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SENATE BILL 216

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

William E. Sharer

AN ACT

RELATING TO MOTOR VEHICLES; ELIMINATING SOME OF THE PENALTIES  
FOR DRIVING WHILE A LICENSE IS SUSPENDED; AMENDING AND ENACTING  
SECTIONS OF THE MOTOR VEHICLE CODE.

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~~] A person who drives a motor vehicle on any  
public highway of this state at a time when [~~his~~] the person's  
privilege to do so is [~~suspended or~~] revoked and who knows or  
should have known that [~~his~~] the person's license was  
[~~suspended or~~] revoked is guilty of a misdemeanor and shall be  
charged with a violation of this section. Upon conviction, the

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1 person shall be punished, notwithstanding the provisions of  
2 Section 31-18-13 NMSA 1978, by imprisonment for not less than  
3 four days or more than three hundred sixty-four days or  
4 participation for an equivalent period of time in a certified  
5 alternative sentencing program, and there may be imposed in  
6 addition a fine of not more than one thousand dollars (\$1,000).  
7 When a person pays any or all of the cost of participating in a  
8 certified alternative sentencing program, the court may apply  
9 that payment as a deduction to any fine imposed by the court.

10 B. Notwithstanding any other provision of law for  
11 suspension or deferment of execution of a sentence, if the  
12 person's privilege to drive was revoked for driving while under  
13 the influence of intoxicating liquor or drugs or a violation of  
14 the Implied Consent Act, upon conviction under this section,  
15 that person shall be punished by imprisonment for not less than  
16 seven consecutive days and shall be fined not less than three  
17 hundred dollars (\$300) or not more than one thousand dollars  
18 (\$1,000) and the fine and imprisonment shall not be suspended,  
19 deferred or taken under advisement. No other disposition by  
20 plea of guilty to any other charge in satisfaction of a charge  
21 under this section shall be authorized if the person's  
22 privilege to drive was revoked for driving while under the  
23 influence of intoxicating liquor or drugs or a violation of the  
24 Implied Consent Act. Any municipal ordinance prohibiting  
25 driving with a ~~[suspended or]~~ revoked license shall provide

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1 penalties no less stringent than provided in this section.

2 [B-] C. In addition to any other penalties imposed  
3 pursuant to the provisions of this section, when a person is  
4 convicted pursuant to the provisions of this section or a  
5 municipal ordinance that prohibits driving on a [~~suspended or~~  
6 revoked license, the motor vehicle the person was driving shall  
7 be immobilized by an immobilization device for thirty days,  
8 unless immobilization of the motor vehicle poses an imminent  
9 danger to the health, safety or employment of the convicted  
10 person's immediate family or the family of the owner of the  
11 motor vehicle. The convicted person shall bear the cost of  
12 immobilizing the motor vehicle.

13 [G-] D. The division, upon receiving a record of  
14 the conviction of any person under this section, [~~upon a charge  
15 of driving a vehicle while the license of the person was  
16 suspended, shall extend the period of suspension for an  
17 additional like period, and if the conviction was upon a charge  
18 of driving while a license was revoked, the division]~~ shall not  
19 issue a new license for an additional period of one year from  
20 the date the person would otherwise have been entitled to apply  
21 for a new license."

22 SECTION 2. A new section of the Motor Vehicle Code is  
23 enacted to read:

24 "[NEW MATERIAL] DRIVING WHILE LICENSE SUSPENDED--  
25 PENALTIES.--

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1           A. A person who drives a motor vehicle on any  
2 public highway of this state at a time when the person's  
3 privilege to do so is suspended and who knows or reasonably  
4 should know that the person's license was suspended is guilty  
5 of a misdemeanor and shall be charged with a violation of this  
6 section. Upon conviction, the person shall be punished,  
7 notwithstanding the provisions of Section 31-18-13 or 66-8-7  
8 NMSA 1978, by the imposition of a fine of not more than one  
9 thousand dollars (\$1,000).

10           B. The division, upon receiving a record of the  
11 conviction of any person under this section, shall extend the  
12 period of suspension for an additional like period."

13           **SECTION 3. EFFECTIVE DATE.**--The effective date of the  
14 provisions of this act is July 1, 2011.