



Hello There!

In the Winter (and haven't we had quite a winter!) issue of AlcoEdu, we are addressing DWI and underage drinking laws.

New Mexico had 143 fatal drunken driving-related crashes in 2005, ranking the state eighth in the nation, according to federal transportation officials. Drunk driving is a serious and deadly problem and it's preventable. By educating our children on alcohol misuse and its consequences, we can impact their behavior as adults towards drinking and driving.

At <http://ipl.unm.edu/traf/>, we'll be tracking New Mexico DWI related legislation so that your students can follow the process from introduction to law.

This would also be the perfect time to take your students to the New Mexico State Legislature at the Rotunda in Santa Fe. See: <http://legis.state.nm.us/lcs> to download a brochure, find out who your representatives are or track bills. Call (505) 986-4589 for information on guided tours or to have your students spend the day as pages in the legislature. Self-guided tours of the Roundhouse are available Monday-Friday, 7 a.m. to 6 p.m. No appointment is necessary.

2007 NM Legislative Session Dates

January 16	Opening day
February 15	Deadline for bill introduction
March 17	Session ends
April 6	Legislation not acted upon by Governor is pocket vetoed
June 15	Effective date of legislation without an emergency clause or specified date

New Mexico Legislature Convenes



The New Mexico State Legislature meets in Santa Fe at the State Capitol, also known as the Roundhouse each year. This year marks the 48th legislative session. The legislature is a representative body and its job is to pass laws for the betterment of New Mexicans. Laws about DWI - driving while intoxicated, underage drinking and purchasing alcohol for underage drinkers were passed by previous sessions of the Legislature and are now part of the New Mexico Statutes, which are the laws of the state.

The Legislature is made up of two houses – the Senate and the House of Representatives. Each electoral district in the state has an elected representative (based on population) and a senator. There are 70 members of the House of Representatives and 42 Senators.

If an issue is important enough to warrant a law or a change in the law, then the legislators work together to pass either a memorial, a bill or a resolution. Each has a different level of emphasis, either to indicate concern, a desire to study an issue or to change the state law. Both houses must pass the same law for it to reach Governor Richardson's desk and the Governor must then sign it for it to become a law.

This year, bills have been introduced on DWI vehicle seizures, felony DWI sentencing, ignition interlocks, alcohol consumption by minors, DWI chemical and blood tests limits and liquor tax distributions to DWI funds.

Penalties for Under 18 Alcohol Offenses

Published by the NMDOT Traffic Safety Bureau & UNM IPL

Under age 18: Delinquent Acts

18-20: Adult Crimes

Possession of Alcohol

Law: "...buying, attempting to buy, receiving, possessing or being served any alcoholic liquor or being present in any licensed liquor establishment, other than a restaurant or a licensed retail liquor establishment except in the presence of the child's parent, guardian, custodian or adult spouse. 32A-2-3A(2).*

Fine: Not to exceed fine for adults 32A-2-19B.

Detention: Up to 15 days in a local detention facility 32A-19B(3); or up to 2 year commitment in a rehab facility, 32A-2-19B(1)(a) and (b).

License: 1st offense, 90 days revocation; 2nd or subsequent, 1 year, 32-2-19H.

Other: Place child on probation and transfer custody to CYFD for up to 6 months, 32A-2-19B(4). Probation under conditions and limitations as court may prescribe, 32A-2-19B(2).

Law: Misdemeanor (applies to age 18-20): It is a violation of the Liquor Control Act for a minor to buy, attempt to buy, receive, possess or permit himself to be served with alcoholic beverages, 60-7B-1C. As used in the Liquor Control Act, "minor" means a person under 21 years of age, 60-7B-1E.

Fine: Maximum \$1,000 60-7B-1G and 31-19-1.

Jail: None specified; however, under the general misdemeanor statute, less than one year in county jail, 31-19-1A.

License: 90 day suspension on 2nd offense, 60-7B-1G(2); on a 3rd or subsequent offense, two years suspension, or until the offender reaches twenty-one years of age, whichever period of time is greater, 60-7B-1G(3).

Other: Up to 60 hours of community service related to reducing the incidence of DWI, depending on number of priors, 60-7B-1G.

* **Note:** The Children's Code Section 32A-2-3A(2) appears to provide an exception for minors, allowing them to be served alcohol "in the presence of the child's parent, guardian, custodian or adult spouse." **Note however**, that the Liquor Control Act declares it illegal to serve minors in a *licensed establishment* (see below) and for minors to allow themselves to be served alcohol in a licensed establishment. The Liquor Control Act specifically states that it is not a violation for a parent, legal guardian, or adult spouse of a minor to serve alcohol to the minor on Areal property, other than licensed premises, under the control of the parent, legal guardian or adult spouse." 60-7B-1B(1).

Selling or Serving Alcohol to a Minor

Law: The Children's Code does not define the selling of alcohol by children to minors to be a delinquent act.

Fine: NA

Detention: NA

License: NA

Other: NA

Law: Felony (4th degree): (Liquor Control Act, **applies to age 18 or over**) To knowingly "(1) sell, serve or give alcoholic beverages to a minor or permit a minor to consume alcoholic beverages on the licensed premises;

(2) buy alcoholic beverages for or procure the sale or service of alcoholic beverages to a minor; (3) deliver alcoholic beverages to a minor; or (4) aid or assist a minor to buy, procure or be served with alcoholic beverages," 60-7B-1A. Minor here means someone under 21 years of age, 60-7B-1E. **Felony** (4th degree): Contributing to the Delinquency of a Minor: any person committing any act or omitting the performance of any duty, which act or omission causes or tends to cause or encourage the delinquency of any person under the age of eighteen years, 30-6-3. (See *State v. Perea*, 2001-NMSC-026, 130 N.M. 732, 31 P.3d 1006, for further information.)

Fine: Felony: (4th Degree) Up to \$5,000, 60-7B-1F, or 30-6-3, and 31-18-15E(8).

Jail: Felony (4th Degree): 18 months prison, 60-7B-1F, or 30-6-3 and 31-18-15A(9).

Open Container

Law: Misdemeanor: A person under age 18 who is charged with a traffic violation will be prosecuted as an adult (in a municipal, magistrate or metropolitan court), if no delinquent act is charged, 32A-2-29A,B. **Delinquent Act:** may be charged with possession under the Children's Code, 32A-2-3A(2) (for penalties, see "Possession".)

Fine: Same as adults, 66-8-138.

Detention: Same as adults. Only the children's court may incarcerate a child who has been found guilty of any Motor Vehicle Code or municipal traffic code violations. 32A-2-29D.

License: Same as adults, 32A-2-29C.

Law: Misdemeanor (Motor Vehicle Code, applies to **age 18 or over**): Knowingly drink any alcoholic beverage or have in one's possession any receptacle containing alcohol which has been opened, had its seal broken or the contents of which have been partially removed, while in a motor vehicle upon any public highway within the state, 66-8-138A and B.

Fine: Not more than \$300, 66-8-7B.

Jail: No more than 90 days, 66-8-7B.

License: 3 months revocation for 2nd offense, 1 year for subsequent offenses, 66-8-139B.

Other: Probation when sentence is suspended or deferred, 31-19-1C.

Presenting or Making a False ID

Law: Delinquent Act: "altering or forging of a driver's license or permit or any making of a fictitious license or permit", 32A-2-3A(1)(h).

Fine: Not to exceed fine for adults, 32A-2-19B.

Detention: Up to 15 days in a local detention facility 32A-19B(3); or up to 2 year commitment in a rehab facility, 32A-2-19B(1)(a) and (b).

License: Suspension of license for unlawful or fraudulent use, 66-5-30A(6).

Other: Probation under conditions and limitations as court may prescribe, 32A-2-19B(2).

Law: Petty Misdemeanor (Liquor Control Act, applies to **age 18-20**): "A minor who presents to any person licensed pursuant to the provisions of the Liquor Control Act or any employee, agent or lessee of that person any written, printed or photostatic evidence of age or identity that is false, for the purpose of procuring or attempting to procure any alcoholic beverages, is guilty of a petty misdemeanor." 60-7B-7. **Misdemeanor** (Motor Vehicle Code, applies to **age 18 and over**): Any person who *uses or possesses* an altered, forged or fictitious driver's license, permit, or identification card is guilty of a misdemeanor, 66-5-18A. **Felony** (Motor Vehicle Code, applies to **age 18 and over**): Any person who *alters or forges* a driver's license, permit or identification card, or who *makes a fictitious* driver's license, permit or identification card is guilty of a fourth degree felony, 66-5-18B.

Fine: Petty misdemeanor, Liquor Control Act: up to \$500, 31-19-1B. **Misdemeanor**, Motor Vehicle Code: up to \$300, 66-8-7B. **Fourth Degree Felony**, Motor Vehicle Code: up to \$5,000, 66-8-9 and 31-18-15-E(8).

Jail: Petty misdemeanor, Liquor Control Act: up to 6 months, 31-19-1B. **Misdemeanor**, Motor Vehicle Code: Up to 90 days, 66-8-7B. **Fourth Degree Felony**, Motor Vehicle Code: up to 18 months in prison, 31-18-15A(9).

License: Suspension of license for unlawful or fraudulent use, 66-5-30A(6).

Other: Probation required when sentence is suspended or deferred, 31-19-1C, 31-20-5.

DWI

Law: Delinquent Act: "driving while under the influence of intoxicating liquor or drugs," 32A-2-3A(1)(a).

Fine: Not to exceed fine for adults, 32A-2-19B.

Detention: Up to 15 days in a local detention facility 32A-19B(3); or up to 2 year commitment in a rehab facility, 32A-2-19B(1)(a) and (b).

License: Revocation from 1 year to permanent revocation, depending on number of prior offenses, 66-5-29C; setback of graduated driving privileges for at least 90 days, 66-5-8C, 66-5-1.1F.

Other: Probation under conditions and limitations as court may prescribe, 32A-2-19B(2).

Law: Misdemeanor (Motor Vehicle Code, applies to **age 18 or over**): Drive a vehicle within the state while under the influence of intoxicating liquor, or while under the influence of any drug, to a degree which renders the person incapable of driving safely; or drive with an alcohol concentration of .08 or more in the breath or blood, (.04 for commercial licenses), 66-8-102. **Felony:** 4 degree, or 3 degree, depending on number of prior offenses, 66-8-102G, H, I and J.

Fine: Up to \$5,000, depending on the number of prior offenses, 66-8-102E and F (misdemeanors), and 31-18-15E(8) (3 degree felony).

Jail: Up to 3 years in prison, depending on the number of prior offenses: see 66-8-102E and F (misdemeanors) and 31-18-15A(8) (3 degree felony) and 31-18-15A (9) (4 degree felony)

License: Revocation from 1 year to permanent, depending on priors, 66-5-5D and 66-5-29C, interlock license required.

Other: Mandatory screening and ignition interlock, mandatory treatment for a subsequent offense, community service, up to 5 years probation, 66-8-102.

Vehicular Homicide

Law: Delinquent Act: "homicide by vehicle;" 32A-2-3A(1)(e).

Fine: Not to exceed fine for adults, 32A-2-19B.

Detention: Up to 15 days in a local detention facility 32A-19B(3); or up to 2 year commitment in a rehab facility, 32A-2-19B(1)(a) and (b).

License: Revocation from 1 year to permanent revocation, 66-5-29B.

Other: Probation under conditions and limitations as court may prescribe, 32A-2-19B(2).

Law: Third Degree Felony (Motor Vehicle Code, applies to **age 18 or over**): Killing a human being in the unlawful operation of a motor vehicle, including while under the influence of intoxicating liquor or any drug, 66-8-101.

Fine: Not to exceed \$5,000, 31-18-15E(6).

Jail: Up to 6 years, with mandatory 4 years extra for each prior DWI within the last 10 years, 66-8-101D and 31-18-15A(6).

License: Revocation between 1 year and permanent revocation, depending on number of prior offenses, 66-5-5D, 66-5-29C; no interlock license allowed.

Other: Probation, 31-20-5.

Administrative License Revocation

Law: Non-Criminal Sanction, applies to all drivers: Driving privileges will be revoked administratively (through the MVD, not through the courts) for driving in New Mexico with a blood or breath alcohol concentration of .02 or higher (if under age 21), or .08 or higher (if 21 or over), or .04 or higher (driving a commercial vehicle) or for refusing to take a chemical test. 66-8-111B and C. **Fine:** None. **Jail:** None. **License: Under 21:** 1 year revocation, 66-8-111C(2); **Under 18:** DWI is a traffic violation that will set back graduated driving privileges for drivers under 18 for at least 90 days, 66-5-8C; see 66-5-1.1F for definition of a "traffic violation." **21/over:** 1st offense: 6 months revocation, 66-8-111C(1); subsequent offense or any refusal: 1 year revocation; 66-8-111C(3) and 66-8-111B.

What Can Your Students Do to Influence Lawmakers - Lobby!

Lobbying is an adult form of pester power. Because our representatives are democratically elected to represent the views of constituents, students can communicate their views in a constructive, assertive and polite manner to make sure that their representative: is informed about the issue, understands their position, and becomes convinced that their position is the one they should adopt.

There are many different ways to lobby a representative:



Write a letter.



Send an email.



Send a fax.



Give them a call.



Visit their office.



If the representative is supportive of the issue, invite him/her to take part in an action and advise local media with a press release.



Get a "Letter to the Editor" published in the local paper explaining the issue.



Organize a public meeting on the issue and invite your representative – and if they are "unable to attend", request they send someone else to speak on their behalf or submit a written statement explaining their position. Invite local media to the event.

Tip!
Your students letter should close with the line "I look forward to your reply" or your representative may not reply.

Web Resources

<http://legis.state.nm.us/lcs/>
New Mexico Legislature.

<http://www.congresslink.org/>
This link provides information about the U.S. Congress — how it works, its members and leaders, and the public policies it produces.

CongressLink is directed to teachers of American Government and civics.



<http://www.jacksheldon.com/school.htm>

Remember Schoolhouse Rock's "I'm Just a Bill" about how a bill becomes a law from the 70s? Here's the site.

<http://www.madd.org/under21>
MADD's website for teens.

<http://www.iaaonline.org/>
International Institute for Alcohol AwarenessTake Action Now

<http://www.stopalcoholabuse.gov/educators.aspx>

Portal for federal resources for educators.

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