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SENATE BILL 97

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Antonio Maestas

AN ACT

RELATING TO CRIME; PROVIDING THAT SHOOTING AT A MOTOR VEHICLE
AND SHOOTING FROM A MOTOR VEHICLE ARE SEPARATE CRIMES;
PROVIDING PENALTIES.

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

SECTION 1. Section 30-3-8 NMSA 1978 (being Laws 1987,
Chapter 213, Section 1, as amended) is amended to read:

"30-3-8. SHOOTING AT DWELLING OR OCCUPIED BUILDING--
SHOOTING AT OR FROM A MOTOR VEHICLE.--

A. Shooting at a dwelling or occupied building
consists of willfully discharging a firearm at a dwelling or
occupied building. Whoever commits shooting at a dwelling or
occupied building that does not result in great bodily harm to
another person is guilty of a fourth degree felony. Whoever
commits shooting at a dwelling or occupied building that

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1 results in injury to another person is guilty of a third degree
2 felony. Whoever commits shooting at a dwelling or occupied
3 building that results in great bodily harm to another person is
4 guilty of a second degree felony.

5 B. Shooting ~~[at or]~~ from a motor vehicle consists
6 of willfully discharging a firearm ~~[at or]~~ from a motor vehicle
7 with reckless disregard for the person of another. Whoever
8 commits shooting ~~[at or]~~ from a motor vehicle that does not
9 result in ~~[great bodily harm]~~ injury to another person is
10 guilty of a ~~[fourth]~~ third degree felony. Whoever commits
11 shooting ~~[at or]~~ from a motor vehicle that results in injury to
12 another person is guilty of a ~~[third]~~ second degree felony.
13 ~~[Whoever commits shooting at or from a motor vehicle that~~
14 ~~results in great bodily harm to another person is guilty of a~~
15 ~~second degree felony.]~~

16 C. Shooting at a motor vehicle consists of
17 willfully discharging a firearm at a motor vehicle with
18 reckless disregard for the person of another. Whoever commits
19 shooting at a motor vehicle is guilty of a second degree
20 felony.

21 ~~[C.]~~ D. This section shall not apply to a law
22 enforcement officer discharging a firearm in the lawful
23 performance of ~~[his]~~ the officer's duties."

24 SECTION 2. Section 30-3-8.1 NMSA 1978 (being Laws 1993,
25 Chapter 78, Section 2, as amended) is amended to read:

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1 "30-3-8.1. SEIZURE AND FORFEITURE OF MOTOR VEHICLE--
2 PROCEDURE.--

3 A. A motor vehicle shall be subject to seizure and
4 forfeiture when the vehicle is used or intended for use in the
5 commission of the offense of shooting at a motor vehicle or
6 shooting from a motor vehicle pursuant to [~~Subsection B of~~]
7 Section 30-3-8 NMSA 1978.

8 B. The provisions of the Forfeiture Act apply to
9 the seizure, forfeiture and disposal of a motor vehicle subject
10 to forfeiture pursuant to Subsection A of this section."

11 SECTION 3. Section 30-3-8.2 NMSA 1978 (being Laws 1993,
12 Chapter 78, Section 3) is amended to read:

13 "30-3-8.2. COURT RECORD OF CONVICTION--REVOCATION OF
14 DRIVER'S LICENSE.--Upon a conviction for the offense of
15 shooting at a motor vehicle or shooting from a motor vehicle
16 pursuant to [~~Subsection B of~~] Section 30-3-8 NMSA 1978 or of a
17 conviction for a conspiracy or attempt to commit [~~that~~] either
18 offense, the district court shall send a record of the
19 conviction to the motor vehicle division of the taxation and
20 revenue department. The division shall immediately revoke the
21 driver's licenses or driving privileges of all persons
22 convicted of the offense of shooting at a motor vehicle or
23 shooting from a motor vehicle or convicted of conspiring or
24 attempting to commit [~~that~~] either offense, pursuant to the
25 provisions of Subsection E of Section 66-5-29 NMSA 1978."

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1 SECTION 4. Section 31-18-23 NMSA 1978 (being Laws 1994,
2 Chapter 24, Section 2, as amended) is amended to read:

3 "31-18-23. THREE VIOLENT FELONY CONVICTIONS--MANDATORY
4 LIFE IMPRISONMENT--EXCEPTION.--

5 A. When a defendant is convicted of a third violent
6 felony, and each violent felony conviction is part of a
7 separate transaction or occurrence, and at least the third
8 violent felony conviction is in New Mexico, the defendant
9 shall, in addition to the sentence imposed for the third
10 violent felony conviction, be punished by a sentence of life
11 imprisonment. The life imprisonment sentence shall be subject
12 to parole pursuant to the provisions of Section 31-21-10 NMSA
13 1978.

14 B. The sentence of life imprisonment shall be
15 imposed after a sentencing hearing, separate from the trial or
16 guilty plea proceeding resulting in the third violent felony
17 conviction, pursuant to the provisions of Section 31-18-24 NMSA
18 1978.

19 C. For the purpose of this section, a violent
20 felony conviction incurred by a defendant before the defendant
21 reaches the age of eighteen shall not count as a violent felony
22 conviction.

23 D. When a defendant has a felony conviction from
24 another state, the felony conviction shall be considered a
25 violent felony for the purposes of the Criminal Sentencing Act

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1 if that crime would be considered a violent felony in New
2 Mexico.

3 E. As used in the Criminal Sentencing Act:

4 (1) "great bodily harm" means an injury to the
5 person that creates a high probability of death or that causes
6 serious disfigurement or that results in permanent loss or
7 impairment of the function of any member or organ of the body;
8 and

9 (2) "violent felony" means:

10 (a) murder in the first or second
11 degree, as provided in Section 30-2-1 NMSA 1978;

12 (b) shooting at a motor vehicle or
13 shooting from a motor vehicle [~~resulting in great bodily harm~~],
14 as provided in [~~Subsection B of~~] Section 30-3-8 NMSA 1978;

15 (c) kidnapping resulting in [~~great~~
16 ~~bodily harm~~] physical injury or a sexual offense inflicted upon
17 the victim by the victim's captor, as provided in Subsection B
18 of Section 30-4-1 NMSA 1978;

19 (d) criminal sexual penetration, as
20 provided in Subsection C or D or Paragraph (5) or (6) of
21 Subsection E of Section 30-9-11 NMSA 1978; and

22 (e) robbery while armed with a deadly
23 weapon resulting in great bodily harm as provided in Section
24 30-16-2 NMSA 1978 and Subsection A of Section 30-1-12 NMSA
25 1978."

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1 SECTION 5. Section 66-5-29 NMSA 1978 (being Laws 1978,
2 Chapter 35, Section 251, as amended) is amended to read:

3 "66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION.--

4 A. The division shall immediately revoke the
5 driving privilege or driver's license of a driver upon
6 receiving a record of the driver's adjudication as a delinquent
7 for or conviction of any of the following offenses, whether the
8 offense is under any state law or local ordinance, when the
9 conviction or adjudication has become final:

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

12 (2) any offense rendering a person a "first
13 offender" as defined in the Motor Vehicle Code;

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

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

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

21 (6) perjury or the making of a false affidavit
22 or statement under oath to the division under the Motor Vehicle
23 Code or under any other law relating to the ownership or
24 operation of motor vehicles; or

25 (7) conviction or forfeiture of bail not

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1 vacated upon three charges of reckless driving committed within
2 a period of twelve months.

3 B. Except as provided in the Ignition Interlock
4 Licensing Act and in Subsection C, D, E or F of this section, a
5 person whose driving privilege or driver's license has been
6 revoked under this section shall not be entitled to apply for
7 or receive a new license until one year from the date that the
8 conviction is final and all rights to an appeal have been
9 exhausted.

10 C. A person who upon adjudication as a delinquent
11 for driving while under the influence of intoxicating liquor or
12 drugs or a conviction pursuant to Section 66-8-102 NMSA 1978 is
13 subject to revocation of the driving privilege or driver's
14 license under this section for an offense pursuant to which the
15 person was also subject to revocation of the driving privilege
16 or driver's license pursuant to Section 66-8-111 NMSA 1978
17 shall have the person's driving privilege or driver's license
18 revoked for that offense for a combined period of time equal
19 to:

20 (1) one year for a first offender; or

21 (2) for a subsequent offender:

22 (a) two years for a second conviction;

23 (b) three years for a third conviction;

24 or

25 (c) the remainder of the offender's life

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1 for a fourth or subsequent conviction, subject to a five-year
2 review, as provided in Sections 66-5-5 and 66-8-102 NMSA 1978.

3 D. The division shall apply the license revocation
4 provisions of Subsection C of this section and the provisions
5 of Subsection D of Section 66-5-5 NMSA 1978 to a person who was
6 three or more times convicted of driving a motor vehicle under
7 the influence of intoxicating liquor or drugs and who has a
8 driver's license revocation pursuant to the law in effect prior
9 to June 17, 2005, upon the request of the person and if the
10 person has had an ignition interlock license for three years or
11 more and has proof from the ignition interlock vendor of no
12 violations of the ignition interlock device in the previous six
13 months.

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

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

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1 privilege has been revoked pursuant to the provisions of this
2 subsection shall not be entitled to apply for or receive any
3 new driver's license or driving privilege until one year from
4 the date that the conviction is final and all rights to an
5 appeal have been exhausted."

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