



University of New Mexico  
School of Law  
Institute of Public Law



# 2005 Legislative Changes to DWI Laws

## Passed by Both Houses, signed by Governor Richardson

Compiled by Carolyn Johnson, Training and Development Section, Institute of Public Law, UNM School of Law  
For the New Mexico Traffic Safety Bureau, New Mexico Dept. of Transportation

### Summary of Major Changes:

1. **License Revocation Periods:** The license revocation period for the criminal conviction is as follows:
  - a. One year for a first conviction—first offenders are now revoked for a year, regardless of whether or not they attend DWI school.
  - b. Two years for a second conviction
  - c. Three years for a third conviction
  - d. The remainder of the offender's life for a fourth or subsequent conviction, subject to a five year review in the district court.
2. License revocation for a criminal conviction begins on the date the conviction becomes final and all rights to appeal have been exhausted.
3. License revocation under implied consent has been increased from 90 days to six months for drivers 21 and over; and from six months to one year for all under-21 drivers, regardless of whether or not they have been previously convicted.
4. No more limited licenses for first time DWI offenders— limited licenses were already prohibited for subsequent offenders.
5. **Ignition Interlock:** ANY convicted offender must now obtain an ignition interlock license and have an ignition interlock installed and operating on all motor vehicles driven by offender, as follows:
  - a. One year for a first conviction
  - b. Two years for a second conviction
  - c. Three years for a third conviction
  - d. Lifetime for a fourth or subsequent conviction, subject to a five year review in the district court.
  - e. Juveniles will now have to contribute to the interlock indigency fund (officially titled the "Interlock Device Fund"). Juveniles will also now be able to receive benefits from the Interlock Device Fund, if they are eligible.
6. Mandatory community service has been added for first (24-48 hours) and third (96 hours) offenses.
7. TSB, MVD and DPS will collaborate on making DWI arrest records and procedures standard among all New Mexico state and local law enforcement agencies, and all such agencies will be required to use these records and procedures.
8. The Alcohol and Gaming Division will assemble a task force to study emerging technologies on age verification, and report its findings back to the appropriate legislative interim committee.

Section	Current Law	New Law: HJC Substitute for 282/494/506: Signed April 6, 2005 (Chapter 241)	New Law: SJC Substitute for 109/187/603: Signed April 6, 2005 (Chapter 269)
66-5-5: Persons not to be licensed			66-5-5C: Changes "habitual drunkard" to "habitual user of narcotic drugs or alcohol"
	66-5-5D: Denies a license to anyone who has been three times convicted of driving a motor vehicle under the influence within ten years  Offender must wait ten years before applying to have license restored at district court. Offender must show s/he hasn't been subsequently convicted of DWI in the ten year period prior to the request for restoration.  Thereafter, any conviction brings a five year revocation.	66-5-5D: Denies a license to anyone who has been four times convicted of driving a motor vehicle under the influence regardless of the time period.  Offenders must wait five years after a fourth conviction before applying for a license, and may apply every five years thereafter. Offender must show s/he hasn't been subsequently convicted of DWI within that five year period.  During this time, offender will be eligible for an ignition interlock license.	66-5-5D: Denies a license to anyone who has been four <u>or more</u> times convicted of driving a motor vehicle under the influence regardless of the time period.  All other language is the same as those found in HJC Substitute for 282/494/506
66-5-29 Mandatory Revocation of license by division	66-5-29A(2) License is revoked for one year for convicted first offenders, unless offender attends DWI school.	66-5-29A(2) License is revoked for one year for convicted first offenders regardless of attendance at DWI school	66-5-29A(2) Changes are the same as those found in HJC Substitute for 282/494/506

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	<p><b>66-5-29B</b> License revocation begins on the date either</p> <ol style="list-style-type: none"> <li>1) The license was surrendered to and received by the MVD; if no appeal is filed; or</li> <li>2) The date the revocation was final and the offender exhausted his rights to an appeal.</li> </ol>	<p><b>66-5-29 B</b> License revocation begins on the date the conviction is final and all rights to an appeal have been exhausted.</p>	<p><b>66-5-29 B</b> Changes are the same as those found in HJC Substitute for 282/494/506</p>
	<p><b>66-5-29C</b> The revocation period for the criminal conviction and the administrative revocation is combined, equal to one year for any offense.</p>	<p><b>66-5-29C</b> The revocation period for the criminal conviction and the administrative revocation is combined, as follows:</p> <ol style="list-style-type: none"> <li>1) One year for a first conviction;</li> <li>2) Two years for a second conviction</li> <li>3) Three years for a third conviction</li> <li>4) The remainder of the offender's life for a fourth or subsequent conviction, subject to a five year review, as provided in Sections 66-5-5 and 66-8-102 NMSA 1978.</li> </ol>	<p><b>66-5-29C</b> Changes are the same as those found in HJC Substitute for 282/494/506</p>
<p><b>66-5-35 Limited Driving Privilege upon Suspension or Revocation</b></p>	<p><b>66-5-35B</b> First time DWI offenders may apply for and receive a limited license (allowing the person to drive to work, school or court-ordered treatment after a 30-day license revocation, if they are enrolled in a DWI school and provide proof of insurance.</p>	<p><b>66-5-35B</b> This provision has been removed—thus making a limited license unavailable to first time DWI offenders.</p>	<p><b>66-5-35B</b> Changes are the same as those found in HJC Substitute for 282/494/506</p>

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66-8-102 Persons Under the Influence of Intoxicating Liquor or Drugs	66-8-102 E On a first offense, if the offender's sentence was suspended or deferred in whole or in part and s/he violates probation, the court may impose any sentence that it could have originally imposed with NO credit given for time served by the offender on probation.	Moved to 66-8-102S This provision has been moved from the subsection on first convictions (66-8-102E) to a new subsection, 66-8-102S, so it now applies to all convictions.	Moved to 66-8-102S Changes are the same as those found in HJC Substitute for 282/494/506
	66-8-102E Community service is discretionary with the court on a first offense, in the amount of not less than 48 hours.	66-8-102E No change	66-8-102E Makes 24 hours community service mandatory (replacing "may" with "shall"), up to 48 hours.
	66-8-102F(2) Current provision on third offense contains no mandatory community service requirement	66-8-102F No change	66-8-102F Adds a mandatory requirement of 96 hours of community service to third conviction sentence, and adds "community service" to the list of sanctions which, if not completed, will trigger a mandatory sentence of 60 days in jail
66-8-102 Persons Under the Influence of Intoxicating Liquor or Drugs	66-8-102N and P Required ignition interlocks for any aggravated or any subsequent DWI conviction as a condition of probation.  66-8-102O Made interlock on a first conviction optional, at discretion of judge, as condition of probation.  Offender pays for interlock unless determined to be indigent.	66-8-102N New provision requires <i>any</i> convicted offender to obtain an ignition interlock license and have an ignition interlock <i>installed and operating</i> on all motor vehicles driven by offender, as follows: 1) 1 year for a first conviction 2) 2 years for a second conviction 3) 3 years for a third conviction 4) Lifetime for a fourth or subsequent conviction (see 66-8-102O, below)  Offender pays for interlock unless determined to be indigent.	66-8-102N Changes are the same as those found in HJC Substitute for 282/494/506

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66-8-102 Persons Under the Influence of Intoxicating Liquor or Drugs	66-8-102O Current provision has been renumbered.	66-8-102O New provision allows a fourth or subsequent offender to apply to district court for removal of the ignition interlock five years after the conviction and every five years thereafter, and for restoration of the license. Restoration will depend on the offender not having been subsequently convicted of DWI. The offender needs to demonstrate "good cause" which includes an alcohol screening, and proof from the interlock vendor that the person has not had any violations during this time. (Note: examples of a violation would include: trying to start or drive the car with a breath alcohol content above .025, or removing or circumventing the device.)	66-8-102O Changes are the same as those found in HJC Substitute for 282/494/506
66-8-102.3 Imposing a fee—creating a fund	66-8-102.3A Interlock indigency fee. Current provision Imposes a fee equal to 10% of the money charged to lease, install, service and remove interlock devices, imposed on interlock providers, collected from and paid for by the offenders who are not indigent (as determined by the court), paid monthly to the DFA. Money deposited to "Interlock Device Fund."	66-8-102.3A No changes.	66-8-102.3A Adds juveniles to the group who must pay the interlock indigency fee into Interlock Device Fund.  Changes the fee from 10% on services, to an amount to be determined by the DFA, between \$50 and \$100 per year, for each year the person is required to operate with an interlock. This fee to be collected by the vendor, remitted to DFA monthly
	66-8-102.3C Money from the interlock device fund covers the cost of installing and removing the device and four months leasing.	66-8-102.3C No changes.	66-8-102.3C Money from the Interlock Device Fund will now cover the cost of installing and removing, and one half the cost of leasing the device. Adds "juveniles" to the pool of people who may receive money from the Interlock Device Fund.

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	<b>66-8-102.3E</b> DFA is the administering agency for the interlock device fund.	<b>66-8-102.3E</b> No changes.	<b>66-8-102.3E</b> Adds language limiting the administration costs for the interlock device fund to 5% per fiscal year.
<b>66-8-111</b> <b>Refusal to Submit to Chemical Tests—Testing—Grounds for Revocation of License or Privilege to Drive</b>	<b>66-8-111C</b> Provides for 90 day revocation on a first offense for drivers 21 and over who have taken the test and registered .08 or greater, .04 for CDL; provides 6 month revocation for drivers under 21 who have taken the test and registered .02 or greater.	<b>66-8-111C</b>	<b>66-8-111C</b> Increases administrative license revocation penalty for adult violation of .08 or .04 CDL to six months on a first offense; increases administrative license revocation penalty for under-21 violation of .02 offense from six months to one year.
	<b>66-8-111F</b> Law enforcement officer statements sent to MVD for the purpose of revoking licenses, stating that drivers either took a chemical test and registered over .08 BAC or refused the test, must be sworn to under penalty of perjury, to the best of the officer's knowledge.	<b>66-8-111F</b> No changes.	<b>66-8-111F</b> Adds a provision that the statement may be signed and submitted electronically in a manner and form approved by the MVD.
<b>66-8-xx</b> <b>Uniform Police Reports and Procedures for DWI Arrests</b>	Does not currently exist	NA	<b>New Material:</b> DPS and MVD and TSB shall develop and periodically review and update standard DWI arrest reports and procedures to be used by law enforcement officers, either under state law or similar county or municipal ordinances. All state or local law enforcement officers shall be required to use these standard arrest reports and procedures.

Section:	Current Law:	New Law: SJC Substitute for SB 400, signed March 17th	
66-5-8 Provisional Licenses	66-5-8A Required 10 hours of night time driving with instructional permit before provisional license will be granted.	66-5-8A Exempts applicants from night time driving requirement if they cannot drive at night due to visual condition. Requires report from ophthalmologist or optometrist attesting to condition.	
		66-5-8B If the applicant has been exempted from night time driving requirement, s/he will also be restricted to driving during daylight hours.	
66-5-19 Restricted Licenses		66-5-19C Adds "restricted provisional license" to those with visual handicaps (for driving at night) who may receive licenses. Evaluation of a driver's visual handicap will be done by health standards advisory board .	
Section:	Current Law:	New Law: HB 565: <b>Pocket Veto by Governor Richardson</b>	New Law: SB 516, signed April 6, 2005
66-5-502 Definitions— As Used in the Ignition Interlock Licensing Act	66-5-502A Defined ignition interlock device as one that measures alcohol in the operator's blood	66-5-502A Contains same language as SB 516	66-5-502A Redefined approved ignition interlock device as one "that prevents the operation of a motor vehicle by an intoxicated or impaired person;"

Section:	Current Law:	New Law: Senate Memorial 40
None	None	<p data-bbox="890 228 2020 440">Noting that nationally, motor vehicle crashes are the leading cause of death among youth between 15 and 19, that nationally 30% of all motor vehicle crashes involving youth that result in injury involve alcohol and that one third of fatal motor vehicle collision in New Mexico caused by drivers between 15-20 are alcohol related, and that binge drinking has increased among NM high school students from 29 to 35% between 2001 and 2003, (among many other sobering statistics about the DWI problem in New Mexico).</p> <p data-bbox="890 472 2020 618">The Senate is requesting the director of the alcohol and gaming division to assemble a task force to study and investigate available and emerging technology that verifies the age of each person who purchases or is served alcohol in New Mexico and make recommendations on the implementation of such technology. The task force should include representatives from</p> <ul data-bbox="947 626 1633 951" style="list-style-type: none"> <li>• public health division of DOH</li> <li>• New Mexico sheriff's association</li> <li>• New Mexico retailers' association</li> <li>• New Mexico hospitality association</li> <li>• New Mexico grocers' association</li> <li>• New Mexico lodgers' association,</li> <li>• Independent petroleum marketers' association,</li> <li>• Mothers Against Drunk Driving</li> <li>• The DWI Resource Center</li> <li>• Other interested groups</li> </ul> <p data-bbox="890 984 2020 1075">The director of the alcohol and gaming division and the governor's DWI coordinator should give this report to the appropriate interim legislative committee.</p>