

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 458

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

TIMOTHY E. MACKO

AN ACT

**RELATING TO MOTOR VEHICLES; REQUIRING A FIVE-YEAR DRIVER'S
LICENSE REVOCATION PERIOD WHEN A PERSON DRIVES UNDER THE
INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; REQUIRING A FIVE-
YEAR DRIVER'S LICENSE REVOCATION PERIOD WHEN A PERSON IS
CONVICTED FOR SHOOTING AT OR FROM A MOTOR VEHICLE; AMENDING
SECTIONS OF THE NMSA 1978.**

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

**Section 1. Section 66-5-29 NMSA 1978 (being Laws 1978,
Chapter 35, Section 251, as amended by Laws 1993, Chapter 66,
Section 4 and also by Laws 1993, Chapter 78, Section 4) is
amended to read:**

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

**A. The division shall immediately revoke the
license of any driver upon receiving a record of the driver's**

. 121433. 2GJ

Underscored material = new
[bracketed material] = delete

Underscored material = new
[bracketed material] = delete

1 adjudication as a delinquent for or conviction of any of the
2 following offenses, whether the offense is under any state law
3 or local ordinance, when the conviction or adjudication has
4 become final:

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

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

11 (3) any offense rendering a person a
12 "subsequent offender" as defined in the Motor Vehicle Code;

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

15 (5) failure to stop and render aid as
16 required under the laws of this state in the event of a motor
17 vehicle accident resulting in the death or personal injury of
18 another;

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

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

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

B. A person convicted of an offense rendering that person a "first offender" or a "subsequent offender", pursuant to the provisions of Paragraph (2) or (3) of Subsection A of this section, shall have his license revoked for a period of five years.

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

~~[C.]~~ D. Any person who upon adjudication as a delinquent or conviction is subject to license revocation under this section for an offense pursuant to which he was also subject to license revocation pursuant to Section 66-8-111 NMSA 1978 shall have his license revoked for that offense for a combined period of time equal to ~~[one year]~~ five years.

~~[D.]~~ E. Upon receipt of an order from a court pursuant to Subsection ~~[J]~~ G of Section ~~[32-1-34]~~ 32A-2-19 NMSA 1978 or Subsection G of Section ~~[32-1-36]~~ 32A-2-22 NMSA 1978, the division shall revoke the driver's license or

Underscored material = new
[bracketed material] = delete

1 driving privileges for a period of time in accordance with
2 [~~these~~] those provisions.

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

18 Section 2. Section 66-8-111 NMSA 1978 (being Laws 1978,
19 Chapter 35, Section 519, as amended) is amended to read:

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

23 A. If a person under arrest for violation of an
24 offense enumerated in the Motor Vehicle Code refuses upon
25 request of a law enforcement officer to submit to chemical

Underscored material = new
[bracketed material] = delete

1 tests designated by the law enforcement agency as provided in
2 Section 66-8-107 NMSA 1978, none shall be administered except
3 when a municipal judge, magistrate or district judge issues a
4 search warrant authorizing chemical tests as provided in
5 Section 66-8-107 NMSA 1978 upon his finding in a law
6 enforcement officer's written affidavit that there is probable
7 cause to believe that the person has driven a motor vehicle
8 while under the influence of alcohol or a controlled
9 substance, thereby causing the death or great bodily injury of
10 another person, or there is probable cause to believe that the
11 person has committed a felony while under the influence of
12 alcohol or a controlled substance and that chemical tests as
13 provided in Section 66-8-107 NMSA 1978 will produce material
14 evidence in a felony prosecution.

15 B. 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 or drug
20 and that, upon his request, the person refused to submit to a
21 chemical test after being advised that failure to submit could
22 result in revocation of his privilege to drive, shall revoke
23 the person's New Mexico driver's license or any nonresident
24 operating privilege for a period of [~~one year~~] five years or
25 until all conditions for license reinstatement are met,

. 121433. 2GJ

Underscored material = new
[bracketed material] = delete

1 whichever is later.

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

16 (1) [~~ninety days~~] five years or until all
17 conditions for license reinstatement are met, whichever is
18 later, if the person is twenty-one years of age or older;

19 (2) [~~six months~~] five years or until all
20 conditions for license reinstatement are met, whichever is
21 later, if the person is less than twenty-one years of age and
22 has not previously had his license revoked pursuant to the
23 provisions of this section, notwithstanding any provision of
24 the Children's Code; or

25 (3) [~~one year~~] five years or until all

. 121433. 2GJ

Underscored material = new
[bracketed material] = delete

1 conditions for license reinstatement are met, whichever is
2 later, if the person has previously had his license revoked
3 pursuant to the provisions of this section, notwithstanding
4 the provisions of Paragraph (1) or (2) of this subsection or
5 any provision of the Children's Code.

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

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

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

. 121433. 2GJ

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Section 3. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 1998.