HOUSE BILL 774

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

INTRODUCED BY

Timothy E. Macko

AN ACT

RELATING TO MOTOR VEHICLES; INCREASING THE MANDATORY PERIOD OF INCARCERATION FOR A PERSON WHO DRIVES WHEN HIS LICENSE IS SUSPENDED OR REVOKED FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; AMENDING A SECTION OF THE NMSA 1978.

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

    Section 1.    Section 66-5-39 NMSA 1978 (being Laws 1978, Chapter 35, Section 261, as amended) is amended to read:

    "66-5-39.    DRIVING WHILE LICENSE SUSPENDED OR REVOKED-- PROVIDING PENALTIES.--

        A.    Any person who drives a motor vehicle on any public highway of this state at a time when his privilege to do so is suspended or revoked and who knows or should have known that his license was suspended or revoked is guilty of a

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1   misdemeanor and shall be charged with a violation of this

2   section.  Upon conviction, the person shall be punished,

3   notwithstanding the provisions of Section 31-18-13 NMSA 1978,

4   by imprisonment for not less than four days or more than three

5   hundred sixty-four days or participation for an equivalent

6   period of time in a certified alternative sentencing program,

7   and there may be imposed in addition a fine of not more than

8   one thousand dollars ($1,000).  When a person pays any or all

9   of the cost of participating in a certified alternative

10  sentencing program, the court may apply that payment as a

11  deduction to any fine imposed by the court.  Notwithstanding

12  any other provision of law for suspension or deferment of

13  execution of a sentence, if the person's privilege to drive

14  was revoked for driving while under the influence of

15  intoxicating liquor or drugs or a violation of the Implied

16  Consent Act, upon conviction under this section, that person

17  shall be punished by imprisonment for not less than [ seven

18  consecutive days] six months and shall be fined not less than

19  three hundred dollars ($300) or not more than one thousand

20  dollars ($1,000) and the fine and imprisonment shall not be

21  suspended, deferred or taken under advisement.  No other

22  disposition by plea of guilty to any other charge in

23  satisfaction of a charge under this section shall be

24  authorized if the person's privilege to drive was revoked for

25  driving while under the influence of intoxicating liquor or

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1    drugs or a violation of the Implied Consent Act.  Any

2    municipal ordinance prohibiting driving with a suspended or

3    revoked license shall provide penalties no less stringent than

4    provided in this section.

5         B.   In addition to any other penalties imposed

6    pursuant to the provisions of this section, when a person is

7    convicted pursuant to the provisions of this section or a

8    municipal ordinance that prohibits driving on a suspended or

9    revoked license, the motor vehicle the person was driving

10   shall be immobilized by an immobilization device for thirty

11   days, unless immobilization of the motor vehicle poses an

12   imminent danger to the health, safety or employment of the

13   convicted person's immediate family or the family of the owner

14   of the motor vehicle.  The convicted person shall bear the

15   cost of immobilizing the motor vehicle.

16        C.   The division, upon receiving a record of the

17   conviction of any person under this section upon a charge of

18   driving a vehicle while the license of the person was

19   suspended, shall extend the period of suspension for an

20   additional like period, and if the conviction was upon a

21   charge of driving while a license was revoked, the division

22   shall not issue a new license for an additional period of one

23   year from the date the person would otherwise have been

24   entitled to apply for a new license."

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