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HOUSE BILL 50

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Dennis J. Roch

AN ACT

RELATING TO CRIMINAL LAW; CREATING THE CRIMES OF HOMICIDE BY BOAT AND GREAT BODILY HARM BY BOAT; INCREASING THE BASIC SENTENCE IN CERTAIN CIRCUMSTANCES; PROVIDING THAT PRIOR CONVICTIONS OF BOATING WHILE INTOXICATED SHALL INCREASE THE BASIC SENTENCE FOR HOMICIDE BY VEHICLE OR GREAT BODILY HARM BY VEHICLE; PROVIDING PENALTIES.

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

SECTION 1. Section 66-8-101 NMSA 1978 (being Laws 1978, Chapter 35, Section 509, as amended) is amended to read:

"66-8-101. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY VEHICLE.--

A. Homicide by vehicle is the killing of a human being in the unlawful operation of a motor vehicle.

B. Great bodily harm by vehicle is the injuring of

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1 a human being, to the extent defined in Section 30-1-12 NMSA
2 1978, in the unlawful operation of a motor vehicle.

3 C. A person who commits homicide by vehicle while
4 under the influence of intoxicating liquor or while under the
5 influence of any drug is guilty of a second degree felony and
6 shall be sentenced pursuant to the provisions of Section
7 31-18-15 NMSA 1978.

8 D. A person who commits homicide by vehicle while
9 violating Section 66-8-113 NMSA 1978 is guilty of a third
10 degree felony and shall be sentenced pursuant to the provisions
11 of Section 31-18-15 NMSA 1978, provided that violation of
12 speeding laws as set forth in the Motor Vehicle Code shall not
13 per se be a basis for violation of Section 66-8-113 NMSA 1978.

14 E. A person who commits great bodily harm by
15 vehicle while under the influence of intoxicating liquor, while
16 under the influence of any drug or while violating Section
17 66-8-113 NMSA 1978 is guilty of a third degree felony and shall
18 be sentenced pursuant to the provisions of Section 31-18-15
19 NMSA 1978, provided that violation of speeding laws as set
20 forth in the Motor Vehicle Code shall not per se be a basis for
21 violation of Section 66-8-113 NMSA 1978.

22 F. A person who commits homicide by vehicle or
23 great bodily harm by vehicle while under the influence of
24 intoxicating liquor or while under the influence of any drug,
25 as provided in Subsection C or E of this section, and who has

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1 incurred a prior DWI conviction within ten years of the
2 occurrence for which the person is being sentenced under this
3 section shall have the person's basic sentence increased by
4 four years for each prior DWI conviction.

5 G. For the purposes of this section, "prior DWI
6 conviction" means:

7 (1) a prior conviction under Section 66-8-102
8 NMSA 1978; [~~or~~]

9 (2) a prior conviction under Section 66-13-3
10 NMSA 1978; or

11 [~~(2)~~] (3) a prior conviction in New Mexico or
12 any other jurisdiction, territory or possession of the United
13 States, including a tribal jurisdiction, when the criminal act
14 is driving a vehicle or operating a motorboat under the
15 influence of alcohol or drugs.

16 H. A person who willfully operates a motor vehicle
17 in violation of Subsection C of Section 30-22-1 NMSA 1978 and
18 directly or indirectly causes the death of or great bodily harm
19 to a human being is guilty of a third degree felony and shall
20 be sentenced pursuant to the provisions of Section 31-18-15
21 NMSA 1978."

22 SECTION 2. Section 66-13-1 NMSA 1978 (being Laws 2003,
23 Chapter 241, Section 1) is amended to read:

24 "66-13-1. SHORT TITLE.--~~[Sections 1 through 13 of this~~
25 ~~act]~~ Chapter 66, Article 13 NMSA 1978 may be cited as the

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1 "Boating While Intoxicated Act"."

2 SECTION 3. [NEW MATERIAL] HOMICIDE BY BOAT--GREAT BODILY
3 HARM BY BOAT.--

4 A. Homicide by boat is the killing of a human being
5 in the unlawful operation of a motorboat.

6 B. Great bodily harm by boat is the injuring of a
7 human being, to the extent defined in Section 30-1-12 NMSA
8 1978, in the unlawful operation of a motorboat.

9 C. A person who commits homicide by boat or great
10 bodily harm by boat while under the influence of intoxicating
11 liquor or while under the influence of any drug is guilty of a
12 third degree felony and shall be sentenced pursuant to the
13 provisions of Section 31-18-15 NMSA 1978.

14 D. A person who commits homicide by boat or great
15 bodily harm by boat while under the influence of intoxicating
16 liquor or while under the influence of any drug, as provided in
17 Subsection C of this section, and who has incurred a prior DWI
18 conviction within ten years of the occurrence for which the
19 person is being sentenced under this section shall have the
20 basic sentence increased by four years for each prior DWI
21 conviction.

22 E. For the purpose of this section, "prior DWI
23 conviction" means:

24 (1) a prior conviction under Section 66-8-102
25 NMSA 1978;

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1 (2) a prior conviction under Section 66-13-3
2 NMSA 1978; or

3 (3) a prior conviction in New Mexico or any
4 other jurisdiction, territory or possession of the United
5 States, including a tribal jurisdiction, when the criminal act
6 is driving a vehicle or operating a motorboat under the
7 influence of alcohol or drugs.

8 SECTION 4. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2018.