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HOUSE BILL 54

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Tim D. Lewis and William "Bill" R. Rehm

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR
OR DRUGS; INCREASING THE PENALTIES FOR REPEAT CONVICTIONS FOR
DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS;
INCREASING THE PENALTIES FOR DRIVING UNDER THE INFLUENCE OF
INTOXICATING LIQUOR OR DRUGS WHILE A LICENSE IS SUSPENDED OR
REVOKED FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR
OR DRUGS; PROVIDING THAT A FELONY CONVICTION FOR DRIVING UNDER
THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS SHALL BE TREATED
IN THE SAME MANNER AS ANY OTHER FELONY WHEN SENTENCING A
HABITUAL OFFENDER; INCREASING THE PENALTY FOR HOMICIDE BY
VEHICLE WHILE VIOLATING SECTION 66-8-112 NMSA 1978 (BEING LAWS
1978, CHAPTER 35, SECTION 520, AS AMENDED); INCREASING THE
PENALTIES FOR HOMICIDE 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

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1 35, SECTION 521, AS AMENDED).

2
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

4 SECTION 1. Section 31-12-7 NMSA 1978 (being Laws 1981,
5 Chapter 367, Section 1, as amended) is amended to read:

6 "31-12-7. MOTOR VEHICLES--INFLUENCE OF INTOXICATING
7 LIQUOR OR DRUGS--FEE UPON CONVICTION.--Notwithstanding the
8 provisions of Section 66-8-102 NMSA 1978 or any municipal
9 ordinance that prohibits driving while under the influence of
10 intoxicating liquor or drugs, a person convicted of a violation
11 of Section 66-8-102 NMSA 1978 or a violation of a municipal
12 ordinance that prohibits driving while under the influence of
13 intoxicating liquor or drugs shall be assessed by the court, in
14 addition to any other fee or fine:

15 A. a fee of eighty-five dollars (\$85.00) to defray
16 the costs of chemical and other tests used to determine the
17 influence of liquor or drugs; and

18 B. a fee of [~~seventy-five dollars (\$75.00)] one
19 hundred dollars (\$100) for a first offense, two hundred dollars
20 (\$200) for a second offense and three hundred dollars (\$300)
21 for a third or subsequent offense to fund comprehensive
22 community programs for the prevention of driving while under
23 the influence of intoxicating liquor or drugs and for other
24 traffic safety purposes."~~

25 SECTION 2. Section 31-18-17 NMSA 1978 (being Laws 1977,

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1 Chapter 216, Section 6, as amended) is amended to read:

2 "31-18-17. HABITUAL OFFENDERS--ALTERATION OF BASIC
3 SENTENCE.--

4 A. A person convicted of a noncapital felony in
5 this state [~~whether within the Criminal Code or the Controlled~~
6 ~~Substances Act or not~~], including a conviction for a felony
7 pursuant to Section 66-8-102 NMSA 1978, who has incurred one
8 prior felony conviction that was part of a separate transaction
9 or occurrence or conditional discharge under Section 31-20-13
10 NMSA 1978 is a habitual offender and [~~his~~] that person's basic
11 sentence shall be increased by one year. The sentence imposed
12 pursuant to this subsection shall not be suspended or deferred,
13 unless the court makes a specific finding that the prior felony
14 conviction and the instant felony conviction are both for
15 nonviolent felony offenses and that justice will not be served
16 by imposing a mandatory sentence of imprisonment and that there
17 are substantial and compelling reasons, stated on the record,
18 for departing from the sentence imposed pursuant to this
19 subsection.

20 B. A person convicted of a noncapital felony in
21 this state [~~whether within the Criminal Code or the Controlled~~
22 ~~Substances Act or not~~], including a conviction for a felony
23 pursuant to Section 66-8-102 NMSA 1978, who has incurred two
24 prior felony convictions that were parts of separate
25 transactions or occurrences or conditional discharge under

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1 Section 31-20-13 NMSA 1978 is a habitual offender and [~~his~~]
2 that person's basic sentence shall be increased by four years.
3 The sentence imposed by this subsection shall not be suspended
4 or deferred.

5 C. A person convicted of a noncapital felony in
6 this state [~~whether within the Criminal Code or the Controlled~~
7 ~~Substances Act or not~~], including a conviction for a felony
8 pursuant to Section 66-8-102 NMSA 1978, who has incurred three
9 or more prior felony convictions that were parts of separate
10 transactions or occurrences or conditional discharge under
11 Section 31-20-13 NMSA 1978 is a habitual offender and [~~his~~]
12 that person's basic sentence shall be increased by eight years.
13 The sentence imposed by this subsection shall not be suspended
14 or deferred.

15 D. A prior conviction for driving under the
16 influence of intoxicating liquor or drugs pursuant to Section
17 66-8-102 NMSA 1978 that is used to enhance the punishment for
18 driving under the influence of intoxicating liquor or drugs
19 shall also be used as the basis for enhancement of the
20 offender's sentence pursuant to this section.

21 [~~D-~~] E. As used in this section, "prior felony
22 conviction" means:

23 (1) a conviction, when less than ten years
24 have passed prior to the instant felony conviction since the
25 person completed serving [~~his~~] a sentence or period of

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1 probation or parole for the prior felony, whichever is later,
2 for a prior felony committed within New Mexico [~~whether within~~
3 ~~the Criminal Code or not, but not~~], including a conviction for
4 a felony pursuant to the provisions of Section 66-8-102 NMSA
5 1978; or

6 (2) a prior felony, when less than ten years
7 have passed prior to the instant felony conviction since the
8 person completed serving [~~his~~] a sentence or period of
9 probation or parole for the prior felony, whichever is later,
10 for which the person was convicted other than an offense
11 triable by court martial if:

12 (a) the conviction was rendered by a
13 court of another state, the United States, a territory of the
14 United States or the commonwealth of Puerto Rico;

15 (b) the offense was punishable, at the
16 time of conviction, by death or a maximum term of imprisonment
17 of more than one year; or

18 (c) the offense would have been
19 classified as a felony in this state at the time of conviction.

20 [~~E.~~] F. As used in this section, "nonviolent felony
21 offense" means application of force, threatened use of force or
22 a deadly weapon was not used by the offender in the commission
23 of the offense."

24 **SECTION 3.** Section 66-5-39 NMSA 1978 (being Laws 1978,
25 Chapter 35, Section 261, as amended) is amended to read:

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1 "66-5-39. DRIVING WHILE LICENSE SUSPENDED--PENALTIES.--

2 A. Any person who drives a motor vehicle on any
3 public highway of this state at a time when the person's
4 privilege to do so is suspended and who knows or should have
5 known that the person's license was suspended is guilty of a
6 misdemeanor and shall be charged with a violation of this
7 section. Upon conviction, the person shall be punished,
8 notwithstanding the provisions of Section 31-18-13 NMSA 1978,
9 by imprisonment for not less than four days or more than three
10 hundred sixty-four days or participation for an equivalent
11 period of time in a certified alternative sentencing program,
12 and there may be imposed in addition a fine of not more than
13 one thousand dollars (\$1,000). When a person pays any or all
14 of the cost of participating in a certified alternative
15 sentencing program, the court may apply that payment as a
16 deduction to any fine imposed by the court. Any municipal
17 ordinance prohibiting driving with a suspended license shall
18 provide penalties no less stringent than provided in this
19 section.

20 B. In addition to any other penalties imposed
21 pursuant to the provisions of this section, when a person is
22 convicted pursuant to the provisions of this section or a
23 municipal ordinance that prohibits driving on a suspended
24 license, the motor vehicle the person was driving may be
25 immobilized by an immobilization device for thirty days, unless

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1 immobilization of the motor vehicle poses an imminent danger to
2 the health, safety or employment of the convicted person's
3 immediate family or the family of the owner of the motor
4 vehicle. The convicted person shall bear the cost of
5 immobilizing the motor vehicle.

6 C. The division, upon receiving a record of the
7 conviction of any person under this section, shall extend the
8 period of suspension for an additional like period.

9 D. A person who drives a motor vehicle while under
10 the influence of intoxicating liquor or drugs at a time when
11 the person's privilege to drive is suspended for driving under
12 the influence of intoxicating liquor or drugs or a violation of
13 the Implied Consent Act is guilty of a fourth degree felony."

14 SECTION 4. Section 66-5-39.1 NMSA 1978 (being Laws 2013,
15 Chapter 163, Section 3) is amended to read:

16 "66-5-39.1. DRIVING WHILE LICENSE REVOKED--PENALTIES.--

17 A. A person who drives a motor vehicle on a public
18 highway of this state at a time when the person's privilege to
19 do so is revoked and who knows or should have known that the
20 person's license was revoked is guilty of a misdemeanor and
21 shall be charged with a violation of this section. Upon
22 conviction, the person shall be punished, notwithstanding the
23 provisions of Section 31-18-13 NMSA 1978, by imprisonment for
24 not less than four days or more than three hundred sixty-four
25 days or by participation for an equivalent period of time in a

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1 certified alternative sentencing program, and there may be
2 imposed in addition a fine of not more than one thousand
3 dollars (\$1,000). When a person pays any or all of the cost of
4 participating in a certified alternative sentencing program,
5 the court may apply that payment as a deduction to any fine
6 imposed by the court.

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

24 C. In addition to any other penalties imposed
25 pursuant to this section, when a person is convicted pursuant

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

9 D. The division, upon receiving a record of the
10 conviction of any person under this section, shall not issue a
11 new license for an additional period of one year from the date
12 the person would otherwise have been entitled to apply for a
13 new license.

14 E. A person who drives a motor vehicle while under
15 the influence of intoxicating liquor or drugs at a time when
16 the person's privilege to drive is revoked for driving under
17 the influence of intoxicating liquor or drugs or a violation of
18 the Implied Consent Act is guilty of a fourth degree felony."

19 SECTION 5. Section 66-8-101 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 509, as amended) is amended to read:

21 "66-8-101. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY
22 VEHICLE.--

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

25 B. Great bodily harm by vehicle is the injuring of

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1 a human being, to the extent defined in Section 30-1-12 NMSA
2 1978, in the unlawful operation of a motor vehicle.

3 C. 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 or while violating Section 66-8-113 NMSA 1978 is guilty of a
7 second degree felony and shall be sentenced pursuant to the
8 provisions of Section 31-18-15 NMSA 1978;

9 [~~D. A person who commits homicide by vehicle while~~
10 ~~violating Section 66-8-113 NMSA 1978 is guilty of a third~~
11 ~~degree felony and shall be sentenced pursuant to the provisions~~
12 ~~of Section 31-18-15 NMSA 1978]~~ provided that violation of
13 speeding laws as set forth in the Motor Vehicle Code shall not
14 per se be a basis for violation of Section 66-8-113 NMSA 1978.

15 [~~E. A person who commits great bodily harm by~~
16 ~~vehicle while under the influence of intoxicating liquor, while~~
17 ~~under the influence of any drug or while violating Section~~
18 ~~66-8-113 NMSA 1978 is guilty of a third degree felony and shall~~
19 ~~be sentenced pursuant to the provisions of Section 31-18-15~~
20 ~~NMSA 1978, provided that violation of speeding laws as set~~
21 ~~forth in the Motor Vehicle Code shall not per se be a basis for~~
22 ~~violation of Section 66-8-113 NMSA 1978.~~

23 F.] D. A person who commits homicide by vehicle or
24 great bodily harm by vehicle while under the influence of
25 intoxicating liquor or while under the influence of any drug,

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1 as provided in Subsection C [~~or E~~] of this section, and who has
2 incurred a prior DWI conviction within ten years of the
3 occurrence for which the person is being sentenced under this
4 section shall have the person's basic sentence increased by
5 four years for each prior DWI conviction.

6 [~~G-~~] E. For the purposes of this section, "prior
7 DWI conviction" means:

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

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

14 [~~H-~~] F. A person who willfully operates a motor
15 vehicle in violation of Subsection C of Section 30-22-1 NMSA
16 1978 and directly or indirectly causes the death of or great
17 bodily harm to a human being is guilty of a third degree felony
18 and shall be sentenced pursuant to the provisions of Section
19 31-18-15 NMSA 1978."

20 **SECTION 6.** Section 66-8-102 NMSA 1978 (being Laws 1953,
21 Chapter 139, Section 54, as amended) is amended to read:

22 "66-8-102. DRIVING UNDER THE INFLUENCE OF INTOXICATING
23 LIQUOR OR DRUGS--AGGRAVATED DRIVING UNDER THE INFLUENCE OF
24 INTOXICATING LIQUOR OR DRUGS--PENALTIES.--

25 A. It is unlawful for a person who is under the

1 influence of intoxicating liquor to drive a vehicle within this
2 state.

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

7 C. It is unlawful for:

8 (1) a person to drive a vehicle in this state
9 if the person has an alcohol concentration of eight one
10 hundredths or more in the person's blood or breath within three
11 hours of driving the vehicle and the alcohol concentration
12 results from alcohol consumed before or while driving the
13 vehicle; or

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

20 D. Aggravated driving under the influence of
21 intoxicating liquor or drugs consists of:

22 (1) driving a vehicle in this state with an
23 alcohol concentration of sixteen one hundredths or more in the
24 driver's blood or breath within three hours of driving the
25 vehicle and the alcohol concentration results from alcohol

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1 consumed before or while driving the vehicle;

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

5 (3) refusing to submit to chemical testing, as
6 provided for in the Implied Consent Act, and in the judgment of
7 the court, based upon evidence of intoxication presented to the
8 court, the driver was under the influence of intoxicating
9 liquor or drugs.

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

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

23 F. A second or third conviction pursuant to this
24 section shall be punished, notwithstanding the provisions of
25 Section 31-18-13 NMSA 1978, by imprisonment for not more than

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1 three hundred sixty-four days or by a fine of not more than one
2 thousand dollars (\$1,000), or both; provided that if the
3 sentence is suspended in whole or in part, the period of
4 probation may extend beyond one year but shall not exceed five
5 years. Notwithstanding any provision of law to the contrary
6 for suspension or deferment of execution of a sentence:

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

21 (2) upon a third conviction, an offender shall
22 be sentenced to a jail term of not less than thirty consecutive
23 days, not less than [~~ninety-six~~] two hundred forty hours of
24 community service and a fine of seven hundred fifty dollars
25 (\$750). In addition to those penalties, when an offender

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

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

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

22 I. Upon a sixth conviction pursuant to this
23 section, an offender is guilty of a third degree felony and,
24 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
25 shall be sentenced to a term of imprisonment of [~~thirty~~] forty-

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1 two months, [~~eighteen~~] thirty months of which shall not be
2 suspended, deferred or taken under advisement.

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

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

15 L. Upon any conviction pursuant to this section, an
16 offender shall be required to participate in and complete,
17 within a time specified by the court, an alcohol or drug abuse
18 screening program approved by the department of finance and
19 administration and, if necessary, a treatment program approved
20 by the court. The requirement imposed pursuant to this
21 subsection shall not be suspended, deferred or taken under
22 advisement.

23 M. Upon a second or third conviction pursuant to
24 this section, an offender shall be required to participate in
25 and complete, within a time specified by the court:

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

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

6 (3) a drug court program approved by the
7 court; or

8 (4) any other substance abuse treatment
9 program approved by the court.

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

12 N. Upon a felony conviction pursuant to this
13 section, the corrections department shall provide substance
14 abuse counseling and treatment to the offender in its custody.
15 While the offender is on probation or parole under its
16 supervision, the corrections department shall also provide
17 substance abuse counseling and treatment to the offender or
18 shall require the offender to obtain substance abuse counseling
19 and treatment.

20 O. Upon a conviction pursuant to this section, an
21 offender shall be required to obtain an ignition interlock
22 license and have an ignition interlock device installed and
23 operating on all motor vehicles driven by the offender,
24 pursuant to rules adopted by the bureau. Unless determined by
25 the bureau to be indigent, the offender shall pay all costs

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1 associated with having an ignition interlock device installed
2 on the appropriate motor vehicles. The offender shall operate
3 only those vehicles equipped with ignition interlock devices
4 for:

5 (1) a period of one year, for a first
6 offender;

7 (2) a period of two years, for a second
8 conviction pursuant to this section;

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

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

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

25 Q. An offender who obtains an ignition interlock

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

4 R. In the case of a first, second or third offense
5 under this section, the magistrate court has concurrent
6 jurisdiction with district courts to try the offender.

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

16 T. In addition to any other fine or fee that may be
17 imposed pursuant to the conviction or other disposition of the
18 offense under this section, the court may order the offender to
19 pay the costs of any court-ordered screening and treatment
20 programs.

21 U. With respect to this section and notwithstanding
22 any provision of law to the contrary, if an offender's sentence
23 was suspended or deferred in whole or in part and the offender
24 violates any condition of probation, the court may impose any
25 sentence that the court could have originally imposed and

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1 credit shall not be given for time served by the offender on
2 probation.

3 V. As used in this section:

4 (1) "bodily injury" means an injury to a
5 person that is not likely to cause death or great bodily harm
6 to the person, but does cause painful temporary disfigurement
7 or temporary loss or impairment of the functions of any member
8 or organ of the person's body; and

9 (2) "commercial motor vehicle" means a motor
10 vehicle or combination of motor vehicles used in commerce to
11 transport passengers or property if the motor vehicle:

12 (a) has a gross combination weight
13 rating of more than twenty-six thousand pounds inclusive of a
14 towed unit with a gross vehicle weight rating of more than ten
15 thousand pounds;

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

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

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

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