



## 2007 Legislative Changes to Traffic Safety-Related Laws

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

Section Affected	Bill Number	Summary of Changes
NA	SB 121 Effective 2, 2007	<p><b>Appropriation to Study Wrong-Way Driving on Highway Off-Ramps:</b></p> <p>Provides an appropriation of \$1,000 from the state road fund in fiscal year 2007-2008 to the NMDOT to establish a pilot project to assess the ways, including the use of tire spikes, to prevent wrong way traffic on highway off-ramps.</p> <p><b>Effective immediately, signed April 2, 2007.</b></p>
66-7-334	SB 321 Effective July 1, 2007	<p><b>Pedestrian Right-of-Way in Crosswalks</b></p> <p>Requires drivers to yield to pedestrians whenever a pedestrian is in a crosswalk. (under the old law, drivers were only required to yield to pedestrians when they were "upon the half of the roadway in which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger). This law applies only when there is no traffic-control device in place, or in operation.</p>

Section Affected	Bill Number	Summary of Changes
3-18-7 66-8-116	SB 365 VETOED	<p>Consistent Traffic Fines, pertaining to use of Photo Enforcement Cameras in Albuquerque. <b>Vetoed.</b></p> <p><b>The Governor in his Senate Executive Message No. 81 stated,</b> “The City of Albuquerque’s use of red-light cameras to assess civil fines for traffic violations has successfully resulted in fewer accidents at critical intersections – a key public-safety goal for the city.</p> <p>The goal of the bill was to cap fines and divert a portion of the fees to other state services. However, I must veto Senate Bill 365 because, intended or not, this bill would have jeopardized the City of Albuquerque’s attempt to reduce traffic accidents at intersections. By diverting money to the state, this bill would have had the effect of killing Albuquerque’s program.</p> <p>This program has proven to be effective in making Albuquerque’s streets safer by reducing accidents at intersections and protecting the lives of all other drivers who follow the law. I see no reason for the state to micromanage this program and jeopardize the impressive results in order to fund other programs.</p> <p>But however worthy this program is, I believe the graduated system of fines for violators is unreasonably high and should be reduced. The Mayor and City Council should keep this program, but reconsider the fines and adopt something more reasonable that still serves as a deterrent for violating traffic laws.”</p>
New	SB 397  Effective July 1, 2007	<p>Adds a new section, <i>The Child Helmet Safety Act:</i></p> <p>Requires minors (under 18) to wear protective helmets while operating or riding as a passenger on a bicycle, skates, scooter or skateboard. Punishes parents who knowingly allow their children to use these devices without helmets, with a maximum \$10 <u>civil</u> (not criminal) fine. If it is a first offense, magistrate or municipal judges may issue a verbal warning or require, in lieu of the fine, that the minor provide proof of having obtained a helmet. Also requires businesses who rent these kinds of devices to provide helmets if the minor users don’t have their own. <b>Effective July 1, 2007.</b></p> <p>There is a question about how this civil fine will be enforced-- More research will be needed on how to enforce this new law.</p>

Section Affected	Bill Number	Summary of Changes
<p><b>66-5-5E (New)</b> (Persons not to be licensed)</p> <p><b>66-5-502A</b></p>	<p><b>SB437</b> Ch.316</p> <p>Effective July 1, 2007</p>	<p><b>Interlocks for Certain Out of State Drivers.</b></p> <p>Requires drivers from other states who apply for a New Mexico driver's license to have an ignition interlock license, if they were convicted of a DWI in any state or the District of Columbia, or any government subdivision thereof, on or after June 17, 2005 (the date the NM universal ignition interlock provision went into effect) according to the same schedule required of drivers convicted in New Mexico: 1 year for a first, 2 years for a second, three years for a third, and lifetime for a fourth, with a 5 year review. The MVD can grant credit with satisfactory proof, for time spent by the offender operating a vehicle with an interlock or comparable device in other jurisdictions. The MVD is required to write rules for granting this credit, including who is eligible and what proof must be provided.</p> <p>These requirements do not apply to a person who applies for a license 10 years or more from the date of their last conviction, except for a person who is under a lifetime driver's license revocation for a conviction in another jurisdiction.</p> <p>This bill also ties this new category of out-of-state driver to the definition of "denied" in the Ignition Interlock Licensing Act, making these drivers eligible to apply for an Ignition Interlock License. <u>(NOTE: Two other bills also amend Section 66-5-502A of the Ignition Interlock Licensing Act: SB 905 and HB 126. HB 126 also provides the same new amendment, 66-5-5E.)</u></p> <p><b>Effective July 1, 2007.</b> This bill was signed BEFORE HB 126, under Chapter 316.</p>
<p><b>66-5-5E (New)</b> (Persons not to be licensed)</p> <p><b>66-5-502A</b></p> <p><b>66-5-44E (New)</b></p>	<p><b>HB 126</b> Ch.317</p> <p>Effective July 1, 2007</p>	<p><b>Interlocks for Certain Out-of-State Drivers:</b></p> <p>This amendment is substantially the same as that contained in SB 437 except it contains two additional provisions:</p> <p><b>Makes an appropriation:</b> of \$1,100,000 from the general fund for expenses in FY 2008 related to verifying qualifications for drivers' licenses and issuing ignition interlock licenses. The fund sunsets at the end of FY 2008, with the balance reverting back to the general fund.</p> <p><b>Provides for a fee:</b> This amendment adds a new subsection E allowing MVD to charge a \$15 fee to cover the administrative costs of determining whether out-of-state drivers who are applying for NM licenses for the first time have been convicted in another jurisdiction of driving while under the influence of intoxicating liquor or drugs or equivalent crime, and otherwise determining if the person qualifies for a driver's licenses in NM.</p> <p><b>Effective July 1, 2007.</b> This bill was signed AFTER SB 437, under Chapter 317.</p>

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<p>66-8-102C(1) 66-8-102C(2) 66-8-102D(1)</p> <p>66-8-102E 66-8-102F(1) 66-8-102F(2)</p> <p>66-8-110E (new)</p>	<p>SB 440 "Day Case Fix"</p> <p>Effective April 2, 2007</p>	<p><b>DWI Chemical Test Time Limits: ("Day Case" Fix):</b> Makes it illegal to have a blood alcohol concentration of .08 (.04 for commercial drivers or .16 for aggravated offenses) <u>within three hours of driving</u>, when the BAC is from alcohol consumed before or while driving. This should allow a three-hour window for the administration of breath or blood tests without the requirement that an expert be called to calculate the alcohol at the time of driving.</p> <p>Removes the 48 hour cap on mandatory community service for a first offense – now it's a minimum of 24 hours with no 48 hour cap; clarifies that the mandatory community service requirement is a <u>minimum</u> of 48 hours for a second conviction (66-8-102F(1)) and a <u>minimum</u> of 96 hours for a third conviction (66-8-102F(2))</p> <p><b>Use of tests in criminal or civil actions (Implied Consent Amendment):</b> The Implied Consent Act now has a new section providing that the results from a chemical test administered <u>more than</u> three hours after driving MAY be introduced as evidence of the BAC in the person's blood or breath at the time of the test (not the time of driving) and the judge or jury will determine how much weight to give the evidence as proof of a DWI violation.</p> <p>This bill has an emergency clause, causing it to take effect immediately. It was signed by Governor Richardson on <b>April 2, 2007</b> and it appears that it will apply only to DWI arrests occurring after it was signed.</p>
<p>66-2-7.1A 66-8-102.3C</p>	<p>SB 591</p> <p>Effective June 15, 2007</p>	<p><b>Ignition Interlock Program Confidentiality.</b> This amendment expands who can make an indigency determination to receive funds from the Ignition Interlock Device Fund. Formerly, it was just the sentencing court that could make the indigency determination; now it is, "<u>the court, the parole board or a probation and parole officer.</u>" The list of persons eligible to receive indigency funds includes adult and juvenile DWI offenders, Implied Consent violators and now, persons who must install an interlock "<u>as a condition of parole.</u>"</p> <p>This amendment also prohibits the disclosure by Bureau employees of personal information obtained through the administration of the Ignition Interlock Licensing Act and Interlock Device Fund. Personal Information is defined in the Motor Vehicle Code under <b>Section 66-1-4.14. Definitions:</b> <i>F. "personal information" means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address other than zip code, telephone number and medical or disability information, but "personal information" does not include information on vehicles, vehicle ownership, vehicular accidents, driving violations or driver status;</i></p> <p>This bill does not contain an emergency clause and contains no effective date, and thus goes into effect <b>June 15<sup>th</sup>, 2007.</b></p>

Section Affected	Bill Number	Summary of Changes
New Section	SB 861  Effective June 15, 2007	<p><b>Warning Signs and Beacons or Rumble Strips added to Photo Enforcement Cameras.</b>            A new section of the Motor Vehicle Code now requires municipalities (including home-rule municipalities) that install photo enforcement cameras (called camera monitors in the legislation) also to install a warning sign or signs supplemented by a flashing yellow beacon or rumble strips. The signs used with flashing yellow lights or rumble strips shall warn motorists that the upcoming intersection is photo-enforced.</p> <p>This bill does not contain an emergency clause and contains no effective date, and thus goes into effect <b>June 15<sup>th</sup>, 2007.</b></p>

Section Affected	Bill Number	Summary of Changes
Various	SB 905  Effective June 15, 2007	<p><b>Motor Vehicle Code Amendments:</b> made a number of clean-up changes to the Motor Vehicle Code, mostly of a technical nature: correcting cross references, resolving fee conflicts among various references to administrative fees, who is the disbursing agent for MVD suspense fund, etc, etc in a 108 page bill. The changes most likely to be of interest to the traffic safety community are as follows:</p> <ul style="list-style-type: none"> <li>• <b>66-5-502, Ignition Interlock License:</b> An ignition interlock license will be available to someone who has been convicted of DWI even if they did not have a license to revoke (that is, they were driving without having obtained a license). Under this section now, either their license or their <u>privilege to drive</u> will be revoked if they are convicted of DWI. (NOTE: This Section 66-5-502A was also amended by SB 437 and HB 126)</li> <li>• <b>66-5-29A, B and C, Mandatory Revocation of License by Division:</b> Clarifies that someone who has been driving without having obtained a license and convicted of DWI will have their "<u>driving privilege</u>" revoked, for the same reasons described above.</li> <li>• <b>66-5-29D (new): 10 or 5 year revocations under prior law can be shortened.</b> Under this new section, DWI offenders who were 3 or more times convicted of DWI prior to June 17th, 2005, can request that the Motor Vehicle Division apply the 2005 interlock license provisions to their license, rather than the provisions under which they had originally been revoked. Many of these people may be under a 10 year revocation-- since at that time, MVD would refuse to license someone convicted of DWI 3 or more times in 10 years.  <p style="margin-left: 40px;">According to MVD, such offenders will now be eligible to reinstate their FULL driving privileges upon proving three years or more of interlock use with no violations within the last six months This will allow persons who were revoked under the old law (for up to 10 years prior to June 17th 2005) to have the benefit of their full driving privileges restored. In effect, this means that people revoked under the old law can now get their full license reinstated up to 7 years early if they've been using an interlock for at least 3 years with no violations for the last 6 months. <u>NOTE: Someone with only three convictions and only on a ten-year denial – should apply for the full license with MVD, not the courts.</u></p> </li> <li>• <b>A 4<sup>th</sup> degree felony to knowingly issue fraudulent official MVD documents</b> (driver's license, vehicle registration or title) to someone not entitled to them or to knowingly accept fraudulent documents as a basis for issuing such documents, knowingly alter records without legal justification, or to take bribes for such activities.</li> <li>• <b>Background checks will now be required of MVD employees, including fingerprints.</b></li> </ul> <p>This bill does not contain an emergency clause and contains no effective date, and thus goes into effect <b>June 15<sup>th</sup>, 2007</b></p>

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NA	HM 102	<p><b>Task Force to Study How to Effectively Address the Problem of Driving Under the Influence of Drugs.</b></p> <p>This memorial cites the increasing incidence of meth , cocaine and other drug use in fatal motor vehicle crashes between 2000—2006 and charges the Traffic Safety Bureau chief, the director of the Scientific Laboratory Division and the Secretary of Public Safety to convene a task force to study the drugged driving problem in New Mexico, and to make recommendations to effectively address the problem. The task force will deliver the report to the appropriate legislative committee by November, 2007.</p>
<p><b>New Section of Liquor Control Act</b></p>	<p>HB 124</p> <p>Effective July 1, 2007</p>	<p><b>Removal of Partially Consumed bottle of wine from licensed premises.</b></p> <p>A dispenser, canopy or restaurant licensee may now allow customers to take away a partially consumed bottle of wine if the customer has purchased a full-course meal with the wine, and has partially consumed the wine on the premises.</p> <p>The business must issue a receipt for the wine, reseal the bottle with a cork and seal the bottle in a tamper-proof bag. The customer is required to transport the wine in accordance with the <b>open container law (66-8-138)</b>, as follows:</p> <p>“[it must be] placed in the trunk of the vehicle or some other area not normally occupied by the driver or passengers if the vehicle doesn’t have a trunk; or the living quarters of a motor home or recreational vehicle; in a truck camper; or the bed of a pick-up truck when the bed is not occupied by passengers.”</p> <p><b>Effective July 1, 2007.</b></p>
7-1-6.40	<p>HB 266</p> <p>Effective July 1, 2007</p>	<p><b>Liquor Tax Distribution to Local DWI Grant Fund:</b></p> <p>Increases the percentage distribution of liquor excise taxes going to the local DWI Grant Fund from <b>34.57</b> percent to <b>41.50</b> percent of net receipts, with the remainder going to the general fund. The Legislative Fiscal Impact Report for this bill reports this will add about \$3.1 million to the counties’ distributions, based on current figures.</p> <p><b>Effective July 1, 2007</b></p>
66-10-5C	<p>HB 1052</p> <p>Effective July 1, 2007</p>	<p><b>Stagger Expiration dates for Licenses Issued to Driver Education Schools:</b></p> <p>Changes the expiration date of licenses issued under the Driving School Licensing Act from June 30<sup>th</sup> to simply “annually” and requires the TSB to establish annual expiration dates by rule, specifying that each type of driving school may have different expiration dates.</p> <p><b>Effective July 1, 2007</b></p>

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	<p>HB 1103</p> <p>Effective July 1, 2007</p>	<p><b>Repeal DWI Program Fund with new Appropriation:</b></p> <p><b>This bill repeals the DWI Program Fund, administered by DFA*:</b> Under the old law, DWI Program funds could go to any of the following agencies for a number of specified anti-DWI programs: DOH, CYFD, TSB, DPS, A&amp;G, the Public Defender, District Attorneys, Magistrate Courts, Metro Court, District Courts, Tax &amp; Rev or the UNM School of Medicine. It has been in effect since 1993, and the funds did not revert to the general fund at the end of each year.</p> <p><b>The New Appropriation</b> has more specific projects and fewer of them, administered by DFA for the following purposes:</p> <ul style="list-style-type: none"> <li>(1) enforcement of laws related to driving while intoxicated, including: <ul style="list-style-type: none"> <li>(a) the purchase of equipment, including cameras for law enforcement vehicles, checkpoint equipment and undercover equipment; and</li> <li>(b) undercover operations, including operations intended to identify establishments and persons who provide alcohol to intoxicated persons; and</li> </ul> </li> <li>(2) a study of DWI-drug courts, including: <ul style="list-style-type: none"> <li>(a) their cost-effectiveness;</li> <li>(b) the effect on recidivism rates among participants; and</li> <li>(c) ways in which such courts may be improved.</li> </ul> </li> </ul> <p>The appropriation begins with the balance of the DWI Program Fund on July 1, 2007 for expenditure in FY 2008 and 2009. At the end of FY 2009, unexpended funds revert to the general fund.</p> <p><b>PLEASE NOTE: This bill does NOT repeal or amend the Local DWI Grant Fund which provides funding for local communities. This bill amends the DWI PROGRAM FUND, which provides funds to state AGENCIES (not local communities) for specific projects at the state agency levels. The LDWI funding is safe!</b></p>