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HOUSE BILL 331

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

R. DAVID PEDERSON

AN ACT

RELATING TO DRIVER'S LICENSES; PROHIBITING DISTRICT ATTORNEYS FROM ENTERING INTO AGREEMENTS THAT LIMIT THE AUTHORITY OF THE MOTOR VEHICLE DIVISION TO REVOKE OR SUSPEND A PERSON'S DRIVER'S LICENSE WHEN THE PERSON HAS A PRIOR CONVICTION FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 36-1-22 NMSA 1978 (being Laws 1875-1876, Chapter 5, Section 1, as amended) is amended to read:

"36-1-22. POWERS--COMPROMISES--RELEASES--LIMIT ON POWERS. -- [SEC. 7.]

A. The attorney general and district attorneys [~~of this State in their respective districts~~], when any civil proceedings [~~may be~~] are pending in district court in their

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1        respective districts [~~in the district court~~] in which the state  
2        or any county may be a party, whether [~~the same be~~] it is an  
3        ordinary suit, scire facias proceedings, proceedings growing out  
4        of any criminal prosecution or otherwise, [~~shall~~] have power to  
5        compromise or settle [~~said~~] the suit or proceedings, or grant a  
6        release or enter satisfaction in whole or in part, of any claim  
7        or judgment in the name of the state or county, or dismiss the  
8        same, or take any other steps or proceedings [~~therein~~] which [~~to~~  
9        ~~him may~~] appear to him proper and right [~~and~~]. All such civil  
10       suits and proceedings shall be entirely under the management and  
11       control of the [~~said~~] attorney general or district attorneys,  
12       and all compromises, releases and satisfactions [~~heretofore~~]  
13       made or entered into by said officers prior to the effective  
14       date of this section are [~~hereby~~] confirmed and ratified.

15                    B. Notwithstanding the provisions of Subsection A of  
16       this section, a district attorney shall not enter into an  
17       agreement in a civil or criminal case that limits the authority  
18       of the motor vehicle division of the taxation and revenue  
19       department to revoke or suspend a person's driver's license when  
20       that person has a valid, prior conviction under state law,  
21       federal law, a county ordinance or a municipal ordinance for  
22       driving a motor vehicle while under the influence of  
23       intoxicating liquor or drugs. "

24                    Section 2. Section 66-5-29 NMSA 1978 (being Laws 1978,  
25       Chapter 35, Section 251, as amended by Laws 1993, Chapter 66,

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1 Section 4 and also by Laws 1993, Chapter 78, Section 4) is  
2 amended to read:

3 "66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION. --

4 A. The division shall immediately revoke the license  
5 of any driver upon receiving a record of the driver's  
6 adjudication as a delinquent for or conviction of any of the  
7 following offenses, whether the offense is under any state law  
8 or local ordinance, when the conviction or adjudication has  
9 become final:

10 (1) manslaughter or negligent homicide  
11 resulting from the operation of a motor vehicle;

12 (2) any offense rendering a person a "first  
13 offender" as defined in the Motor Vehicle Code, if that person  
14 does not attend a driver rehabilitation program pursuant to  
15 Subsection [H] E of Section 66-8-102 NMSA 1978;

16 (3) ~~[any offense rendering a person a~~  
17 ~~"subsequent offender" as defined in the Motor Vehicle Code]~~  
18 driving a motor vehicle while under the influence of  
19 intoxicating liquor or drugs, when department records confirm  
20 that the person has a valid, prior conviction for the same  
21 offense under state law, federal law, a county ordinance or a  
22 municipal ordinance;

23 (4) any felony in the commission of which a  
24 motor vehicle is used;

25 (5) failure to stop and render aid as required

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1 under the laws of this state in the event of a motor vehicle  
2 accident resulting in the death or personal injury of another;

3 (6) perjury or the making of a false affidavit  
4 or statement under oath to the division under the Motor Vehicle  
5 Code or under any other law relating to the ownership or  
6 operation of motor vehicles; or

7 (7) conviction or forfeiture of bail not  
8 vacated upon three charges of reckless driving committed within  
9 a period of twelve months.

10 B. Any person whose license has been revoked under  
11 this section, except as provided in Subsection C, D or E of this  
12 section, shall not be entitled to apply for or receive any new  
13 license until the expiration of one year from the date of the  
14 last application on which the revoked license was surrendered to  
15 and received by the division, if no appeal is filed, or one year  
16 from the date that the revocation is final and he has exhausted  
17 his rights to an appeal.

18 C. Any person who upon adjudication as a delinquent  
19 or conviction is subject to license revocation under this  
20 section for an offense pursuant to which he was also subject to  
21 license revocation pursuant to Section 66-8-111 NMSA 1978 shall  
22 have his license revoked for that offense for a combined period  
23 of time equal to one year.

24 D. Upon receipt of an order from a court pursuant to  
25 Subsection ~~[J of Section 32-1-34 NMSA 1978 or Subsection G of~~

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1 ~~Section 32-1-36 NMSA 1978~~ G of Section 32A-2-19 NMSA 1978 or  
2 Subsection G of Section 32A-2-22 NMSA 1978, the division shall  
3 revoke the driver's license or driving privileges for a period  
4 of time in accordance with these provisions.

5 E. Upon receipt from a district court of a record of  
6 conviction for the offense of shooting at or from a motor  
7 vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978 or  
8 of a conviction for a conspiracy or an attempt to commit that  
9 offense, the division shall revoke the driver's licenses or  
10 driving privileges of the convicted person. Any person whose  
11 license or privilege has been revoked pursuant to the provisions  
12 of this subsection shall not be entitled to apply for or receive  
13 any new license or privilege until the expiration of one year  
14 from the date of the last application on which the revoked  
15 license was surrendered to and received by the division, if no  
16 appeal is filed, or one year from the date that the revocation  
17 is final and ~~[he]~~ the person has exhausted his rights to an  
18 appeal. "

19 Section 3. Section 66-8-135 NMSA 1978 (being Laws 1978,  
20 Chapter 35, Section 543, as amended) is amended to read:

21 "66-8-135. RECORD OF TRAFFIC CASES. --

22 A. Every trial court judge shall keep a record of  
23 every traffic complaint, uniform traffic citation and other form  
24 of traffic charge filed in the judge's court or its traffic  
25 violations bureau and every official action and disposition of

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1 the charge by that court.

2 B. Within ten days of the later of entry of judgment  
3 and sentence or failure to appear on a charge of violating the  
4 Motor Vehicle Code or other law or ordinance relating to motor  
5 vehicles or the final decision of any higher court that reviews  
6 the matter and from which no appeal or review is successfully  
7 taken, every trial court judge, including children's court  
8 judges, or the clerk of the court in which the entry of judgment  
9 and sentence or failure to appear occurred shall prepare and  
10 forward to the department an abstract of the record containing:

11 (1) the name and address of the defendant;

12 (2) the specific section number and common name  
13 of the provision of the NMSA 1978 or local law, ordinance or  
14 regulation under which the defendant was tried;

15 (3) the plea, finding of the court and  
16 disposition of the charge, including fine or jail sentence or  
17 both, forfeiture of bail or dismissal of the charge;

18 (4) an itemization of costs assessed to the  
19 defendant;

20 (5) the date of the hearing;

21 (6) the court's name and address; and

22 (7) ~~[whether the defendant was a first or  
23 subsequent offender; and~~

24 ~~(8)]~~ whether the defendant was represented by  
25 counsel or waived his right to counsel and, if represented, the

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1 name and address of counsel.

2 C. The abstract of record prepared and forwarded  
3 under Subsection B of this section shall be certified as correct  
4 by the person required to prepare it. With the prior approval  
5 of the department, the information required by Subsection B of  
6 this section may be transmitted electronically to the  
7 department. Report need not be made of any disposition of a  
8 charge of illegal parking or standing of a vehicle except when  
9 the uniform traffic citation is used.

10 D. When the uniform traffic citation is used, the  
11 court shall provide the information required by Subsection B of  
12 this section in the manner prescribed by the department.

13 E. Every court of record shall also forward a like  
14 report to the department upon conviction of any person of any  
15 felony if a motor vehicle was used in the commission. With the  
16 prior approval of the department, the information required by  
17 this subsection may be submitted electronically to the  
18 department. The report shall be forwarded to the department  
19 within ten days of the final decision of the court or of any  
20 higher court that reviews the matter and from which the decision  
21 of no appeal or review is successfully taken.

22 F. The failure or refusal of any judicial officer to  
23 comply with this section is misconduct in office and grounds for  
24 removal.

25 G. The department shall keep records received on

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1 motorists licensed in this state at its main office. Records  
2 showing a record of conviction by a court of law shall be open  
3 to public inspection during business hours for three years from  
4 the date of their receipt, after which they shall be destroyed  
5 by the department except for records of convictions under  
6 Sections 66-8-101 through 66-8-112 NMSA 1978, which may not be  
7 destroyed until twenty-five years from the date of their  
8 receipt. Any record received on a motorist licensed in another  
9 state or country shall be forwarded to the licensing authority  
10 of that state or country."

11 Section 4. EFFECTIVE DATE. -- The effective date of the  
12 provisions of this act is July 1, 1996.

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# **State of New Mexico House of Representatives**

FORTY- SECOND LEGISLATURE

SECOND SESSION, 1996

February 5, 1996

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 331

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

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Cisco McSorley, Chairman

FORTY- SECOND LEGISLATURE  
SECOND SESSION, 1996

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Sanchez, R. G.

Absent: Baca, Larranaga

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# State of New Mexico House of Representatives

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 7, 1996

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
whom has been referred

HOUSE BILL 331

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

---

Max Coll, Chairman

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Bird, Buffett, Coll, Gentry, Martinez, Picraux,

Watchman

Absent: None

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 12, 1996

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 331

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
~~further recommends that the referral to the~~ FINANCE  
COMMITTEE. ~~be withdrawn.~~

Respectfully submitted,

\_\_\_\_\_  
Janice D. Paster, Chairman

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: None

Absent: Carraro, Sanchez, Tsosie

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