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SENATE BILL 398

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

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO MOTOR VEHICLES; INCREASING PENALTIES FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS AND FOR DRIVING WITH A REVOKED LICENSE; 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 adjudication as a delinquent for or conviction of any of the following offenses, whether the offense is under any state law

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1 or local ordinance, when the conviction or adjudication has
2 become final:

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

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

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

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

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

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

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

24 B. Any person whose license has been revoked under
25 this section, except as provided in Subsection C, D or E of

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1 this section, shall not be entitled to apply for or receive
2 any new license until the expiration of [~~one year~~] two years
3 from the date of the last application on which the revoked
4 license was surrendered to and received by the division, if no
5 appeal is filed, or [~~one year~~] two years from the date that
6 the revocation is final and he has exhausted his rights to an
7 appeal.

8 C. Any person who upon adjudication as a
9 delinquent or conviction is subject to license revocation
10 under this section for an offense pursuant to which he was
11 also subject to license revocation pursuant to Section
12 66-8-111 NMSA 1978 shall have his license revoked for that
13 offense for a combined period of time equal to one year.

14 D. Upon receipt of an order from a court pursuant
15 to Subsection [~~J~~] G of Section [~~32-1-34~~] 32A-2-19 NMSA 1978 or
16 Subsection G of Section [~~32-1-36~~] 32A-2-22 NMSA 1978, the
17 division shall revoke the driver's license or driving
18 privileges for a period of time in accordance with these
19 provisions.

20 E. Upon receipt from a district court of a record
21 of conviction for the offense of shooting at or from a motor
22 vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978
23 or of a conviction for a conspiracy or an attempt to commit
24 that offense, the division shall revoke the driver's licenses
25 or driving privileges of the convicted person. Any person

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1 whose license or privilege has been revoked pursuant to the
2 provisions of this subsection shall not be entitled to apply
3 for or receive any new license or privilege until the
4 expiration of one year from the date of the last application
5 on which the revoked license was surrendered to and received
6 by the division, if no appeal is filed, or one year from the
7 date that the revocation is final and [~~he~~] the person has
8 exhausted his rights to an appeal. "

9 Section 2. Section 66-5-39 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 261, as amended) is amended to read:

11 "66-5-39. DRIVING WHILE LICENSE SUSPENDED OR REVOKED--
12 PROVIDING PENALTIES. --

13 A. [~~Any~~] A person who drives a motor vehicle on
14 [~~any~~] a public highway of this state at a time when his
15 privilege to do so is suspended or revoked and who knows or
16 should have known that his license was suspended or revoked is
17 guilty of a misdemeanor and shall be charged with a violation
18 of this section. Upon conviction, the person shall be
19 punished, notwithstanding the provisions of Section 31-18-13
20 NMSA 1978, by imprisonment for not less than four days or more
21 than three hundred sixty-four days or participation for an
22 equivalent period of time in a certified alternative
23 sentencing program, and there ~~may~~ be imposed in addition a
24 fine of not more than one thousand dollars (\$1,000). When a
25 person pays any or all of the cost of participating in a

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1 certified alternative sentencing program, the court may apply
2 that payment as a deduction to any fine imposed by the court.
3 Notwithstanding any other provision of law for suspension or
4 deferment of execution of a sentence, if the person's
5 privilege to drive was revoked for driving while under the
6 influence of intoxicating liquor or drugs or a violation of
7 the Implied Consent Act, upon conviction under this section,
8 that person shall be punished by imprisonment for not less
9 than ~~[seven consecutive days]~~ six months and shall be fined
10 not less than three hundred dollars (\$300) or not more than
11 one thousand dollars (\$1,000) and the fine and imprisonment
12 shall not be suspended, deferred or taken under advisement.
13 No other disposition by plea of guilty to any other charge in
14 satisfaction of a charge under this section shall be
15 authorized if the person's privilege to drive was revoked for
16 driving while under the influence of intoxicating liquor or
17 drugs or a violation of the Implied Consent Act. Any
18 municipal ordinance prohibiting driving with a suspended or
19 revoked license shall provide penalties no less stringent than
20 provided in this section.

21 B. In addition to any other penalties imposed
22 pursuant to the provisions of this section, when a person is
23 convicted pursuant to the provisions of this section or a
24 municipal ordinance that prohibits driving on a suspended or
25 revoked license, the motor vehicle the person was driving

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1 shall be immobilized by an immobilization device for thirty
2 days, unless immobilization of the motor vehicle poses an
3 imminent danger to the health, safety or employment of the
4 convicted person's immediate family or the family of the owner
5 of the motor vehicle. The convicted person shall bear the
6 cost of immobilizing the motor vehicle.

7 C. The division, upon receiving a record of the
8 conviction of any person under this section upon a charge of
9 driving a vehicle while the license of the person was
10 suspended, shall extend the period of suspension for an
11 additional [~~like~~] period of one year, and if the conviction
12 was upon a charge of driving while a license was revoked, the
13 division shall not issue a new license for an additional
14 period of one year from the date the person would otherwise
15 have been entitled to apply for a new license. "

16 Section 3. EFFECTIVE DATE. --The effective date of the
17 provisions of this act is July 1, 1999.