 "[NEW MATERIAL] AGGRAVATED DRIVING UNDER THE INFLUENCE OF
6 INTOXICATING LIQUOR OR DRUGS.--Aggravated driving under the
7 influence of intoxicating liquor or drugs consists of:

8 A. driving a vehicle in this state with an alcohol
9 concentration of sixteen one hundredths or more in the driver's
10 blood or breath within three hours of driving the vehicle and
11 the alcohol concentration results from alcohol consumed before
12 or while driving the vehicle;

13 B. causing bodily injury to a human being as a
14 result of the unlawful operation of a motor vehicle while
15 driving under the influence of intoxicating liquor or drugs; or

16 C. refusing to submit to chemical testing, as
17 provided for in the Implied Consent Act, and in the judgment of
18 the court, based upon evidence of intoxication presented to the
19 court, the driver was under the influence of intoxicating
20 liquor or drugs."

21 SECTION 33. A new section of the Driving Under the
22 Influence Code is enacted to read:

23 "[NEW MATERIAL] FIRST CONVICTION FOR DRIVING UNDER THE
24 INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

25 A. A first conviction for driving under the

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1 influence of intoxicating liquor or drugs shall be punished,
2 notwithstanding the provisions of Section 31-18-13 NMSA 1978,
3 by imprisonment for not more than ninety days or by a fine of
4 not more than five hundred dollars (\$500), or both; provided
5 that if the sentence is suspended in whole or in part or
6 deferred, the period of probation may extend beyond ninety days
7 but shall not exceed one year.

8 B. Upon a first conviction pursuant to this
9 section, an offender shall be sentenced to not less than
10 twenty-four hours of community service.

11 C. The offender may be required to pay a fine of
12 three hundred dollars (\$300).

13 D. The offender shall be ordered by the court to
14 participate in and complete a screening program described in
15 Section 39 of the Driving Under The Influence Code and to
16 attend a driver rehabilitation program for alcohol or drugs,
17 also known as a "DWI school", approved by the bureau and also
18 may be required to participate in other rehabilitative services
19 as the court shall determine to be necessary.

20 E. When an offender commits aggravated driving
21 under the influence of intoxicating liquor or drugs, the
22 offender shall be sentenced to not less than forty-eight
23 consecutive hours in jail.

24 F. If an offender fails to complete, within a time
25 specified by the court, any community service, screening

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1 program, treatment program or DWI school ordered by the court
2 or fails to comply with any other condition of probation, the
3 offender shall be sentenced to not less than an additional
4 forty-eight consecutive hours in jail.

5 G. A jail sentence imposed pursuant to this section
6 for failure to complete, within a time specified by the court,
7 any community service, screening program, treatment program or
8 DWI school ordered by the court or for aggravated driving under
9 the influence of intoxicating liquor or drugs shall not be
10 suspended, deferred or taken under advisement.

11 H. On a first conviction for driving under the
12 influence of intoxicating liquor or drugs, time spent in jail
13 for the offense prior to the conviction for that offense shall
14 be credited to a term of imprisonment fixed by the court. A
15 deferred sentence pursuant to this subsection shall be
16 considered a first conviction for the purpose of determining
17 subsequent convictions."

18 SECTION 34. A new section of the Driving Under the
19 Influence Code is enacted to read:

20 "[NEW MATERIAL] SECOND AND THIRD CONVICTIONS FOR DRIVING
21 UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--

22 A. A second or third conviction for driving under
23 the influence of intoxicating liquor or drugs shall be
24 punished, notwithstanding the provisions of Section 31-18-13
25 NMSA 1978, by imprisonment for not more than three hundred

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1 sixty-four days or by a fine of not more than one thousand
2 dollars (\$1,000), or both; provided that if the sentence is
3 suspended in whole or in part, the period of probation may
4 extend beyond one year but shall not exceed five years.

5 B. Notwithstanding any provision of law to the
6 contrary for suspension or deferment of execution of a
7 sentence, upon a second conviction:

8 (1) an offender shall be sentenced to a jail
9 term of not less than ninety-six consecutive hours, not less
10 than forty-eight hours of community service and a fine of five
11 hundred dollars (\$500);

12 (2) when an offender commits aggravated
13 driving under the influence of intoxicating liquor or drugs,
14 the offender shall be sentenced to a jail term of not less than
15 ninety-six consecutive hours; and

16 (3) if an offender fails to complete, within a
17 time specified by the court, any community service, screening
18 program or treatment program ordered by the court, the offender
19 shall be sentenced to not less than an additional seven
20 consecutive days in jail.

21 C. Notwithstanding any provision of law to the
22 contrary for suspension or deferment of execution of a
23 sentence, upon a third conviction:

24 (1) an offender shall be sentenced to a jail
25 term of not less than thirty consecutive days, not less than

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1 ninety-six hours of community service and a fine of seven
2 hundred fifty dollars (\$750);

3 (2) when an offender commits aggravated
4 driving under the influence of intoxicating liquor or drugs,
5 the offender shall be sentenced to a jail term of not less than
6 sixty consecutive days; and

7 (3) if an offender fails to complete, within a
8 time specified by the court, any community service, screening
9 program or treatment program ordered by the court, the offender
10 shall be sentenced to not less than an additional sixty
11 consecutive days in jail.

12 D. A penalty imposed pursuant to Subsection B or C
13 of this section shall not be suspended or deferred or taken
14 under advisement.

15 E. Upon a second or third conviction for driving
16 under the influence of intoxicating liquor or drugs, an
17 offender shall be required to participate in and complete,
18 within a time specified by the court:

19 (1) not less than a twenty-eight-day
20 inpatient, residential or in-custody substance abuse treatment
21 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

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

3 F. The requirements imposed pursuant to Subsection
4 E of this section shall not be suspended, deferred or taken
5 under advisement."

6 SECTION 35. A new section of the Driving Under the
7 Influence Code is enacted to read:

8 "[NEW MATERIAL] FOURTH CONVICTION FOR DRIVING UNDER THE
9 INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a fourth
10 conviction for driving under the influence of intoxicating
11 liquor or drugs, an offender is guilty of a fourth degree
12 felony and, notwithstanding the provisions of Section 31-18-15
13 NMSA 1978, shall be sentenced to a term of imprisonment of
14 eighteen months, six months of which shall not be suspended,
15 deferred or taken under advisement."

16 SECTION 36. A new section of the Driving Under the
17 Influence Code is enacted to read:

18 "[NEW MATERIAL] FIFTH CONVICTION FOR DRIVING UNDER THE
19 INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a fifth
20 conviction for driving under the influence of intoxicating
21 liquor or drugs, an offender is guilty of a fourth degree
22 felony and, notwithstanding the provisions of Section 31-18-15
23 NMSA 1978, shall be sentenced to a term of imprisonment of two
24 years, one year of which shall not be suspended, deferred or
25 taken under advisement."

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1 **SECTION 37.** A new section of the Driving Under the
2 Influence Code is enacted to read:

3 "[NEW MATERIAL] SIXTH CONVICTION FOR DRIVING UNDER THE
4 INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--Upon a sixth
5 conviction for driving under the influence of intoxicating
6 liquor or drugs, an offender is guilty of a third degree felony
7 and, notwithstanding the provisions of Section 31-18-15 NMSA
8 1978, shall be sentenced to a term of imprisonment of thirty
9 months, eighteen months of which shall not be suspended,
10 deferred or taken under advisement."

11 **SECTION 38.** A new section of the Driving Under the
12 Influence Code is enacted to read:

13 "[NEW MATERIAL] SEVENTH OR SUBSEQUENT CONVICTION FOR
14 DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.--
15 Upon a seventh or subsequent conviction for driving under the
16 influence of intoxicating liquor or drugs, an offender is
17 guilty of a third degree felony and, notwithstanding the
18 provisions of Section 31-18-15 NMSA 1978, shall be sentenced to
19 a term of imprisonment of three years, two years of which shall
20 not be suspended, deferred or taken under advisement."

21 **SECTION 39.** A new section of the Driving Under the
22 Influence Code is enacted to read:

23 "[NEW MATERIAL] ALCOHOL OR DRUG ABUSE SCREENING
24 REQUIRED.--Upon a conviction for driving under the influence of
25 intoxicating liquor or drugs, an offender shall be required to

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1 participate in and complete, within a time specified by the
2 court, an alcohol or drug abuse screening program approved by
3 the department of finance and administration and, if necessary,
4 a treatment program approved by the court. The requirement
5 imposed pursuant to this section shall not be suspended,
6 deferred or taken under advisement."

7 SECTION 40. A new section of the Driving Under the
8 Influence Code is enacted to read:

9 "[NEW MATERIAL] SUBSTANCE ABUSE AND COUNSELING TO BE
10 PROVIDED BY THE CORRECTIONS DEPARTMENT UPON A FELONY
11 CONVICTION.--Upon a felony conviction for driving under the
12 influence of intoxicating liquor or drugs, the corrections
13 department shall provide substance abuse counseling and
14 treatment to the offender in its custody. While the offender
15 is on probation or parole under its supervision, the
16 corrections department shall also provide substance abuse
17 counseling and treatment to the offender or shall require the
18 offender to obtain substance abuse counseling and treatment."

19 SECTION 41. A new section of the Driving Under the
20 Influence Code is enacted to read:

21 "[NEW MATERIAL] IGNITION INTERLOCK REQUIREMENT.--

22 A. Upon a conviction for driving under the
23 influence of intoxicating liquor or drugs, an offender shall be
24 required to obtain an ignition interlock license and have an
25 ignition interlock device installed and operating on all motor

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

7 (1) a period of one year for a first offender;

8 (2) a period of two years for a second
9 conviction pursuant to the DUI Act;

10 (3) a period of three years for a third
11 conviction pursuant to the DUI Act; or

12 (4) the remainder of the offender's life for a
13 fourth or subsequent conviction pursuant to the DUI Act.

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

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1 C. An offender who obtains an ignition interlock
2 license and installs an ignition interlock device prior to
3 conviction shall be given credit at sentencing for the time
4 period the ignition interlock device has been in use."

5 SECTION 42. A new section of the Driving Under the
6 Influence Code is enacted to read:

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

17 SECTION 43. A new section of the Driving Under the
18 Influence Code is enacted to read:

19 "[NEW MATERIAL] OFFENDER MAY BE ORDERED TO PAY COSTS OF
20 SCREENING OR TREATMENT.--In addition to any other fine or fee
21 that may be imposed pursuant to the conviction or other
22 disposition of the offense under the Driving Under the
23 Influence Code, the court may order the offender to pay the
24 costs of a court-ordered screening and treatment programs."

25 SECTION 44. A new section of the Driving Under the

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1 Influence Code is enacted to read:

2 "[NEW MATERIAL] COURT MAY IMPOSE ORIGINAL SENTENCE AND NOT
3 GIVE CREDIT FOR TIME ON PROBATION.--With respect to the Driving
4 Under the Influence Code and notwithstanding any provision of
5 law to the contrary, if an offender's sentence was suspended or
6 deferred in whole or in part and the offender violates any
7 condition of probation, the court may impose any sentence that
8 the court could have originally imposed and credit shall not be
9 given for time served by the offender on probation."

10 SECTION 45. A new section of the Driving Under the
11 Influence Code is enacted to read:

12 "[NEW MATERIAL] MAGISTRATE COURT CONCURRENT
13 JURISDICTION.--In the case of a first, second or third offense
14 pursuant to the DUI Act, the magistrate court has concurrent
15 jurisdiction with district courts to try the offender."

16 SECTION 46. Section 66-8-102.1 NMSA 1978 (being Laws
17 1982, Chapter 102, Section 2, as amended by Laws 2003, Chapter
18 51, Section 11 and by Laws 2003, Chapter 90, Section 4) is
19 recompiled in the Driving Under the Influence Code and is
20 amended to read:

21 "GUILTY PLEAS--LIMITATIONS.--Where the complaint or
22 information alleges a violation of [~~Section 66-8-102 NMSA 1978~~]
23 the DUI Act, any plea of guilty thereafter entered in
24 satisfaction of the charges shall include at least a plea of
25 guilty to the violation [~~of one~~] of the [~~subsections of Section~~
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1 ~~66-8-102 NMSA 1978~~] sections of the DUI Act, and no other
2 disposition by plea of guilty to any other charge in
3 satisfaction of the charge shall be authorized if the results
4 of a test performed pursuant to the Implied Consent Act
5 disclose that the blood or breath of the person charged
6 contains an alcohol concentration of:

7 A. eight one hundredths or more; or

8 B. four one hundredths or more if the person
9 charged is driving a commercial motor vehicle."

10 SECTION 47. Section 66-8-102.2 NMSA 1978 (being Laws
11 1993, Chapter 66, Section 16) is recompiled in the Driving
12 Under the Influence Code and is amended to read:

13 "MUNICIPAL AND COUNTY ORDINANCES--UNLAWFUL ALCOHOL
14 CONCENTRATION LEVEL FOR DRIVING WHILE UNDER THE INFLUENCE OF
15 INTOXICATING LIQUOR OR DRUGS.--No municipal or county ordinance
16 prohibiting driving while under the influence of intoxicating
17 liquor or drugs shall be enacted that provides for an unlawful
18 alcohol concentration level that is different than the alcohol
19 concentration levels provided in [~~Subsections C and D of~~
20 ~~Section 66-8-102 NMSA 1978~~] Sections 31 and 32 of the Driving
21 Under the Influence Code."

22 SECTION 48. Section 66-8-102.4 NMSA 1978 (being Laws
23 2005, Chapter 269, Section 8) is recompiled in the Driving
24 Under the Influence Code and is amended to read:

25 "UNIFORM POLICE REPORTS AND PROCEDURES FOR DWI ARRESTS.--

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1 A. The department of public safety, in
2 collaboration with the [~~motor vehicle~~] division [~~of the~~
3 ~~taxation and revenue department~~] and the [~~traffic safety~~]
4 bureau [~~of the department of transportation~~], shall develop and
5 periodically review and update standard arrest reports and
6 procedures to be used by law enforcement officers when making
7 an arrest for a violation of the [~~provisions of Section~~
8 ~~66-8-102 NMSA 1978~~] DUI Act or similar municipal or county
9 ordinances.

10 B. A law enforcement officer making an arrest for a
11 violation of the [~~provisions of Section 66-8-102 NMSA 1978~~] DUI
12 Act or of similar municipal or county ordinances shall use the
13 standard arrest reports and procedures developed and approved
14 by the department of public safety in accordance with the
15 provisions of Subsection A of this section."

16 **SECTION 49.** A new section of the Driving Under the
17 Influence Code is enacted to read:

18 "[NEW MATERIAL] BLOOD ALCOHOL TESTS DIRECTED BY POLICE,
19 JUDICIAL OR PROBATION OFFICER--PERSONS QUALIFIED TO PERFORM
20 TESTS--RELIEF FROM CIVIL AND CRIMINAL LIABILITY--ARREST OR TEST
21 ONLY IN PERFORMANCE OF OFFICIAL DUTIES AUTHORIZED BY LAW.--

22 A. Only a physician or licensed professional, or a
23 practical nurse, laboratory technician or technologist employed
24 by a hospital or physician, shall withdraw blood from a person
25 in the performance of a blood alcohol test. No such physician,

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1 nurse, technician or technologist who withdraws blood from a
2 person in the performance of a blood alcohol test that has been
3 directed by a police officer, or by a judicial or probation
4 officer, shall be held liable in a civil or criminal action for
5 assault, battery, false imprisonment or the conduct of a police
6 officer, except for negligence, nor shall a person assisting in
7 the performance of such a test, or a hospital wherein blood is
8 withdrawn in the performance of such a test, be subject to
9 civil or criminal liability for assault, battery, false
10 imprisonment or the conduct of a police officer, except for
11 negligence.

12 B. Nothing in this section is intended to authorize
13 a police officer, or a judicial or probation officer, to make
14 an arrest or to direct the performance of a blood alcohol test,
15 except in the performance of that person's official duties and
16 as otherwise authorized by law."

17 SECTION 50. Section 66-8-105 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 513) is recompiled in the Driving Under the
19 Influence Code and is amended to read:

20 "IMPLIED CONSENT ACT--SHORT TITLE.--Sections [~~64-8-105~~
21 ~~through 64-8-112 NMSA 1953~~] 50 through 57 of the Driving Under
22 the Influence Code may be cited as the "Implied Consent Act"."

23 SECTION 51. Section 66-8-107 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 515, as amended) is recompiled in the
25 Driving Under the Influence Code and is amended to read:

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1 "IMPLIED CONSENT TO SUBMIT TO CHEMICAL TEST.--

2 A. Any person who operates a motor vehicle within
3 this state shall be deemed to have given consent, subject to
4 the provisions of the Implied Consent Act:

5 (1) to chemical tests of [~~his~~] that person's
6 breath or blood or both that are approved by the scientific
7 laboratory division of the department of health pursuant to the
8 provisions of Section 24-1-22 NMSA 1978 as determined by a law
9 enforcement officer; or

10 (2) for the purpose of determining the drug or
11 alcohol content of [~~his~~] the person's blood if the person is
12 arrested for any offense arising out of the acts alleged to
13 have been committed while the person was driving a motor
14 vehicle while under the influence of an intoxicating liquor or
15 drug.

16 B. A test of blood or breath or both, approved by
17 the scientific laboratory division of the department of health
18 pursuant to the provisions of Section 24-1-22 NMSA 1978, shall
19 be administered at the direction of a law enforcement officer
20 having reasonable grounds to believe the person to have been
21 driving a motor vehicle within this state while under the
22 influence of intoxicating liquor or drug."

23 SECTION 52. Section 66-8-108 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 516) is recompiled in the Driving Under the
25 Influence Code and is amended to read:

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1 "CONSENT OF PERSON INCAPABLE OF REFUSAL NOT WITHDRAWN.--

2 Any person who is dead, unconscious or otherwise in a condition
3 rendering ~~[him]~~ the person incapable of refusal shall be deemed
4 not to have withdrawn the consent provided by Section ~~[64-8-107~~
5 ~~NMSA-1953]~~ 51 of the Driving Under the Influence Code, and the
6 test or tests designated by the law enforcement officer may be
7 administered."

8 SECTION 53. Section 66-8-109 NMSA 1978 (being Laws 1978,
9 Chapter 35, Section 517, as amended) is recompiled in the
10 Driving Under the Influence Code and is amended to read:

11 "ADMINISTRATION OF CHEMICAL TEST--PAYMENT OF COSTS--
12 ADDITIONAL TESTS.--

13 A. Only the persons authorized by Section
14 ~~[66-8-103 NMSA-1978]~~ 49 of the Driving Under the Influence Code
15 shall withdraw blood from any person for the purpose of
16 determining its alcohol or drug content. This limitation does
17 not apply to the taking of samples of breath.

18 B. The person tested shall be advised by the law
19 enforcement officer of the person's right to be given an
20 opportunity to arrange for a physician, licensed professional
21 or practical nurse or laboratory technician or technologist who
22 is employed by a hospital or physician of ~~[his]~~ the person's
23 own choosing to perform a chemical test in addition to any test
24 performed at the direction of a law enforcement officer.

25 C. Upon the request of the person tested, full

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1 information concerning the test performed at the direction of
2 the law enforcement officer shall be made available to ~~him~~
3 the person as soon as it is available from the person
4 performing the test.

5 D. The law enforcement agency represented by the
6 law enforcement officer at whose direction the chemical test is
7 performed shall pay for the chemical test.

8 E. If a person exercises ~~his~~ the person's right
9 under Subsection B of this section to have a chemical test
10 performed upon ~~him~~ the person by a person of ~~his~~ the
11 person's own choosing, the cost of that test shall be paid by
12 the law enforcement agency represented by the law enforcement
13 officer at whose direction a chemical test was administered
14 under Section [~~66-8-107 NMSA 1978~~] 51 of the Driving Under the
15 Influence Code."

16 SECTION 54. Section 66-8-110 NMSA 1978 (being Laws 1978,
17 Chapter 35, Section 518, as amended) is recompiled in the
18 Driving Under the Influence Code and is amended to read:

19 "USE OF TESTS IN CRIMINAL ACTIONS OR CIVIL ACTIONS--LEVELS
20 OF INTOXICATION--MANDATORY CHARGING.--

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

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1 drugs.

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

4 (1) an alcohol concentration of less than four
5 one hundredths, it shall be presumed that the person was not
6 under the influence of intoxicating liquor;

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

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

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

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

21 C. The arresting officer shall charge the person
22 tested with a violation of [~~Section 66-8-102 NMSA 1978~~] the DUI
23 Act when the blood or breath of the person contains an alcohol
24 concentration of:

25 (1) eight one hundredths or more; or

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

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

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

16 F. The determination of alcohol concentration shall
17 be based on the grams of alcohol in one hundred milliliters of
18 blood or the grams of alcohol in two hundred ten liters of
19 breath.

20 G. The presumptions in Subsection B of this section
21 do not limit the introduction of other competent evidence
22 concerning whether the person was under the influence of
23 intoxicating liquor.

24 H. If a person is convicted of driving a motor
25 vehicle while under the influence of intoxicating liquor, the

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1 trial judge shall inquire into the past driving record of the
2 person before sentence is entered in the matter."

3 SECTION 55. Section 66-8-111 NMSA 1978 (being Laws 1978,
4 Chapter 35, Section 519, as amended) is recompiled in the
5 Driving Under the Influence Code and is amended to read:

6 "REFUSAL TO SUBMIT TO CHEMICAL TESTS--TESTING--GROUNDS FOR
7 REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE.--

8 A. If a person under arrest for violation of an
9 offense enumerated in the Motor Vehicle Code or the Driving
10 Under the Influence Code refuses upon request of a law
11 enforcement officer to submit to chemical tests designated by
12 the law enforcement agency as provided in Section [~~66-8-107~~
13 ~~NMSA 1978~~] 51 of the Driving Under the Influence Code, none
14 shall be administered except when a municipal judge, magistrate
15 or district judge issues a search warrant authorizing chemical
16 tests as provided in Section [~~66-8-107 NMSA 1978~~] 51 of the
17 Driving Under the Influence Code upon finding in a law
18 enforcement officer's written affidavit that there is probable
19 cause to believe that the person has driven a motor vehicle
20 while under the influence of alcohol or a controlled substance,
21 thereby causing the death or great bodily injury of another
22 person, or there is probable cause to believe that the person
23 has committed a felony while under the influence of alcohol or
24 a controlled substance and that chemical tests as provided in
25 Section [~~66-8-107 NMSA 1978~~] 51 of the Driving Under the

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1 Influence Code will produce material evidence in a felony
2 prosecution.

3 B. The department, upon receipt of a statement
4 signed under penalty of perjury from a law enforcement officer
5 stating the officer's reasonable grounds to believe the
6 arrested person had been driving a motor vehicle within this
7 state while under the influence of intoxicating liquor or drugs
8 and that, upon request, the person refused to submit to a
9 chemical test after being advised that failure to submit could
10 result in revocation of the person's privilege to drive, shall
11 revoke the person's New Mexico driver's license or any
12 nonresident operating privilege for a period of one year or
13 until all conditions for license reinstatement are met,
14 whichever is later.

15 C. The department, upon receipt of a statement
16 signed under penalty of perjury from a law enforcement officer
17 stating the officer's reasonable grounds to believe the
18 arrested person had been driving a motor vehicle within this
19 state while under the influence of intoxicating liquor and that
20 the person submitted to chemical testing pursuant to Section
21 [~~66-8-107 NMSA 1978~~] 51 of the Driving Under the Influence Code
22 and the test results indicated an alcohol concentration in the
23 person's blood or breath of eight one hundredths or more if the
24 person is twenty-one years of age or older, four one hundredths
25 or more if the person is driving a commercial motor vehicle or

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1 two one hundredths or more if the person is less than twenty-
2 one years of age, shall revoke the person's license or permit
3 to drive or ~~[his]~~ the person's nonresident operating privilege
4 for a period of:

5 (1) six months or until all conditions for
6 license reinstatement are met, whichever is later, if the
7 person is twenty-one years of age or older;

8 (2) one year or until all conditions for
9 license reinstatement are met, whichever is later, if the
10 person was less than twenty-one years of age at the time of the
11 arrest, notwithstanding any provision of the Children's Code;
12 or

13 (3) one year or until all conditions for
14 license reinstatement are met, whichever is later, if the
15 ~~[person has previously had his]~~ person's license has been
16 revoked previously pursuant to the provisions of this section,
17 notwithstanding the provisions of Paragraph (1) of this
18 subsection.

19 D. The determination of alcohol concentration shall
20 be based on the grams of alcohol in one hundred milliliters of
21 blood or the grams of alcohol in two hundred ten liters of
22 breath.

23 E. If the person subject to the revocation
24 provisions of this section is a resident or will become a
25 resident within one year and is without a license to operate a

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1 motor vehicle in this state, the department shall deny the
2 issuance of a license to [~~him~~] the person for the appropriate
3 period of time as provided in Subsections B and C of this
4 section.

5 F. A statement signed by a law enforcement officer,
6 pursuant to the provisions of Subsection B or C of this
7 section, shall be sworn to by the officer or shall contain a
8 declaration substantially to the effect: "I hereby declare
9 under penalty of perjury that the information given in this
10 statement is true and correct to the best of my knowledge."
11 The statement may be signed and submitted electronically in a
12 manner and form approved by the department. A law enforcement
13 officer who signs a statement knowing that the statement is
14 untrue in any material issue or matter is guilty of perjury as
15 provided in Section 66-5-38 NMSA 1978."

16 SECTION 56. Section 66-8-111.1 NMSA 1978 (being Laws
17 1984, Chapter 72, Section 7, as amended by Laws 2003, Chapter
18 51, Section 14 and by Laws 2003, Chapter 90, Section 7) is
19 recompiled in the Driving Under the Influence Code and is
20 amended to read:

21 "LAW ENFORCEMENT OFFICER AGENT FOR DEPARTMENT--WRITTEN
22 NOTICE OF REVOCATION AND RIGHT TO HEARING.--On behalf of the
23 department, a law enforcement officer requesting a chemical
24 test or directing the administration of a chemical test
25 pursuant to Section [~~66-8-107 NMSA 1978~~] 51 of the Driving

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1 Under the Influence Code shall serve immediate written notice
2 of revocation and of right to a hearing on a person who refuses
3 to permit chemical testing or on a person who submits to a
4 chemical test the results of which indicate an alcohol
5 concentration in the person's blood or breath of eight one
6 hundredths or more if the person is twenty-one years of age or
7 older, four one hundredths or more if the person is driving a
8 commercial motor vehicle or two one hundredths or more if the
9 person is less than twenty-one years of age. Upon serving
10 notice of revocation, the law enforcement officer shall take
11 the license or permit of the driver, if any, and issue a
12 temporary license valid for twenty days or, if the driver
13 requests a hearing pursuant to Section [~~66-8-112 NMSA 1978~~] 57
14 of the Driving Under the Influence Code, valid until the date
15 the department issues the order following that hearing;
16 provided that a temporary license shall not be issued to a
17 driver without a valid license or permit. The law enforcement
18 officer shall send the person's driver's license to the
19 department along with the signed statement required pursuant to
20 Section [~~66-8-111 NMSA 1978~~] 55 of the Driving Under the
21 Influence Code."

22 SECTION 57. Section 66-8-112 NMSA 1978 (being Laws 1978,
23 Chapter 35, Section 520, as amended by Laws 2003, Chapter 51,
24 Section 15 and by Laws 2003, Chapter 90, Section 8) is
25 recompiled in the Driving Under the Influence Code and is

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1 amended to read:

2 "REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE--NOTICE--
3 EFFECTIVE DATE--HEARING--HEARING COSTS--REVIEW.--

4 A. The effective date of revocation pursuant to
5 Section [~~66-8-111 NMSA 1978~~] 55 of the Driving Under the
6 Influence Code is twenty days after notice of revocation or, if
7 the person whose driver's license or privilege to drive is
8 being revoked or denied requests a hearing pursuant to this
9 section, the date that the department issues the order
10 following that hearing. The date of notice of revocation is:

11 (1) the date the law enforcement officer
12 serves written notice of revocation and of right to a hearing
13 pursuant to Section [~~66-8-111.1 NMSA 1978~~] 56 of the Driving
14 Under the Influence Code; or

15 (2) in the event the results of a chemical
16 test cannot be obtained immediately, the date notice of
17 revocation is served by mail by the department. This notice of
18 revocation and of right to a hearing shall be sent by certified
19 mail and shall be deemed to have been served on the date borne
20 by the return receipt showing delivery, refusal of the
21 addressee to accept delivery or attempted delivery of the
22 notice at the address obtained by the arresting law enforcement
23 officer or on file with the department.

24 B. Within ten days after receipt of notice of
25 revocation pursuant to Subsection A of this section, a person

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1 whose license or privilege to drive is revoked or denied or the
2 person's agent may request a hearing. The hearing request
3 shall be made in writing and shall be accompanied by a payment
4 of twenty-five dollars (\$25.00) or a sworn statement of
5 indigency on a form provided by the department. A standard for
6 indigency shall be established pursuant to regulations adopted
7 by the department. Failure to request a hearing within ten
8 days shall result in forfeiture of the person's right to a
9 hearing. Any person less than eighteen years of age who fails
10 to request a hearing within ten days shall have notice of
11 revocation sent to ~~[his]~~ the person's parent, guardian or
12 custodian by the department. A date for the hearing shall be
13 set by the department, if practical, within thirty days after
14 receipt of notice of revocation. The hearing shall be held in
15 the county in which the offense for which the person was
16 arrested took place.

17 C. The department may postpone or continue any
18 hearing on its own motion or upon application from the person
19 and for good cause shown for a period not to exceed ninety days
20 from the date of notice of revocation and provided that the
21 department extends the validity of the temporary license for
22 the period of the postponement or continuation.

23 D. At the hearing, the department or its agent may
24 administer oaths and may issue subpoenas for the attendance of
25 witnesses and the production of relevant books and papers.

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1 E. The hearing shall be limited to the following
2 issues:

3 (1) whether the law enforcement officer had
4 reasonable grounds to believe that the person had been driving
5 a motor vehicle within this state while under the influence of
6 intoxicating liquor or drugs;

7 (2) whether the person was arrested;

8 (3) whether this hearing is held no later than
9 ninety days after notice of revocation; and either

10 (4) whether:

11 (a) the person refused to submit to a
12 test upon request of the law enforcement officer; and

13 (b) the law enforcement officer advised
14 that the failure to submit to a test could result in revocation
15 of the person's privilege to drive; or

16 (5) whether:

17 (a) the chemical test was administered
18 pursuant to the provisions of the Implied Consent Act; and

19 (b) the test results indicated an
20 alcohol concentration in the person's blood or breath of eight
21 one hundredths or more if the person is twenty-one years of age
22 or older, four one hundredths or more if the person is driving
23 a commercial motor vehicle or two one hundredths or more if the
24 person is less than twenty-one years of age.

25 F. The department shall enter an order sustaining

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1 the revocation or denial of the person's license or privilege
2 to drive if the department finds that:

3 (1) the law enforcement officer had reasonable
4 grounds to believe the driver was driving a motor vehicle while
5 under the influence of intoxicating liquor or drugs;

6 (2) the person was arrested;

7 (3) this hearing is held no later than ninety
8 days after notice of revocation; and

9 (4) either:

10 (a) the person refused to submit to the
11 test upon request of the law enforcement officer after the law
12 enforcement officer advised [~~him~~] the person that [~~his~~] the
13 person's failure to submit to the test could result in the
14 revocation of [~~his~~] the person's privilege to drive; or

15 (b) that a chemical test was
16 administered pursuant to the provisions of the Implied Consent
17 Act and the test results indicated an alcohol concentration in
18 the person's blood or breath of eight one hundredths or more if
19 the person is twenty-one years of age or older, four one
20 hundredths or more if the person is driving a commercial motor
21 vehicle or two one hundredths or more if the person is less
22 than twenty-one years of age.

23 G. If one or more of the elements set forth in
24 Paragraphs (1) through (4) of Subsection F of this section are
25 not found by the department, the person's license shall not be

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1 revoked.

2 H. A person adversely affected by an order of the
3 department may seek review within thirty days in the district
4 court in the county in which the offense for which the person
5 was arrested took place. The district court, upon thirty days'
6 written notice to the department, shall hear the case. On
7 review, it is for the court to determine only whether
8 reasonable grounds exist for revocation or denial of the
9 person's license or privilege to drive based on the record of
10 the administrative proceeding.

11 I. Any person less than eighteen years of age shall
12 have results of [~~his~~] the person's hearing forwarded by the
13 department to [~~his~~] the person's parent, guardian or
14 custodian."

15 SECTION 58. Section 66-5-501 NMSA 1978 (being Laws 2003,
16 Chapter 239, Section 1) is recompiled in the Driving Under the
17 Influence Code and is amended to read:

18 "SHORT TITLE.--Sections [~~1 through 4~~] 58 through 61 of
19 [~~this act~~] the Driving Under the Influence Code may be cited as
20 the "Ignition Interlock Licensing Act"."

21 SECTION 59. Section 66-5-503 NMSA 1978 (being Laws 2003,
22 Chapter 239, Section 3, as amended) is recompiled in the
23 Driving Under the Influence Code and is amended to read:

24 "IGNITION INTERLOCK LICENSE--REQUIREMENTS.--

25 A. A person whose driving privilege or driver's
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1 license has been revoked or denied or who has not met the
2 ignition interlock license requirement as a condition of
3 reinstatement pursuant to Section 66-5-33.1 NMSA 1978 may apply
4 for an ignition interlock license from the ~~[division]~~
5 department.

6 B. An applicant for an ignition interlock license
7 shall:

8 (1) provide proof of installation of the
9 ignition interlock device by ~~[a traffic safety bureau approved]~~
10 an ignition interlock installer approved by bureau on any
11 vehicle the applicant drives; and

12 (2) sign an affidavit acknowledging that:

13 (a) operation by the applicant of any
14 vehicle that is not equipped with an ignition interlock device
15 is subject to penalties for driving with a revoked license;

16 (b) tampering or interfering with the
17 proper and intended operation of an ignition interlock device
18 may subject the applicant to penalties for driving with a
19 license that was revoked for driving under the influence of
20 intoxicating liquor or drugs or a violation of the Implied
21 Consent Act; and

22 (c) the applicant shall maintain the
23 ignition interlock device and keep up-to-date records in the
24 motor vehicle showing required service and calibrations and be
25 able to provide the records upon request.

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1 C. A person who has been convicted of homicide by
2 vehicle or great bodily harm by vehicle while under the
3 influence of intoxicating liquor or drugs, as provided in
4 Section 66-8-101 NMSA 1978, shall not be issued an ignition
5 interlock license unless the person has completed serving the
6 sentence for that crime, including any period of probation and
7 parole."

8 **SECTION 60.** Section 66-5-504 NMSA 1978 (being Laws 2003,
9 Chapter 239, Section 4, as amended) is recompiled in the
10 Driving Under the Influence Code and is amended to read:

11 "PENALTIES.--

12 A. A person who is issued an ignition interlock
13 license and operates a vehicle that is not equipped with an
14 ignition interlock device is driving with a license that was
15 revoked for driving under the influence of intoxicating liquor
16 or drugs or a violation of the Implied Consent Act and may be
17 subject to the penalties provided in Section 66-5-39 NMSA 1978.

18 B. A person who is issued an ignition interlock
19 license and who knowingly and deliberately tampers or
20 interferes with or causes another to tamper or interfere with
21 the proper and intended operation of an ignition interlock
22 device may be subject to the penalties for driving with a
23 license that was revoked for driving under the influence of
24 intoxicating liquor or drugs or a violation of the Implied
25 Consent Act as provided in Section 66-5-39 NMSA 1978."

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1 SECTION 61. Section 66-8-102.3 NMSA 1978 (being Laws
2 2002, Chapter 82, Section 2, as amended) is recompiled in the
3 Driving Under the Influence Code and is amended to read:

4 "IMPOSING A FEE--INTERLOCK DEVICE FUND CREATED.--

5 A. A fee is imposed on a person convicted of
6 driving under the influence of intoxicating liquor or drugs in
7 violation of [~~Section 66-8-102 NMSA 1978~~] the DUI Act or
8 adjudicated as a delinquent on the basis of Subparagraph (a) of
9 Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978 or a
10 person whose driver's license is revoked pursuant to the
11 provisions of the Implied Consent Act, in an amount determined
12 by rule of the [~~traffic safety~~] bureau [~~of the department of~~
13 ~~transportation~~] not to exceed one hundred dollars (\$100) but
14 not less than fifty dollars (\$50.00) for each year the person
15 is required to operate only vehicles equipped with an ignition
16 interlock device in order to ensure the solvency of the
17 interlock device fund. The fee shall not be imposed on an
18 indigent person.

19 B. The "interlock device fund" is created in the
20 state treasury. The fee imposed pursuant to Subsection A of
21 this section shall be collected by the [~~motor vehicle division~~
22 ~~of the taxation and revenue~~] department and deposited in the
23 interlock device fund.

24 C. All money in the interlock device fund is
25 appropriated to the [~~traffic safety~~] bureau [~~of the department~~

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1 ~~of transportation~~] to cover part of the costs of installing,
2 removing and leasing ignition interlock devices for indigent
3 people who are required, pursuant to convictions [~~under Section~~
4 ~~66-8-102 NMSA 1978~~] for violations of the DUI Act or
5 adjudications on the basis of Subparagraph (a) of Paragraph (1)
6 of Subsection A of Section 32A-2-3 NMSA 1978 or driver's
7 license revocations pursuant to the provisions of the Implied
8 Consent Act or as a condition of parole, to install those
9 devices in their vehicles. Provided that money is available in
10 the interlock device fund, the [~~traffic safety~~] bureau shall
11 pay, for one vehicle per offender, up to fifty dollars (\$50.00)
12 for the cost of installation, up to fifty dollars (\$50.00) for
13 the cost of removal and up to thirty dollars (\$30.00) monthly
14 for verified active usage of the interlock device. The
15 [~~traffic safety~~] bureau shall not pay any amount above what an
16 offender would be required to pay for the installation, removal
17 or usage of an interlock device.

18 D. Indigency shall be determined by the [~~traffic~~
19 ~~safety~~] bureau based on proof of enrollment in one or more of
20 the following types of public assistance:

- 21 (1) temporary assistance for needy families;
- 22 (2) general assistance;
- 23 (3) the supplemental nutritional assistance
24 program, also known as "food stamps";
- 25 (4) supplemental security income;

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1 (5) the federal food distribution program on
2 Indian reservations; or

3 (6) other criteria approved by the traffic
4 safety bureau.

5 E. Any balance remaining in the interlock device
6 fund shall not revert to the general fund at the end of any
7 fiscal year.

8 F. The interlock device fund shall be administered
9 by the [~~traffic safety~~] bureau [~~of the department of~~
10 ~~transportation~~]. No more than ten percent of the money in the
11 interlock device fund in any fiscal year shall be expended by
12 the [~~traffic safety~~] bureau [~~of the department of~~
13 ~~transportation~~] for the purpose of administering the fund."

14 SECTION 62. REPEAL.--Sections 66-5-502 and 66-8-102 NMSA
15 1978 (being Laws 2003, Chapter 239, Section 2 and Laws 1953,
16 Chapter 139, Section 54, as amended) are repealed.

17 SECTION 63. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2015.