

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 71

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Vernon D. Asbill

AN ACT

RELATING TO IGNITION INTERLOCK; ALLOWING THE ISSUANCE OF AN
IGNITION INTERLOCK LICENSE TO A PERSON CONVICTED OF HOMICIDE BY
VEHICLE OR GREAT BODILY HARM BY VEHICLE WHILE UNDER THE
INFLUENCE OF INTOXICATING LIQUOR OR DRUGS AFTER COMPLETION OF
THE SENTENCE FOR THAT CRIME, INCLUDING PROBATION AND PAROLE, OR
FOR A LIMITED PURPOSE WHILE ON PROBATION OR PAROLE; 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 66-5-35 NMSA 1978 (being Laws 1978,
Chapter 35, Section 257, as amended) is amended to read:

"66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR
REVOCAATION.--

A. Upon suspension or revocation of a person's
driving privilege or driver's license following conviction or

.188445.1

underscoring material = new
~~[bracketed material] = delete~~

underscoring material = new
~~[bracketed material] = delete~~

1 adjudication as a delinquent under any law, ordinance or rule
2 relating to motor vehicles, the person may apply to the
3 department for a driver's license, provisional license or
4 instruction permit to drive, limited to use allowing the person
5 to engage in gainful employment, to attend school or to attend
6 a court-ordered treatment program, except that the person shall
7 not be eligible to apply:

8 (1) for a limited commercial driver's license
9 or an ignition interlock license in lieu of a revoked or
10 suspended commercial driver's license;

11 (2) for a limited license when the person's
12 driver's license was revoked pursuant to the provisions of the
13 Implied Consent Act, except as provided in the Ignition
14 Interlock Licensing Act;

15 (3) for a limited license when the person's
16 driver's license was revoked pursuant to the provisions of
17 Section 66-8-102 NMSA 1978, except as provided in the Ignition
18 Interlock Licensing Act;

19 (4) for a limited license when the person's
20 driver's license is denied pursuant to the provisions of
21 Subsection D of Section 66-5-5 NMSA 1978, except as provided in
22 the Ignition Interlock Licensing Act; or

23 (5) for a limited license when the person's
24 driver's license was revoked pursuant to a conviction for
25 committing homicide by vehicle or great bodily ~~[injury]~~ harm by

.188445.1

underscored material = new
[bracketed material] = delete

1 vehicle, as provided in Section 66-8-101 NMSA 1978, except as
2 provided in the Ignition Interlock Licensing Act.

3 B. Upon receipt of a fully completed application
4 that complies with statutes and rules for a limited license or
5 an ignition interlock license and payment of the fee specified
6 in this subsection, the department shall issue a limited
7 license, ignition interlock license or permit to the applicant
8 showing the limitations specified in the approved application.
9 For each limited license, ignition interlock license or permit
10 to drive, the applicant shall pay to the department a fee of
11 forty-five dollars (\$45.00), which shall be transferred to the
12 department of transportation. All money collected under this
13 subsection shall be used for DWI prevention and education
14 programs for elementary and secondary school students. The
15 department of transportation shall coordinate with the
16 department of health to ensure that there is no program
17 duplication. The limited license or permit to drive may be
18 suspended as provided in Section 66-5-30 NMSA 1978."

19 SECTION 2. Section 66-5-502 NMSA 1978 (being Laws 2003,
20 Chapter 239, Section 2, as amended by Laws 2007, Chapter 316,
21 Section 2 and by Laws 2007, Chapter 317, Section 3 and also by
22 Laws 2007, Chapter 319, Section 48) is amended to read:

23 "66-5-502. DEFINITIONS.--As used in the Ignition
24 Interlock Licensing Act:

25 A. "denied" means the division has refused to issue

underscored material = new
[bracketed material] = delete

1 an instruction permit, driver's license or provisional license
2 pursuant to the provisions of Subsection D or E of Section
3 66-5-5 NMSA 1978;

4 B. "ignition interlock device" means a device,
5 approved by the traffic safety bureau, that prevents the
6 operation of a motor vehicle by an intoxicated or impaired
7 person;

8 C. "ignition interlock license" means a driver's
9 license issued to a person by the division that allows that
10 person to operate a motor vehicle with an ignition interlock
11 device after that person's driving privilege or driver's
12 license has been revoked or denied. The division shall clearly
13 mark an ignition interlock license to distinguish it from other
14 driver's licenses; and

15 D. "revoked" means the division, pursuant to the
16 provisions of Section 66-5-29 or 66-8-111 NMSA 1978, has
17 terminated a person's driving privilege or driver's license
18 for:

19 (1) driving while under the influence of
20 intoxicating liquor or drugs; or

21 (2) a conviction of homicide by vehicle or
22 great bodily harm by vehicle while under the influence of
23 intoxicating liquor or drugs."

24 SECTION 3. Section 66-5-503 NMSA 1978 (being Laws 2003,
25 Chapter 239, Section 3, as amended) is amended to read:

.188445.1

1 "66-5-503. IGNITION INTERLOCK LICENSE--REQUIREMENTS

2 [~~EXCLUSIONS~~].--

3 A. A person whose driving privilege or driver's
4 license has been revoked or denied or who has not met the
5 ignition interlock license requirement as a condition of
6 reinstatement pursuant to Section 66-5-33.1 NMSA 1978 may apply
7 for an ignition interlock license from the division.

8 B. An applicant for an ignition interlock license
9 shall:

10 (1) provide proof of installation of the
11 ignition interlock device by a traffic safety bureau-approved
12 ignition interlock installer on any vehicle the applicant
13 drives; and

14 (2) sign an affidavit acknowledging that:

15 (a) operation by the applicant of any
16 vehicle that is not equipped with an ignition interlock device
17 is subject to penalties for driving with a revoked license;

18 (b) tampering or interfering with the
19 proper and intended operation of an ignition interlock device
20 may subject the applicant to penalties for driving with a
21 license that was revoked for driving under the influence of
22 intoxicating liquor or drugs or a violation of the Implied
23 Consent Act; and

24 (c) the applicant shall maintain the
25 ignition interlock device and keep up-to-date records in the

.188445.1

underscored material = new
[bracketed material] = delete

1 motor vehicle showing required service and calibrations and be
2 able to provide the records upon request.

3 C. A person who has been convicted of homicide by
4 vehicle or great bodily [~~injury~~] harm by vehicle while under
5 the influence of intoxicating liquor or drugs, as provided in
6 Section 66-8-101 NMSA 1978, shall not be issued an ignition
7 interlock license unless:

8 (1) the person has completed serving the
9 sentence for that crime, including any period of probation and
10 parole; or

11 (2) the person's probation and parole officer
12 has approved a limited driving privilege during the
13 probationary or parole period for the purpose of engaging in
14 gainful employment, attending school or attending a court-
15 ordered treatment program."

16 SECTION 4. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2012.