



The Legislature
of the
State of New Mexico

50th Legislature, 1st Session

LAWS 2011

CHAPTER 143

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR

SENATE BILL 9, as amended

Introduced by



Chapter 143

AN ACT

RELATING TO YOUTH DRIVING; MODIFYING REQUIREMENTS FOR LICENSING DRIVERS UNDER EIGHTEEN YEARS OF AGE; PROVIDING FOR AN ADDITIONAL THIRTY DAYS OF DRIVING WITH AN INSTRUCTION PERMIT OR A PROVISIONAL LICENSE FOR EACH TRAFFIC VIOLATION COMMITTED; INCLUDING SEAT BELT LAWS, THE USE OF MOBILE PHONES AND BUYING, POSSESSING OR BEING SERVED ALCOHOLIC BEVERAGES TO THE LIST OF VIOLATIONS THAT WOULD DELAY THE ISSUANCE OF A PROVISIONAL LICENSE OR DRIVER'S LICENSE TO A PERSON UNDER AGE EIGHTEEN; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

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

SECTION 1. Section 66-5-1.1 NMSA 1978 (being Laws 1999, Chapter 175, Section 1) is amended to read:

"66-5-1.1. DEFINITION.--As used in Sections 66-5-8 and 66-5-9 NMSA 1978, "traffic violation" means:

A. failure to obey traffic-control devices, as provided in Section 66-7-104 NMSA 1978;

B. failure to obey traffic-control signals, as provided in Section 66-7-105 NMSA 1978;

C. speeding, as provided in Section 66-7-301 NMSA 1978;

D. failure to yield, as provided in Sections 66-7-328 through 66-7-332.1 NMSA 1978;

1 E. child not in restraint device or seat belt, as
2 provided in Section 66-7-369 NMSA 1978;

3 F. failure to properly fasten safety belt, as
4 provided in Section 66-7-372 NMSA 1978;

5 G. homicide by vehicle, as provided in Section
6 66-8-101 NMSA 1978;

7 H. injury to pregnant woman by vehicle, as
8 provided in Section 66-8-101.1 NMSA 1978;

9 I. driving while under the influence of
10 intoxicating liquor or drugs, as provided in Section 66-8-102
11 NMSA 1978;

12 J. refusal to submit to chemical tests, as
13 provided in Section 66-8-111 NMSA 1978;

14 K. reckless driving, as provided in Section
15 66-8-113 NMSA 1978;

16 L. careless driving, as provided in Section
17 66-8-114 NMSA 1978;

18 M. racing on highways, as provided in Section
19 66-8-115 NMSA 1978;

20 N. using a mobile communication device while
21 driving a motor vehicle, unless the driver holds a valid
22 amateur radio operator license issued by the federal
23 communications commission and is operating an amateur radio.

24 As used in this subsection:

25 (1) "driving" means being in actual physical

1 control of a motor vehicle on a highway or street, except
2 that "driving" does not include being lawfully parked; and

3 (2) "mobile communication device" means a
4 wireless communication device that is designed to receive and
5 transmit voice, text or image communication; or

6 O. buying, attempting to buy, receiving,
7 possessing or permitting oneself to be served alcoholic
8 beverages, as provided in Subsection C of Section 60-7B-1
9 NMSA 1978."

10 SECTION 2. Section 66-5-5 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 227, as amended by Laws 2007, Chapter
12 316, Section 1 and by Laws 2007, Chapter 317, Section 1) is
13 amended to read:

14 "66-5-5. PERSONS NOT TO BE LICENSED.--The division
15 shall not issue a driver's license under the Motor Vehicle
16 Code to any person:

17 A. who is under the age of eighteen years, except
18 the division may, in its discretion, issue:

19 (1) an instruction permit to a person
20 fifteen years of age or older who is enrolled in and
21 attending or has completed a driver education course approved
22 by the bureau that includes a DWI education and prevention
23 component;

24 (2) a provisional license to a person
25 fifteen years and six months of age or older:

1 (a) who has completed a driver
2 education course approved by the bureau or offered by a
3 public school that includes a DWI education and prevention
4 component and has had an instruction permit for at least six
5 months as provided in Section 66-5-8 NMSA 1978; and

6 (b) who has successfully completed a
7 practice driving component;

8 (3) a driver's license to a person sixteen
9 years and six months of age or older:

10 (a) who has had a provisional license
11 for at least a twelve-month period immediately preceding the
12 date of the application for the driver's license as provided
13 in Section 66-5-9 NMSA 1978;

14 (b) who has complied with restrictions
15 on that license; and

16 (c) who has not been adjudicated for an
17 offense involving the use of alcohol or drugs during the
18 twelve-month period immediately preceding the application for
19 the driver's license and who has no pending adjudications
20 alleging an offense involving the use of alcohol or drugs at
21 the time of application; and

22 (4) to a person thirteen years of age or
23 older who passes an examination prescribed by the division, a
24 license restricted to the operation of a motorcycle,
25 provided:

1 (a) the motorcycle is not in excess of
2 one hundred cubic centimeters displacement;

3 (b) no holder of an initial license may
4 carry any other passenger while driving a motorcycle; and

5 (c) the director approves and certifies
6 motorcycles as not in excess of one hundred cubic centimeters
7 displacement and by rule provides for a method of
8 identification of such motorcycles by all law enforcement
9 officers;

10 B. whose license or driving privilege has been
11 suspended or denied, during the period of suspension or
12 denial, or to any person whose license has been revoked,
13 except as provided in Section 66-5-32 NMSA 1978 and the
14 Ignition Interlock Licensing Act;

15 C. who is an habitual user of narcotic drugs or
16 alcohol or an habitual user of any drug to a degree that
17 renders the person incapable of safely driving a motor
18 vehicle;

19 D. who is four or more times convicted of driving
20 a motor vehicle while under the influence of intoxicating
21 liquor or narcotic drug regardless of whether the convictions
22 are under the laws or ordinances of this state or any
23 municipality or county of this state or under the laws or
24 ordinances of any other state, the District of Columbia or
25 any governmental subdivision thereof, except as provided in

1 the Ignition Interlock Licensing Act. Five years from the
2 date of the fourth conviction and every five years
3 thereafter, the person may apply to any district court of
4 this state for restoration of the license, and the court,
5 upon good cause being shown, may order restoration of the
6 license applied for; provided that the person has not been
7 subsequently convicted of driving a motor vehicle while under
8 the influence of intoxicating liquor or drugs. Upon issuance
9 of the order of restoration, a certified copy shall
10 immediately be forwarded to the division, and if the person
11 is otherwise qualified for the license applied for, the four
12 previous convictions shall not prohibit issuance of the
13 license;

14 E. who was convicted on or after June 17, 2005 of
15 driving a motor vehicle while under the influence of
16 intoxicating liquor or drugs pursuant to the laws or
17 ordinances of any other state, the District of Columbia or
18 any governmental subdivision thereof, unless the person
19 obtains an ignition interlock license as provided in the
20 Ignition Interlock Licensing Act for a period of one year for
21 a first conviction; a period of two years for a second
22 conviction; a period of three years for a third conviction;
23 or the remainder of the offender's life for a fourth or
24 subsequent conviction, subject to a five-year review as
25 provided in Subsection D of this section. Upon presentation

1 of proof satisfactory to the division, the division may
2 credit time spent by a person operating a motor vehicle with
3 an ignition interlock or comparable device, as a condition of
4 the person's sentence for a conviction in another
5 jurisdiction pursuant to this subsection, against the
6 ignition interlock time requirements imposed by this
7 subsection. The division shall promulgate rules necessary
8 for granting credit to persons who participate in comparable
9 out-of-state programs following a conviction for driving a
10 motor vehicle while under the influence of intoxicating
11 liquor or drugs. The requirements of this subsection shall
12 not apply to a person who applies for a driver's license ten
13 years or more from the date of the person's last conviction,
14 except for a person who is subject to lifetime driver's
15 license revocation for a conviction in another jurisdiction
16 pursuant to this subsection;

17 F. who has previously been afflicted with or who
18 is suffering from any mental disability or disease that would
19 render the person unable to drive a motor vehicle with safety
20 upon the highways and who has not, at the time of
21 application, been restored to health;

22 G. who is required by the Motor Vehicle Code to
23 take an examination, unless the person has successfully
24 passed the examination;

25 H. who is required under the laws of this state to

1 deposit proof of financial responsibility and who has not
2 deposited the proof;

3 I. when the director has good cause to believe
4 that the operation of a motor vehicle on the highways by the
5 person would be inimical to public safety or welfare; or

6 J. as a motorcycle driver who is less than
7 eighteen years of age and who has not presented a certificate
8 or other evidence of having successfully completed a
9 motorcycle driver education program licensed or offered in
10 conformance with rules of the bureau."

11 SECTION 3. Section 66-5-8 NMSA 1978 (being Laws 1978,
12 Chapter 35, Section 230, as amended) is amended to read:

13 "66-5-8. PROVISIONAL LICENSES--INSTRUCTION PERMITS--
14 DRIVER EDUCATION STUDENTS--TEMPORARY LICENSES.--

15 A. A person fifteen years and six months of age or
16 older may apply to the division for a provisional license if
17 the person:

18 (1) has completed a driver education course
19 approved by the bureau that includes a DWI prevention and
20 education component;

21 (2) has had an instruction permit for at
22 least six months; provided that thirty days shall be added to
23 the six months for each adjudication or conviction of a
24 traffic violation committed during the time the person was
25 driving with an instruction permit;

1 (3) has not been cited for a traffic
2 violation that is pending at the time of application; and

3 (4) has successfully completed a practice
4 driving component.

5 B. Successful completion of a practice driving
6 component shall include not less than fifty hours of actual
7 driving by the applicant, including not less than ten hours
8 of night driving. An applicant for a provisional license who
9 cannot drive at night due to low nighttime vision may be
10 exempted from the night driving requirement of this
11 subsection; provided that the applicant submits to the
12 division an ophthalmologic or optometric report from a
13 licensed ophthalmologist or optometrist who attests to the
14 applicant's visual condition and its effect on the
15 applicant's driving ability. The applicant's parent or
16 guardian shall certify that the applicant has completed the
17 practice driving component.

18 C. When operating a motor vehicle, a provisional
19 licensee may be accompanied by not more than one passenger
20 under the age of twenty-one who is not a member of the
21 licensee's immediate family. A provisional license entitles
22 the licensee, while having the license in the licensee's
23 immediate possession, to operate a motor vehicle upon the
24 public highways between the hours of 5:00 a.m. and midnight
25 unless the provisional licensee is eligible for a license

1 restricting driving to daylight hours. A provisional
2 licensee may drive at any hour unless otherwise restricted as
3 provided in this subsection if:

4 (1) accompanied by a licensed driver who is
5 twenty-one years of age or older;

6 (2) required by family necessity as
7 evidenced by a signed statement of a parent or guardian;

8 (3) required by medical necessity as
9 evidenced by a signed statement from medical personnel;

10 (4) driving to and from work as evidenced by
11 a signed statement from the licensee's employer;

12 (5) driving to and from school or a
13 religious activity as evidenced by a signed statement of a
14 school or religious official or a parent or guardian; or

15 (6) required due to a medical emergency.

16 D. A provisional license shall be in such form as
17 to be readily distinguishable from an unrestricted driver's
18 license and shall contain an indication that the licensee may
19 drive without supervision.

20 E. A person fifteen years of age or older who is
21 enrolled in and attending or has completed a driver education
22 course approved by the bureau that includes a DWI prevention
23 and education component may apply to the division for an
24 instruction permit. The division, in its discretion after
25 the applicant has successfully passed all parts of the

1 examination other than the driving test, may issue to the
2 applicant an instruction permit. This permit entitles the
3 applicant, while having the permit in the applicant's
4 immediate possession, to drive a motor vehicle upon the
5 public highways when accompanied by a licensed driver who is
6 twenty-one years of age or older, who has been licensed for
7 at least three years in this state or in another state and
8 who is occupying a seat beside the driver except in the event
9 the permittee is operating a motorcycle.

10 F. A person fifteen years of age or older who is a
11 student enrolled in and attending a driver education course
12 that is approved by the bureau and that includes both a DWI
13 education and prevention component and practice driving
14 component may drive a motor vehicle on the highways of this
15 state even though the person has not reached the legal age to
16 be eligible for a driver's license or a provisional license.
17 In completing the practice driving component, a person may
18 only operate a motor vehicle on a public highway if:

19 (1) an approved instructor is occupying a
20 seat beside the person; or

21 (2) a licensed driver who is twenty-one
22 years of age or older and who has been licensed for at least
23 three years in this state or another state is occupying a
24 seat beside the person.

25 G. The division in its discretion may issue a

1 temporary driver's permit to an applicant for a driver's
2 license permitting the applicant to operate a motor vehicle
3 while the division is completing its investigation and
4 determination of all facts relative to the applicant's right
5 to receive a driver's license. The permit shall be in the
6 applicant's immediate possession while operating a motor
7 vehicle, and it shall be invalid when the applicant's license
8 has been issued or for good cause has been refused.

9 H. A holder of an instruction permit for a
10 motorcycle shall not carry any other passenger while
11 operating a motorcycle."

12 SECTION 4. Section 66-5-9 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 231, as amended) is amended to read:

14 "66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE,
15 PROVISIONAL LICENSE OR INSTRUCTION PERMIT.--

16 A. An application for an instruction permit,
17 provisional license or driver's license shall be made upon a
18 form furnished by the department. An application shall be
19 accompanied by the proper fee. For permits, provisional
20 licenses or driver's licenses other than those issued
21 pursuant to the New Mexico Commercial Driver's License Act,
22 submission of a complete application with payment of the fee
23 entitles the applicant to not more than three attempts to
24 pass the examination within a period of six months from the
25 date of application.

1 B. An application shall contain the full name,
2 social security number or individual tax identification
3 number, date of birth, sex and New Mexico residence address
4 of the applicant and briefly describe the applicant and
5 indicate whether the applicant has previously been licensed
6 as a driver and, if so, when and by what state or country and
7 whether any such license has ever been suspended or revoked
8 or whether an application has ever been refused and, if so,
9 the date of and reason for the suspension, revocation or
10 refusal. For foreign nationals applying for driver's
11 licenses, the secretary shall accept the individual taxpayer
12 identification number as a substitute for a social security
13 number regardless of immigration status. The secretary is
14 authorized to establish by regulation other documents that
15 may be accepted as a substitute for a social security number
16 or an individual tax identification number.

17 C. An applicant shall indicate whether the
18 applicant has been convicted of driving while under the
19 influence of intoxicating liquor or drugs in this state or in
20 any other jurisdiction. Failure to disclose any such
21 conviction prevents the issuance of a driver's license,
22 provisional license, temporary license or instruction permit
23 for a period of one year if the failure to disclose is
24 discovered by the department prior to issuance. If the
25 nondisclosure is discovered by the department subsequent to

1 issuance, the department shall revoke the driver's license,
2 provisional license, temporary license or instruction permit
3 for a period of one year. Intentional and willful failure to
4 disclose, as required in this subsection, is a misdemeanor.

5 D. An applicant under eighteen years of age who is
6 making an application for a first New Mexico driver's license
7 shall submit evidence that the applicant has:

8 (1) successfully completed a driver
9 education course approved by the bureau that included a DWI
10 prevention and education component. The bureau may accept
11 verification of driver education course completion from
12 another state if the driver education course substantially
13 meets the requirements of the bureau for a course offered in
14 New Mexico;

15 (2) had a provisional license for at least
16 the twelve-month period immediately preceding the date of the
17 application for the driver's license; provided that thirty
18 days shall be added to the twelve-month period for each
19 adjudication or conviction of a traffic violation committed
20 during the time the person was driving with a provisional
21 license;

22 (3) complied with restrictions on that
23 license;

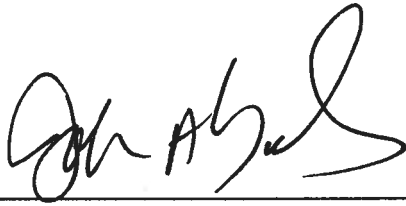
24 (4) not been cited for a traffic violation
25 that is pending at the time of application; and

1 (5) not been adjudicated for an offense
2 involving the use of alcohol or drugs during the twelve-month
3 period immediately preceding the date of the application for
4 the driver's license and that there are no pending
5 adjudications alleging an offense involving the use of
6 alcohol or drugs at the time of application.

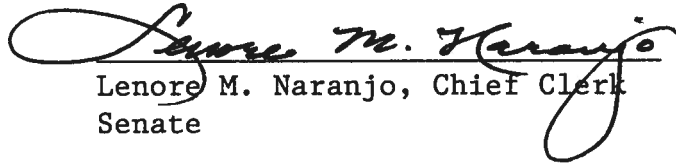
7 E. An applicant eighteen years of age or over, but
8 under twenty-five years of age, who is making an application
9 to be granted a first New Mexico driver's license shall
10 submit evidence with the application that the applicant has
11 successfully completed a bureau-approved DWI prevention and
12 education program.

13 F. An applicant twenty-five years of age or over
14 who has been convicted of driving under the influence of
15 intoxicating liquor or drugs and who is making an application
16 to be granted a first New Mexico driver's license, shall
17 submit evidence with the application that the applicant has
18 successfully completed a bureau-approved DWI prevention and
19 education program.

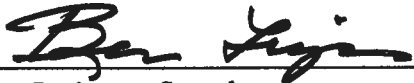
20 G. Whenever an application is received from a
21 person previously licensed in another jurisdiction, the
22 department may request a copy of the driver's record from the
23 other jurisdiction. When received, the driver's record may
24 become a part of the driver's record in this state with the
25 same effect as though entered on the driver's record in this



John A. Sanchez, President
Senate



Lenore M. Naranjo, Chief Clerk
Senate



Ben Lujan, Speaker
House of Representatives



Stephen R. Arias, Chief Clerk
House of Representatives

Approved by me this 7th day of April, 2011



Governor Susana Martinez
State of New Mexico

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