

66-8-102C. It is unlawful for:

(1) a person to drive a vehicle in this state if the person has an alcohol concentration of eight one hundredths or more in the person's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle; or

(2) a person to drive a commercial motor vehicle in this state if the person has an alcohol concentration of four one hundredths or more in the person's blood or breath within three hours of driving the commercial motor vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle.

66-8-102 D. Aggravated driving while under the influence of intoxicating liquor or drugs consists of a person who:

(1) drives a vehicle in this state and has an alcohol concentration of sixteen one hundredths or more in the person's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle;

66-8-102F. A second or third conviction pursuant to this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than three hundred sixty-four days or by a fine of not more than one thousand dollars (\$1,000), or both; provided that if the sentence is suspended in whole or in part, the period of probation may extend beyond one year but shall not exceed five years. Notwithstanding any provision of law to the contrary for suspension or deferment of execution of a sentence:

(1) upon a second conviction, an offender shall be sentenced to a jail term of not less than ninety-six consecutive hours, not less than forty-eight hours of community service and a fine of five hundred dollars (\$500). In addition to those penalties, when an offender commits aggravated driving while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than ninety-six consecutive hours. If an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional seven consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement; and

(2) upon a third conviction, an offender shall be sentenced to a jail term of not less than thirty consecutive days, not less than ninety-six hours of community service and a fine of seven hundred fifty dollars (\$750). In addition to those penalties, when an offender commits aggravated driving while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than sixty consecutive days. If an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional sixty consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement.

“66-8-110. Use of tests in criminal actions or civil actions; levels of intoxication; mandatory charging. (2007)

E. If the test performed pursuant to the Implied Consent Act is administered more than three hours after the person was driving a vehicle, the test result may be introduced as evidence of the alcohol concentration in the person's blood or breath at the time of the test and the trier of fact shall determine what weight to give the test result for the purpose of determining a violation of Section 66-8-102 NMSA 1978.

ARTICLE 24

Child Helmet Safety Act

Section

- 32A-24-1 Short title.
- 32A-24-2 Definitions.
- 32A-24-3 Helmet use requirements; civil penalty.
- 32A-24-4 Equipment sales or rentals.
- 32A-24-5 Negligence.

32A-24-1. Short title.

This act [Chapter 32A, Article 24 NMSA 1978] may be cited as the “Child Helmet Safety Act”.

History: Laws 2007, ch. 66, § 1.

Effective dates. — Laws 2007, ch. 66, § 6, makes the act effective July 1, 2007.

32A-24-2. Definitions.

As used in the Child Helmet Safety Act [32A-24-1 NMSA 1978]:

A. “bicycle” means a human-powered vehicle with two wheels in tandem designed to transport, by the act of pedaling, one or more persons seated on one or more saddle seats on its frame and includes a human-powered vehicle designed to transport by the act of pedaling, which has more than two wheels when the vehicle is used on a public roadway, public bicycle path or other public road or right of way, including a tricycle;

B. “minor” means a person under eighteen years of age;

C. “operator” means a person under eighteen years of age who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle, or who propels himself by way of using inline skates, roller skates, a skateboard or a scooter;

D. “passenger” means a person under eighteen years of age who travels on a bicycle or scooter in any manner except as an operator;

E. “protective helmet” means a piece of headgear that meets or exceeds the impact standard for protective helmets set by the United States consumer product safety commission federal safety standard and those standards developed by the American national standards institute, the Snell memorial foundation or the American society for testing and materials;

F. “public bicycle path” means a right of way under the jurisdiction and control of the state or a local political subdivision for use primarily by bicyclists and pedestrians;

G. “public roadway” means a right of way under the jurisdiction and control of the state or a local political subdivision for use primarily by motor vehicular traffic;

H. “public skateboard park” means an area of public property set aside, designed and maintained for recreation by persons using bicycles, scooters, skateboards or skates;

I. “scooter” means a wheeled vehicle, regardless of the number or placement of those wheels, that has handlebars, designed to be stood on by the operator or passenger and used to glide or propel the operator or passenger over the ground;

J. “skateboard” means a set of wheels attached to a platform or flat surface, regardless of the number or placement of those wheels, and used to glide or propel the operator over the ground; and

K. “skates” means a pair of devices worn on the feet with a set of wheels attached and used to glide or propel the user over the ground and may be either inline or roller, but “skates” does not include a pair of devices, similar to a pair of common shoes, that has one or more wheels embedded in the sole of each device.

History: Laws 2007, ch. 66, § 2.

Effective dates. — Laws 2007, ch. 66, § 6, makes the act effective July 1, 2007.

32A-24-3. Helmet use requirements; civil penalty.

A. It is unlawful for a parent or legal guardian of a minor to knowingly permit that minor to operate or be a passenger on a bicycle, skates, scooter or skateboard unless that minor wears a well-fitted protective bicycle helmet, fastened securely upon the head with the straps of the helmet.

B. Except as provided in Subsection C of this section, a parent or legal guardian found guilty of violating Subsection A of this section shall pay a civil penalty of not more than ten dollars (\$10.00). Magistrate and municipal courts shall have concurrent jurisdiction.

C. If a violation of Subsection A of this section is a first offense, the magistrate or municipal court may issue a verbal warning or require, in lieu of the fine imposed in Subsection B of this section, that the person found in violation provide proof that a protective helmet has been purchased for use by the minor found on the bicycle, skates, scooter or skateboard without a protective helmet.

D. A municipal court may issue only a verbal warning for a first or later violation.

History: Laws 2007, ch. 66, § 3.

Effective dates. — Laws 2007, ch. 66, § 6, makes the act effective July 1, 2007.

32A-24-4. Equipment sales or rentals.

A person engaged in the business of renting bicycles, skates, scooters or skateboards shall provide a protective helmet to a minor who will be an operator of or passenger on a rented bicycle, skates, scooter or skateboard if the minor does not already have a helmet in the minor’s possession. A reasonable fee may be charged for the protective helmet rental.

History: Laws 2007, ch. 66, § 4.

Effective dates. — Laws 2007, ch. 66, § 6, makes the act effective July 1, 2007.

32A-24-5. Negligence.

Failure to wear a protective helmet shall not limit or apportion damages. History: Laws 2007, ch. 66, § 5.