

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 332

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
EXPANDING THE USE OF THE LOCAL LIQUOR EXCISE TAX; MODIFYING THE
USE OF LOCAL LIQUOR EXCISE TAX PROCEEDS TO INCLUDE DIRECT
SERVICES FOR TREATMENT OF DRUG AND ALCOHOL ABUSE; INCREASING
THE PENALTY FOR HOMICIDE BY VEHICLE OR GREAT BODILY HARM BY
VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR
DRUGS OR WHILE VIOLATING SECTION 66-8-113 NMSA 1978 (BEING LAWS
1978, CHAPTER 35, SECTION 521, AS AMENDED); PROVIDING THAT AN
EIGHTH OR SUBSEQUENT OFFENSE FOR DRIVING UNDER THE INFLUENCE OF
INTOXICATING LIQUOR OR DRUGS IS A SECOND DEGREE FELONY.

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

SECTION 1. Section 7-24-9 NMSA 1978 (being Laws 1989,
Chapter 326, Section 2) is amended to read:

"7-24-9. DEFINITIONS.--As used in the Local Liquor Excise

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underscoring material = new
~~[bracketed material] = delete~~

1 Tax Act:

2 A. "alcoholic beverages" means distilled or
3 rectified spirits, potable alcohol, brandy, whiskey, rum, gin
4 and aromatic bitters or any similar alcoholic beverage,
5 including blended or fermented beverages, dilutions or mixtures
6 of one or more of the foregoing containing more than one-half
7 of one percent alcohol, but excluding medicinal bitters;

8 B. "county" means:

9 (1) a class B county having a population of
10 more than fifty-six thousand but less than seventy-five
11 thousand, according to the most recent federal decennial census
12 or any subsequent decennial census, and having a net taxable
13 value for rate-setting purposes for the 1988 or any subsequent
14 property tax year of more than five hundred million dollars
15 (\$500,000,000) but less than seven hundred million dollars
16 (\$700,000,000); or

17 (2) any county in the state other than a
18 county identified in Paragraph (1) of this subsection;

19 C. "department" means the taxation and revenue
20 department, the secretary of taxation and revenue or any
21 employee of the department exercising authority lawfully
22 delegated to that employee by the secretary;

23 D. "governing body" means the board of county
24 commissioners of a county;

25 E. "microbrewer" means a person licensed as a small

1 brewer pursuant to Section 60-6A-26.1 NMSA 1978 to produce beer
 2 in New Mexico and who produces less than five thousand barrels
 3 of beer in a calendar year;

4 ~~[E.]~~ F. "person" means any individual, estate,
 5 trust, receiver, cooperative association, club, corporation,
 6 company, firm, partnership, joint venture, syndicate or other
 7 association; "person" also means, to the extent permitted by
 8 law, any federal, state or other governmental unit or
 9 subdivision or agency, department or instrumentality thereof;

10 ~~[F.]~~ G. "price" means the total amount of money or
 11 the reasonable value of other consideration or both paid for
 12 alcoholic beverages, inclusive of the amount of any tax paid
 13 pursuant to the Liquor Excise Tax Act; ~~[and~~

14 ~~G.]~~ H. "retailer" means any person having a place
 15 of business within the county who sells, offers for sale or
 16 possesses for the purpose of selling alcoholic beverages within
 17 the county; and

18 I. "small winegrower" means a winegrower licensed
 19 pursuant to Section 60-6A-11 NMSA 1978 and who produces fewer
 20 than nine hundred fifty thousand liters of wine in a year."

21 **SECTION 2.** Section 7-24-10 NMSA 1978 (being Laws 1989,
 22 Chapter 326, Section 3, as amended) is amended to read:

23 "7-24-10. AUTHORIZATION TO IMPOSE LOCAL LIQUOR EXCISE
 24 TAX--RATE--USE OF PROCEEDS--ELECTION REQUIRED.--

25 A. The majority of the members elected to the

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1 governing body of a county identified in Paragraph (1) of
2 Subsection B of Section 7-24-9 NMSA 1978 may enact an ordinance
3 imposing on any retailer an excise tax on the price paid by the
4 retailer for alcoholic beverages purchased by the retailer upon
5 which the tax imposed by this section has not been paid. The
6 tax may be imposed at a rate not to exceed six percent,
7 provided that any lower rate shall be an even multiple of one
8 percent. [~~The tax imposed under this section may be referred~~
9 ~~to as the "local liquor excise tax". Any tax imposed under~~
10 ~~this section shall be for a period of not more than three years~~
11 ~~from the effective date of the ordinance imposing the tax.~~]

12 B. The majority of the members elected to the
13 governing body of a county identified in Paragraph (2) of
14 Subsection B of Section 7-24-9 NMSA 1978 may enact an ordinance
15 imposing on all wholesalers distributing alcoholic beverages to
16 retailers in that county an excise tax at a rate not to exceed:

17 (1) on spirituous liquors, ninety-nine cents
18 (\$.99) per liter;

19 (2) on beer, except as provided in Paragraph
20 (5) of this subsection, twenty-five cents (\$.25) per gallon;

21 (3) on wine, except as provided in Paragraphs
22 (4) and (6) of this subsection, twenty-eight cents (\$.28) per
23 liter;

24 (4) on fortified wine, ninety-three cents
25 (\$.93) per liter;

1 (5) on beer manufactured or produced by a
2 microbrewer, which beer is sold in this state, provided that
3 proof is furnished to the department that the beer was
4 manufactured or produced by a microbrewer, there shall be no
5 tax up to and including twelve thousand gallons, and five cents
6 (\$.05) per gallon on all gallons sold over twelve thousand
7 gallons but less than one hundred fifty-five thousand gallons;

8 (6) on wine manufactured or produced by a
9 small winegrower and sold in New Mexico, provided that proof is
10 furnished to the department that the wine was manufactured or
11 produced by a small winegrower, there shall be no tax up to and
12 including eighty thousand liters, and twelve cents (\$.12) per
13 liter on all liters sold over eighty thousand liters but less
14 than nine hundred fifty thousand liters; and

15 (7) on cider, twenty-five cents (\$.25) per
16 gallon.

17 C. A tax imposed pursuant to this section shall be
18 for a period of not more than three years from the effective
19 date of the tax and may be referred to as the "local liquor
20 excise tax".

21 D. Within the final year that a local liquor excise
22 tax is in effect, the governing body may impose the tax for
23 another three-year period, to begin in the month following the
24 termination of the tax currently in effect, and submit the
25 question of the tax to the voters of the county in the same

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1 manner as was required to approve the original tax.

2 ~~[B.—The]~~ E. A governing body at the time of
3 enacting an ordinance imposing ~~[the]~~ a tax authorized in
4 ~~[Subsection A of]~~ this section shall dedicate the revenue to
5 fund ~~[educational programs and]~~ direct services for the
6 prevention and treatment, including social detoxification, of
7 alcoholism and drug abuse within the county and for no other
8 purpose. After approval of the imposition of a local liquor
9 excise tax by the voters but before the effective date of the
10 ordinance, the governing body shall hold a public meeting for
11 the purpose of inviting comment on and suggestions for the most
12 appropriate programs on which to expend the revenue produced by
13 the tax. The governing body shall invite representatives from
14 the appropriate Indian tribes, nations and pueblos to the
15 meeting. If the governing body awards ~~[any]~~ a contract using
16 funds derived from the local liquor excise tax, it shall do so
17 only through a selection process requiring submission of sealed
18 bids or proposals after public notice of the opportunity to
19 submit the sealed bids or proposals.

20 ~~[G.—]~~ F. The governing body enacting an ordinance
21 imposing the local liquor excise tax shall submit the question
22 of imposing the tax to the qualified voters of the county at a
23 regular or special election.

24 ~~[D.—]~~ G. Only those voters who are registered within
25 the county shall be permitted to vote. The election shall be

1 called, conducted and canvassed in substantially the same
2 manner as provided by law for general elections.

3 ~~[E.]~~ H. If at an election called pursuant to this
4 section the majority of the voters voting on the question vote
5 in the affirmative on the question, then the ordinance imposing
6 the local liquor excise tax shall be approved. If at such an
7 election the majority of the voters voting on the question fail
8 to approve the question, then the ordinance shall be
9 disapproved and the question required to be submitted by
10 ~~[Subsection B of]~~ this section shall not be submitted to the
11 voters for a period of at least one year from the date of the
12 election.

13 ~~[F. Any]~~ I. An ordinance enacted under the
14 provisions of this section that imposes a local liquor excise
15 tax or changes the rate of tax imposed shall include an
16 effective date that is the first day of any month that begins
17 no earlier than ninety days after the date of the election. A
18 certified copy of any ordinance imposing a local liquor excise
19 tax shall be mailed or personally delivered to the department
20 within five days after the ordinance is certified to have been
21 approved by the voters.

22 ~~[G. Any]~~ J. An ordinance repealing the imposition
23 of a tax under the provisions of this section shall contain an
24 effective date that is the first day of any month beginning no
25 earlier than sixty days from the date the ordinance repealing

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1 the tax is adopted by the governing body. A certified copy of
2 any ordinance repealing a local liquor excise tax shall be
3 mailed or personally delivered to the department within five
4 days of the date the ordinance is adopted."

5 SECTION 3. Section 7-24-10.1 NMSA 1978 (being Laws 1992,
6 Chapter 35, Section 1, as amended) is amended to read:

7 "7-24-10.1. USE OF TAX PROCEEDS--LOCAL LIQUOR EXCISE TAX
8 COMMITTEE--JOINT POWERS AGREEMENT--COMMUNITY PARTICIPATION.--

9 A. Prior to an election on the question of imposing
10 a local liquor excise tax pursuant to the provisions of the
11 Local Liquor Excise Tax Act, the governing body of a county
12 shall enter into a joint powers agreement with the governing
13 body of the most populated municipality and the governing
14 bodies of any other municipalities in the county that choose to
15 be parties to the agreement to provide for the use and
16 administration of the tax proceeds. The agreement shall
17 provide for the establishment and appointment of a local liquor
18 excise tax committee to provide advice, assist in preventing
19 duplication and supplanting of program funding and make
20 recommendations to the governing body of the county and the
21 municipal governing bodies that are parties to the agreement on
22 the use of the tax proceeds. The agreement shall:

23 (1) clearly specify the use of the proceeds of
24 the proposed local liquor excise tax, including the
25 identification of specific local programs, agencies or

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1 entities, including those that provide direct services for the
2 prevention and treatment of alcoholism and drug abuse within
3 the county, that will be funded from the tax proceeds;

4 (2) determine the allocation of election
5 expenses among the parties to the agreement;

6 (3) clearly specify that the detoxification
7 center [~~located within a municipality with a population of not~~
8 ~~less than fifteen thousand and not more than thirty-five~~
9 ~~thousand according to the most recent federal decennial census~~]
10 providing social detoxification treatment with the greatest
11 numbers of adult clients shall receive the funding necessary to
12 provide social detoxification of alcohol and drug treatment for
13 adults;

14 (4) provide that the remaining proceeds of the
15 proposed local liquor excise tax shall be used to fund social
16 detoxification of alcohol and drugs for juveniles and other
17 prevention and treatment programs as recommended by the local
18 liquor excise tax committee; and

19 (5) clearly specify that each specific local
20 program, agency or entity that is funded from the tax proceeds
21 shall be audited at its own expense and provide accountability
22 reports to the governing body of the county and municipal
23 governing bodies that are parties to the agreement within
24 thirty days of the end of each quarter of the calendar year,
25 including an itemized breakdown of program services and

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1 expenditures.

2 B. Prior to the agreement by the governing body of
3 a county and the municipal governing bodies for use of the
4 proposed local liquor excise tax proceeds, the local liquor
5 excise tax committee established pursuant to the provisions of
6 Subsection A of this section shall conduct a public hearing for
7 the purpose of inviting public comment on use of the proposed
8 local liquor excise tax proceeds. The committee shall make
9 every effort to provide public notice of the hearing and to
10 invite a broad cross-section of community representatives and
11 groups to comment on community needs. Following the hearing,
12 the committee shall make its funding recommendations to the
13 governing body of the county and the municipal governing
14 bodies.

15 C. On or before April 1 of each calendar year, the
16 governing body of a county or municipality that has entered
17 into an agreement pursuant to Subsection A of this section
18 shall submit to the department of finance and administration a
19 report itemizing the receipts, expenditures and number of
20 clients served pursuant to any such agreement for the preceding
21 calendar year. On or before July 1 of each year, the
22 department of finance and administration shall complete an
23 audit of the county's report submitted pursuant to this section
24 and shall report its findings to the appropriate interim
25 legislative committee before September 1 of that year.

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1 D. If a local program, agency or entity receiving
2 funds from local liquor excise tax proceeds fails to timely
3 submit an accountability report pursuant to Paragraph (5) of
4 Subsection A of this section, the county or municipality shall
5 be immediately prohibited from disbursing any further funds to
6 such local program, agency or entity until the delinquent
7 accountability report has been submitted to and accepted by the
8 governing board of the county and the municipal governing
9 bodies."

10 SECTION 4. Section 66-8-101 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 509, as amended) is amended to read:

12 "66-8-101. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY
13 VEHICLE.--

14 A. Homicide by vehicle is the killing of a human
15 being in the unlawful operation of a motor vehicle.

16 B. Great bodily harm by vehicle is the injuring of
17 a human being, to the extent defined in Section 30-1-12 NMSA
18 1978, in the unlawful operation of a motor vehicle.

19 C. A person who commits homicide by vehicle or
20 great bodily harm by vehicle while under the influence of
21 intoxicating liquor or while under the influence of any drug or
22 while violating Section 66-8-113 NMSA 1978 is guilty of a
23 [~~third~~] second degree felony and shall be sentenced pursuant to
24 the provisions of Section 31-18-15 NMSA 1978, provided that
25 violation of speeding laws as set forth in the Motor Vehicle

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1 Code shall not per se be a basis for violation of Section
2 66-8-113 NMSA 1978.

3 D. A person who commits homicide by vehicle or
4 great bodily harm by vehicle while under the influence of
5 intoxicating liquor or while under the influence of any drug,
6 as provided in Subsection C of this section, and who has
7 incurred a prior DWI conviction within ten years of the
8 occurrence for which ~~[he]~~ the person is being sentenced under
9 this section shall have ~~[his]~~ the person's basic sentence
10 increased by four years for each prior DWI conviction.

11 E. For the purposes of this section, "prior DWI
12 conviction" means:

13 (1) a prior conviction under Section 66-8-102
14 NMSA 1978; or

15 (2) a prior conviction in New Mexico or any
16 other jurisdiction, territory or possession of the United
17 States, including a tribal jurisdiction, when the criminal act
18 is driving under the influence of alcohol or drugs.

19 F. A person who willfully operates a motor vehicle
20 in violation of Subsection C of Section 30-22-1 NMSA 1978 and
21 directly or indirectly causes the death of or great bodily harm
22 to a human being is guilty of a third degree felony and shall
23 be sentenced pursuant to the provisions of Section 31-18-15
24 NMSA 1978."

25 SECTION 5. Section 66-8-102 NMSA 1978 (being Laws 1953,

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1 Chapter 139, Section 54, as amended) is amended to read:

2 "66-8-102. DRIVING UNDER THE INFLUENCE OF INTOXICATING
3 LIQUOR OR DRUGS--AGGRAVATED DRIVING UNDER THE INFLUENCE OF
4 INTOXICATING LIQUOR OR DRUGS--PENALTIES.--

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

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

12 C. It is unlawful for:

13 (1) a person to drive a vehicle in this state
14 if the person has an alcohol concentration of eight one
15 hundredths or more in the person's blood or breath within three
16 hours of driving the vehicle and the alcohol concentration
17 results from alcohol consumed before or while driving the
18 vehicle; or

19 (2) a person to drive a commercial motor
20 vehicle in this state if the person has an alcohol
21 concentration of four one hundredths or more in the person's
22 blood or breath within three hours of driving the commercial
23 motor vehicle and the alcohol concentration results from
24 alcohol consumed before or while driving the vehicle.

25 D. Aggravated driving under the influence of

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1 intoxicating liquor or drugs consists of:

2 (1) driving a vehicle in this state with an
3 alcohol concentration of sixteen one hundredths or more in the
4 driver's blood or breath within three hours of driving the
5 vehicle and the alcohol concentration results from alcohol
6 consumed before or while driving the vehicle;

7 (2) causing bodily injury to a human being as
8 a result of the unlawful operation of a motor vehicle while
9 driving under the influence of intoxicating liquor or drugs; or

10 (3) refusing to submit to chemical testing, as
11 provided for in the Implied Consent Act, and in the judgment of
12 the court, based upon evidence of intoxication presented to the
13 court, the driver was under the influence of intoxicating
14 liquor or drugs.

15 E. A first conviction pursuant to this section
16 shall be punished, notwithstanding the provisions of Section
17 31-18-13 NMSA 1978, by imprisonment for not more than ninety
18 days or by a fine of not more than five hundred dollars (\$500),
19 or both; provided that if the sentence is suspended in whole or
20 in part or deferred, the period of probation may extend beyond
21 ninety days but shall not exceed one year. Upon a first
22 conviction pursuant to this section, an offender shall be
23 sentenced to not less than twenty-four hours of community
24 service. In addition, the offender may be required to pay a
25 fine of three hundred dollars (\$300). The offender shall be

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1 ordered by the court to participate in and complete a screening
2 program described in Subsection [K] L of this section and to
3 attend a driver rehabilitation program for alcohol or drugs,
4 also known as a "DWI school", approved by the bureau and also
5 may be required to participate in other rehabilitative services
6 as the court shall determine to be necessary. In addition to
7 those penalties, when an offender commits aggravated driving
8 under the influence of intoxicating liquor or drugs, the
9 offender shall be sentenced to not less than forty-eight
10 consecutive hours in jail. If an offender fails to complete,
11 within a time specified by the court, any community service,
12 screening program, treatment program or DWI school ordered by
13 the court or fails to comply with any other condition of
14 probation, the offender shall be sentenced to not less than an
15 additional forty-eight consecutive hours in jail. Any jail
16 sentence imposed pursuant to this subsection for failure to
17 complete, within a time specified by the court, any community
18 service, screening program, treatment program or DWI school
19 ordered by the court or for aggravated driving under the
20 influence of intoxicating liquor or drugs shall not be
21 suspended, deferred or taken under advisement. On a first
22 conviction pursuant to this section, any time spent in jail for
23 the offense prior to the conviction for that offense shall be
24 credited to any term of imprisonment fixed by the court. A
25 deferred sentence pursuant to this subsection shall be

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1 considered a first conviction for the purpose of determining
2 subsequent convictions.

3 F. A second or third conviction pursuant to this
4 section shall be punished, notwithstanding the provisions of
5 Section 31-18-13 NMSA 1978, by imprisonment for not more than
6 three hundred sixty-four days or by a fine of not more than one
7 thousand dollars (\$1,000), or both; provided that if the
8 sentence is suspended in whole or in part, the period of
9 probation may extend beyond one year but shall not exceed five
10 years. Notwithstanding any provision of law to the contrary
11 for suspension or deferment of execution of a sentence:

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

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1 (2) upon a third conviction, an offender shall
2 be sentenced to a jail term of not less than thirty consecutive
3 days, not less than ninety-six hours of community service and a
4 fine of seven hundred fifty dollars (\$750). In addition to
5 those penalties, when an offender commits aggravated driving
6 under the influence of intoxicating liquor or drugs, the
7 offender shall be sentenced to a jail term of not less than
8 sixty consecutive days. If an offender fails to complete,
9 within a time specified by the court, any community service,
10 screening program or treatment program ordered by the court,
11 the offender shall be sentenced to not less than an additional
12 sixty consecutive days in jail. A penalty imposed pursuant to
13 this paragraph shall not be suspended or deferred or taken
14 under advisement.

15 G. Upon a fourth 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 eighteen
19 months, six months of which shall not be suspended, deferred or
20 taken under advisement.

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

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1 advisement.

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

8 J. Upon a seventh [~~or subsequent~~] conviction
9 pursuant to this section, an offender is guilty of a third
10 degree felony and, notwithstanding the provisions of Section
11 31-18-15 NMSA 1978, shall be sentenced to a term of
12 imprisonment of three years, two years of which shall not be
13 suspended, deferred or taken under advisement.

14 K. Upon an eighth or subsequent conviction pursuant
15 to this section, an offender is guilty of a second degree
16 felony and, notwithstanding the provisions of Section 31-18-15
17 NMSA 1978, shall be sentenced to a term of imprisonment of
18 twelve years, ten years of which shall not be suspended,
19 deferred or taken under advisement.

20 [~~K.~~] L. Upon any conviction pursuant to this
21 section, an offender shall be required to participate in and
22 complete, within a time specified by the court, an alcohol or
23 drug abuse screening program approved by the department of
24 finance and administration and, if necessary, a treatment
25 program approved by the court. The requirement imposed

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1 pursuant to this subsection shall not be suspended, deferred or
2 taken under advisement.

3 ~~[L.]~~ M. Upon a second or third conviction pursuant
4 to this section, an offender shall be required to participate
5 in and complete, within a time specified by the court:

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

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

11 (3) a drug court program approved by the
12 court; or

13 (4) any other substance abuse treatment
14 program approved by the court.

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

17 ~~[M.]~~ N. Upon a felony conviction pursuant to this
18 section, the corrections department shall provide substance
19 abuse counseling and treatment to the offender in its custody.
20 While the offender is on probation or parole under its
21 supervision, the corrections department shall also provide
22 substance abuse counseling and treatment to the offender or
23 shall require the offender to obtain substance abuse counseling
24 and treatment.

25 ~~[N.]~~ O. Upon a conviction pursuant to this section,

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1 an offender shall be required to obtain an ignition interlock
2 license and have an ignition interlock device installed and
3 operating on all motor vehicles driven by the offender,
4 pursuant to rules adopted by the [~~traffic safety~~] bureau.
5 Unless determined by the bureau to be indigent, the offender
6 shall pay all costs associated with having an ignition
7 interlock device installed on the appropriate motor vehicles.
8 The offender shall operate only those vehicles equipped with
9 ignition interlock devices for:

- 10 (1) a period of one year, for a first
11 offender;
- 12 (2) a period of two years, for a second
13 conviction pursuant to this section;
- 14 (3) a period of three years, for a third
15 conviction pursuant to this section; or
- 16 (4) the remainder of the offender's life, for
17 a fourth or subsequent conviction pursuant to this section.

18 [~~0.~~] P. Five years from the date of conviction and
19 every five years thereafter, a fourth or subsequent offender
20 may apply to a district court for removal of the ignition
21 interlock device requirement provided in this section and for
22 restoration of a driver's license. A district court may, for
23 good cause shown, remove the ignition interlock device
24 requirement and order restoration of the license; provided that
25 the offender has not been subsequently convicted of driving a

1 motor vehicle under the influence of intoxicating liquor or
2 drugs. Good cause may include an alcohol screening and proof
3 from the interlock vendor that the person has not had
4 violations of the interlock device.

5 [P-] Q. An offender who obtains an ignition
6 interlock license and installs an ignition interlock device
7 prior to conviction shall be given credit at sentencing for the
8 time period the ignition interlock device has been in use.

9 [Q-] R. In the case of a first, second or third
10 offense under this section, the magistrate court has concurrent
11 jurisdiction with district courts to try the offender.

12 [R-] S. A conviction pursuant to a municipal or
13 county ordinance in New Mexico or a law of any other
14 jurisdiction, territory or possession of the United States or
15 of a tribe, when that ordinance or law is equivalent to New
16 Mexico law for driving under the influence of intoxicating
17 liquor or drugs, and prescribes penalties for driving under the
18 influence of intoxicating liquor or drugs, shall be deemed to
19 be a conviction pursuant to this section for purposes of
20 determining whether a conviction is a second or subsequent
21 conviction.

22 [S-] T. In addition to any other fine or fee that
23 may be imposed pursuant to the conviction or other disposition
24 of the offense under this section, the court may order the
25 offender to pay the costs of any court-ordered screening and

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1 treatment programs.

2 [F-] U. With respect to this section and
3 notwithstanding any provision of law to the contrary, if an
4 offender's sentence was suspended or deferred in whole or in
5 part and the offender violates any condition of probation, the
6 court may impose any sentence that the court could have
7 originally imposed and credit shall not be given for time
8 served by the offender on probation.

9 [U-] V. As used in this section:

10 (1) "bodily injury" means an injury to a
11 person that is not likely to cause death or great bodily harm
12 to the person, but does cause painful temporary disfigurement
13 or temporary loss or impairment of the functions of any member
14 or organ of the person's body; and

15 (2) "commercial motor vehicle" means a motor
16 vehicle or combination of motor vehicles used in commerce to
17 transport passengers or property if the motor vehicle:

18 (a) has a gross combination weight
19 rating of more than twenty-six thousand pounds inclusive of a
20 towed unit with a gross vehicle weight rating of more than ten
21 thousand pounds;

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

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

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

4 SECTION 6. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2016.

underscoring material = new
~~bracketed material~~ = delete