



The Legislature  
of the  
State of New Mexico

48th Legislature, Second Session

LAWS 2008

CHAPTER 91

SENATE BILL 442, as amended

Introduced by

SENATOR MICHAEL S. SANCHEZ



# CHAPTER 91

## AN ACT

1  
2 RELATING TO TRAFFIC OFFENSES; LIMITING THE AMOUNT OF CERTAIN  
3 FINES AND FEES IMPOSED BY MUNICIPALITIES FOR CERTAIN  
4 OFFENSES; CREATING THE METROPOLITAN COURT BOND GUARANTEE  
5 FUND; MAKING AN APPROPRIATION FOR STATEWIDE EFFORTS TO  
6 PREVENT OR REDUCE INCIDENTS OF DRIVING WHILE INTOXICATED.

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

9 Section 1. Section 3-18-17 NMSA 1978 (being Laws 1965,  
10 Chapter 300, Section 14-17-14) is amended to read:

11 "3-18-17. NUISANCES AND OFFENSES--REGULATION OR  
12 PROHIBITION.--A municipality, including a home rule  
13 municipality that has adopted a charter pursuant to Article  
14 10, Section 6 of the constitution of New Mexico, may by  
15 ordinance:

16 A. define a nuisance, abate a nuisance and impose  
17 penalties upon a person who creates or allows a nuisance to  
18 exist; provided that for a municipality with a population of  
19 200,000 or greater as of the last decennial census, the  
20 penalties or fines and costs or fees imposed by an ordinance  
21 for failure to obey a traffic sign or signal, including a red  
22 light violation, or for a speeding offense or violation,  
23 shall be subject to the following criteria:

24 (1) the total amount of assessed penalties,  
25 fines, fees and costs for each offense or violation shall not

1 exceed seventy-five dollars (\$75.00);

2 (2) each month, or other period set by  
3 contract, the municipality shall retain from the gross total  
4 amount of penalties, fines, fees and costs assessed and  
5 collected that month or period an amount subject to audit  
6 that is equal to the setup, maintenance, support and  
7 processing services fees charged for that month or period  
8 pursuant to contractual terms, by a vendor providing systems  
9 and services that assist the municipality in imposing  
10 penalties or fines and costs or fees as provided in this  
11 subsection.

12 (3) less the retention authorized in  
13 Paragraph (2) of this subsection, the net total amount  
14 assessed in fines, fees and costs by the municipality shall  
15 be distributed to the administrative office of the courts, of  
16 which ten percent of the net total amount assessed shall be  
17 credited to DWI drug court programs and ninety percent of the  
18 net total amount assessed shall be transferred to the New  
19 Mexico finance authority for deposit into the metropolitan  
20 court bond guarantee fund; and

21 (4) in fiscal year 2009, and annually  
22 thereafter, the municipality shall cause an audit of the  
23 program to be conducted by the state auditor or an  
24 independent auditor selected by the state auditor;

25 B. regulate or prohibit any amusement or practice

1 that tends to annoy persons on a street or public ground; and

2 C. prohibit and suppress:

3 (1) gambling and the use of fraudulent  
4 devices or practices for the purpose of obtaining money or  
5 property;

6 (2) the sale, possession or exhibition of  
7 obscene or immoral publications, prints, pictures or  
8 illustrations;

9 (3) public intoxication;

10 (4) disorderly conduct; and

11 (5) riots, noises, disturbances or  
12 disorderly assemblies in any public or private place."

13 Section 2. A new section of the New Mexico Finance  
14 Authority Act is enacted to read:

15 "METROPOLITAN COURT BOND GUARANTEE FUND.--

16 A. The "metropolitan court bond guarantee fund" is  
17 created in the authority. The fund is comprised of  
18 appropriations, donations, transfers pursuant to Section  
19 3-18-17 NMSA 1978 and money earned from investment of the  
20 fund and otherwise accruing to the fund. Money in the fund  
21 is appropriated to the authority as a credit enhancement to  
22 the distributions from the court facilities fund in order to  
23 guarantee and secure the payment of principal, interest,  
24 premiums and expenses on bonds issued pursuant to Section  
25 34-9-16 NMSA 1978 and Laws 2000, Chapter 5, Section 2.

1 Balances remaining in the fund at the end of a fiscal year  
2 shall not revert. The authority shall administer the fund,  
3 and money from the fund may be drawn only on warrants signed  
4 by the chief executive officer of the authority pursuant to  
5 vouchers signed by the chief executive officer.

6 B. Before each due date for payments of principal,  
7 interest, premiums or expenses on bonds issued pursuant to  
8 Section 34-9-16 NMSA 1978 and Laws 2000, Chapter 5, Section  
9 2, the authority shall determine if the distributions from  
10 the court facilities fund will be sufficient to meet the  
11 amount due. If the authority determines that distributions  
12 from the court facilities fund are not sufficient to meet the  
13 total amount due, any insufficient amount shall be paid  
14 immediately from the metropolitan court bond guarantee fund.  
15 After each due date for a payment on the bonds, the authority  
16 shall determine the amount necessary to reserve in the  
17 metropolitan court bond guarantee fund as security for future  
18 payments and transfer any balance, above the amount reserved,  
19 to the traffic safety bureau of the department of  
20 transportation. The amounts transferred are appropriated to  
21 the bureau for expenditure on statewide efforts to prevent or  
22 reduce incidents of driving while intoxicated.

23 C. Upon payment of all principal, interest,  
24 premiums and expenses on bonds guaranteed and secured by  
25 amounts in the metropolitan court bond guarantee fund, the

1 authority shall certify to the administrative office of the  
2 courts that all obligations for bonds have been fully  
3 discharged. Upon the certification, the director of the  
4 administrative office of the courts shall cease transferring  
5 amounts to the metropolitan court bond guarantee fund and  
6 transfer those amounts to the traffic safety bureau of the  
7 department of transportation. Such amounts are appropriated  
8 to the bureau for the purposes specified in Subsection B of  
9 this section."

10 Section 3. TEMPORARY PROVISION--APPLICABILITY.--The  
11 provisions of this act apply prospectively to all municipal  
12 ordinances enacted before or after the effective date of the  
13 provisions of this act.

14 Section 4. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is July 1, 2008. \_\_\_\_\_

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Diane D. Denish

Diane D. Denish, President  
Senate

Lenore M. Naranjo  
Lenore M. Naranjo, Chief Clerk  
Senate

Ben Lujan

Ben Lujan, Speaker  
House of Representatives

Stephen R. Arias  
Stephen R. Arias, Chief Clerk  
House of Representatives

Approved by me this 5<sup>th</sup> day of March, 2008

Bill Richardson

Governor Bill Richardson  
State of New Mexico