

1 SENATE BILL 575

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Antoinette Sedillo-Lopez

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10 AN ACT

11 RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR
12 OR DRUGS; AMENDING THE REQUIREMENTS FOR TESTING THE BLOOD OF A
13 PERSON SUSPECTED OF OPERATING A MOTOR VEHICLE WHILE UNDER THE
14 INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.

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

17 SECTION 1. Section 66-8-111 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 519, as amended) is amended to read:

19 "66-8-111. REFUSAL TO SUBMIT TO CHEMICAL TESTS--TESTING--
20 GROUNDS FOR REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE.--

21 A. If a person under arrest for violation of an
22 offense enumerated in the Motor Vehicle Code refuses upon
23 request of a law enforcement officer to submit to chemical
24 tests designated by the law enforcement agency as provided in
25 Section 66-8-107 NMSA 1978, none shall be administered except

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1 when a municipal judge, magistrate or district judge issues a
2 search warrant authorizing chemical tests as provided in
3 Section 66-8-107 NMSA 1978 upon finding in a law enforcement
4 officer's written affidavit that there is probable cause to
5 believe that the person has driven a motor vehicle while under
6 the influence of alcohol or a controlled substance [~~thereby~~
7 ~~causing the death or great bodily injury of another person, or~~
8 ~~there is probable cause to believe that the person has~~
9 ~~committed a felony while under the influence of alcohol or a~~
10 ~~controlled substance and that chemical tests as provided in~~
11 ~~Section 66-8-107 NMSA 1978 will produce material evidence in a~~
12 ~~felony prosecution~~].

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

25 C. The department, upon receipt of a statement

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1 signed under penalty of perjury from a law enforcement officer
2 stating the officer's reasonable grounds to believe the
3 arrested person had been driving a motor vehicle within this
4 state while under the influence of intoxicating liquor and that
5 the person submitted to chemical testing pursuant to Section
6 66-8-107 NMSA 1978 and the test results indicated an alcohol
7 concentration in the person's blood or breath of eight one
8 hundredths or more if the person is twenty-one years of age or
9 older, four one hundredths or more if the person is driving a
10 commercial motor vehicle or two one hundredths or more if the
11 person is less than twenty-one years of age, shall revoke the
12 person's license or permit to drive or ~~[his]~~ the person's
13 nonresident operating privilege for a period of:

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

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

22 (3) one year or until all conditions for
23 license reinstatement are met, whichever is later, if the
24 ~~[person has previously had his]~~ person's license has been
25 revoked previously pursuant to the provisions of this section,

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1 notwithstanding the provisions of Paragraph (1) of this
2 subsection.

3 D. The determination of alcohol concentration shall
4 be based on the grams of alcohol in one hundred milliliters of
5 blood or the grams of alcohol in two hundred ten liters of
6 breath.

7 E. If the person subject to the revocation
8 provisions of this section is a resident or will become a
9 resident within one year and is without a license to operate a
10 motor vehicle in this state, the department shall deny the
11 issuance of a license to ~~[him]~~ the person for the appropriate
12 period of time as provided in Subsections B and C of this
13 section.

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

25 SECTION 2. Section 66-8-111.1 NMSA 1978 (being Laws 1984,
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1 Chapter 72, Section 7, as amended) is amended to read:

2 "66-8-111.1. LAW ENFORCEMENT OFFICER AGENT FOR
3 DEPARTMENT--WRITTEN NOTICE OF REVOCATION AND RIGHT TO
4 HEARING.--On behalf of the department, a law enforcement
5 officer requesting a chemical test or directing the
6 administration of a chemical test pursuant to ~~[Section]~~
7 Sections 66-8-107 and 66-8-111 NMSA 1978 shall serve immediate
8 written notice of revocation and of right to a hearing before
9 the administrative hearings office pursuant to the Implied
10 Consent Act on a person who refuses to permit chemical testing
11 or on a person who submits to a chemical test the results of
12 which indicate an alcohol concentration in the person's blood
13 or breath of eight one hundredths or more if the person is
14 twenty-one years of age or older, four one hundredths or more
15 if the person is driving a commercial motor vehicle or two one
16 hundredths or more if the person is less than twenty-one years
17 of age. Upon serving notice of revocation, the law enforcement
18 officer shall take the license or permit of the driver, if any,
19 and issue a temporary license valid for twenty days or, if the
20 driver requests a hearing pursuant to Section 66-8-112 NMSA
21 1978, valid until the date the administrative hearings office
22 issues the order following that hearing; provided that a
23 temporary license shall not be issued to a driver without a
24 valid license or permit. The law enforcement officer shall
25 send the person's driver's license to the department along with

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1 the signed statement required pursuant to Section 66-8-111 NMSA
2 1978."

3 SECTION 3. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2019.

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