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SENATE BILL 188

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

Lynda M. Lovejoy

AN ACT

RELATING TO MOTOR VEHICLES; PROHIBITING THE OPERATION OF A  
MOTOR VEHICLE WHILE READING, WRITING OR SENDING ELECTRONIC  
MESSAGES; PROVIDING A PENALTY.

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

Section 1. A new section of the Motor Vehicle Code,  
Section 66-7-358.1 NMSA 1978, is enacted to read:

"66-7-358.1. [NEW MATERIAL] TEXT-BASED COMMUNICATION  
PROHIBITED.--

A. A driver shall not use an electronic wireless  
communications device to write, send or read a text-based  
communication except:

- (1) to report illegal activity;
- (2) to summon medical or other emergency help;
- (3) to prevent injury to a person or property;

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1 (4) while the motor vehicle is lawfully  
2 parked;

3 (5) in an authorized law enforcement or  
4 emergency motor vehicle; or

5 (6) to relay information between a transit or  
6 for-hire operator and that operator's dispatcher when the device  
7 is permanently affixed to the vehicle.

8 B. The penalties for first and second and  
9 subsequent violations of the provisions of this section are as  
10 provided in Section 66-8-116 NMSA 1978."

11 Section 2. Section 66-8-116 NMSA 1978 (being Laws 1978,  
12 Chapter 35, Section 524, as amended) is amended to read:

13 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--  
14 DEFINITION--SCHEDULE OF ASSESSMENTS.--

15 A. As used in the Motor Vehicle Code, "penalty  
16 assessment misdemeanor" means violation of any of the following  
17 listed sections of the NMSA 1978 for which, except as provided  
18 in Subsections D and E of this section, the listed penalty  
19 assessment is established:

20	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY
21			ASSESSMENT
22	Permitting unlicensed		
23	minor to drive	66-5-40	\$ 10.00
24	Failure to obey sign	66-7-104	10.00
25	Failure to obey signal	66-7-105	10.00

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1	Speeding	66-7-301	
2	(1) up to and including		
3	ten miles an hour		
4	over the speed limit		15.00
5	(2) from eleven up to		
6	and including fifteen		
7	miles an hour		
8	over the speed limit		30.00
9	(3) from sixteen up to		
10	and including twenty		
11	miles an hour over the		
12	speed limit		65.00
13	(4) from twenty-one up to		
14	and including twenty-five		
15	miles an hour		
16	over the speed limit		100.00
17	(5) from twenty-six up to		
18	and including thirty		
19	miles an hour over the		
20	speed limit		125.00
21	(6) from thirty-one up to		
22	and including thirty-five		
23	miles an hour over the		
24	speed limit		150.00
25	(7) more than thirty-five		

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1	miles an hour over the		
2	speed limit		200.00
3	Unfastened safety belt	66-7-372	25.00
4	Child not in restraint device		
5	or seat belt	66-7-369	25.00
6	Minimum speed	66-7-305	10.00
7	Speeding	66-7-306	15.00
8	Improper starting	66-7-324	10.00
9	Improper backing	66-7-354	10.00
10	Improper lane	66-7-308	10.00
11	Improper lane	66-7-313	10.00
12	Improper lane	66-7-316	10.00
13	Improper lane	66-7-317	10.00
14	Improper lane	66-7-319	10.00
15	Improper passing	66-7-309 through 66-7-312	10.00
16	Improper passing	66-7-315	10.00
17	Controlled access		
18	violation	66-7-320	10.00
19	Controlled access		
20	violation	66-7-321	10.00
21	Improper turning	66-7-322	10.00
22	Improper turning	66-7-323	10.00
23	Improper turning	66-7-325	10.00
24	Following too closely	66-7-318	10.00
25	Failure to yield	66-7-328 through 66-7-331	10.00

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1	Failure to yield	66-7-332	50.00
2	Failure to yield	66-7-332.1	25.00
3	Pedestrian violation	66-7-333	10.00
4	Pedestrian violation	66-7-340	10.00
5	Failure to stop	66-7-342 and 66-7-344	
6		through 66-7-346	10.00
7	Railroad-highway grade		
8	crossing violation	66-7-341 and 66-7-343	150.00
9	Passing school bus	66-7-347	100.00
10	Failure to signal	66-7-325 through 66-7-327	10.00
11	Failure to secure load	66-7-407	100.00
12	Operation without oversize-		
13	overweight permit	66-7-413	50.00
14	Improper equipment	66-3-801	10.00
15	Improper equipment	66-3-901	20.00
16	Improper emergency		
17	signal	66-3-853 through 66-3-857	10.00
18	Operation interference	66-7-357	5.00
19	Littering	66-7-364	300.00
20	Improper parking	66-7-349 through 66-7-352	
21		and 66-7-353	5.00
22	Improper parking	66-3-852	5.00
23	Failure to dim lights	66-3-831	10.00
24	Riding in or towing		
25	occupied house trailer	66-7-366	5.00

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1	Improper opening of doors	66-7-367	5.00
2	No slow-moving vehicle		
3	emblem or flashing		
4	amber light	66-3-887	5.00
5	Open container - first		
6	violation	66-8-138	25.00
7	<u>Prohibited text-based</u>		
8	<u>communication - first</u>		
9	<u>violation</u>	<u>66-7-358.1</u>	<u>50.00</u>
10	<u>Prohibited text-based</u>		
11	<u>communication - second</u>		
12	<u>and subsequent</u>		
13	<u>violations</u>	<u>66-7-358.1</u>	<u>100.00.</u>

14 B. The term "penalty assessment misdemeanor" does not  
15 include a violation that has caused or contributed to the cause  
16 of an accident resulting in injury or death to a person.

17 C. When an alleged violator of a penalty assessment  
18 misdemeanor elects to accept a notice to appear in lieu of a  
19 notice of penalty assessment, a fine imposed upon later  
20 conviction shall not exceed the penalty assessment established  
21 for the particular penalty assessment misdemeanor and probation  
22 imposed upon a suspended or deferred sentence shall not exceed  
23 ninety days.

24 D. The penalty assessment for speeding in violation  
25 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978

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1 is twice the penalty assessment established in Subsection A of  
2 this section for the equivalent miles per hour over the speed  
3 limit.

4 E. Upon a second conviction for operation without a  
5 permit for excessive size or weight pursuant to Section  
6 66-7-413 NMSA 1978, the penalty assessment shall be two  
7 hundred fifty dollars (\$250). Upon a third or subsequent  
8 conviction, the penalty assessment shall be five hundred  
9 dollars (\$500)."

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