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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2013-43

INTRODUCED BY:

Councilor Trujillo

AN ORDINANCE

**RELATING TO THE CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE;
AMENDING SECTIONS 12-6-12.6 RELATING TO DRIVING WITH A REVOKED
LICENSE; 12-12-3 RELATING TO ELECTRONIC UNIFORM TRAFFIC CITATIONS; 12-
12-11 RELATING TO ABSTRACT OF TRAFFIC CASES; CREATING A NEW SECTION
12-12-3.1 RELATING TO ELECTRONIC UNIFORM TRAFFIC CITATIONS; AND
MAKING SUCH OTHER STYLISTIC AND GRAMMATICAL CHANGES AS ARE
NECESSARY.**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

**Section 1. Section 12-6-12.6 of the City of Santa Fe Uniform Traffic Ordinance
(being Ord. #2006-34) is amended to read:**

**12-6-12.6 UNLAWFUL USE OF LICENSE; DRIVING WHEN PRIVILEGE TO DO SO
HAS BEEN SUSPENDED OR REVOKED.**

A. No person shall:

(1) display or cause or permit to be displayed or have in his possession any canceled,

1 revoked or suspended driver's license or permit;

2 (2) lend his driver's license or permit to any other person or knowingly permit the
3 use thereof by another;

4 (3) display or represent as one's own any driver's license or permit not issued to him;

5 (4) fail or refuse to surrender to the court upon its lawful demand any driver's license
6 or permit which has been suspended, revoked or canceled;

7 (5) permit any unlawful use of driver's license or permit issued to him; (66-5-37
8 NMSA 1978)

9 (6) drive a motor vehicle on any public street or highway at a time when his
10 privilege to do so is suspended [~~or revoked~~] and who knows or should have known that his
11 license was suspended [~~or revoked~~]. Upon conviction, the person shall be punished by
12 imprisonment for not less than four days nor more than ninety days or participation for an
13 equivalent period of time in a certified alternative sentencing program, and there may be
14 imposed in addition a fine of not more than five hundred dollars (\$500.00). When a person
15 pays any or all of the cost of participating in a certified alternative sentencing program, the
16 court may apply that payment as a deduction to any fine imposed by the court.
17 [~~Notwithstanding any other provision of law for suspension or deferment of execution of~~
18 ~~sentence, if the person's privilege to drive was revoked for driving under the influence of~~
19 ~~intoxicating liquor or drugs or a violation of the Implied Consent Act, upon conviction under~~
20 ~~this section, that person shall be punished by imprisonment for not less than seven~~
21 ~~consecutive days and shall be fined not less than three hundred dollars (\$300.00) or not more~~
22 ~~than five hundred dollars (\$500.00) and the fine and imprisonment shall not be suspended,~~
23 ~~deferred or taken under advisement. No other disposition by plea of guilty to any other charge~~
24 ~~in satisfaction of a charge under this section shall be authorized if the person's privilege to~~

1 ~~drive was revoked for driving under the influence of intoxicating liquor or drugs or a~~
2 ~~violation of the Implied Consent Act.] (66-5-39 NMSA 1978)~~

3 (7) drive a motor vehicle on a highway of this state at a time when the person's
4 privilege to do so is revoked and who knows or should have known tht the person's license
5 was revoked is guilty of a misdemeanor and shall be charged with a violation of this section.
6 Under conviction, the person shall be punished, notwithstanding the provisions of Sec.
7 31-18-13 NMSA 1978, by imprisonment for not less than four days or more than ninety days
8 or by participation for an equivalent period of time in a certified alternative sentencing
9 program, and there may be imposed in addition a fine of nore more than \$500. When a
10 person pays any or all of the cost of participating in a certified alternative sentencing
11 program, the court may apply that payment as a deduction to any fine imposed by the court;
12 and

13 (8) notwithstanding any other provision of law for suspension or deferment of
14 execution of a sentence, if the person's privilege to drive as revoked for driving under the
15 influence of intoxicating liquor or drugs or a violation of the Implied Consent Act, upon
16 conviction shall be punished by imprisonment for not less than seven consecutive days and
17 shall be fined not less than three hundred dollars (\$300) and not more than five hundred
18 dollars (\$500) and the fine and imprisonment shall not be suspended, deferred or taken under
19 advisement. No other disposition by plea of guilty to any other charge in satisfaction of a
20 charge under this section shall be authorized if the person's privilege to drive was revoked for
21 driving under the influence of intoxicating liquor or drugs or a violation of the Implied
22 Consent Act, (66-3-39.1 NMSA 1978)

23 B. In addition to any other penalties imposed pursuant to the provisions of this section,
24 when a person is convicted pursuant to the provisions of this section, the motor vehicle the person
25 was driving shall be immobilized by an immobilization device for thirty days, unless immobilization

1 of the motor vehicle poses an imminent danger to the health, safety or employment of the convicted
2 person's immediate family or the family of the owner of the motor vehicle. The convicted person
3 shall bear the cost of immobilizing the motor vehicle. (66-5-39 NMSA 1978)

4 **Section 2. Section 12-12-3 of the City of Santa Fe Uniform Traffic Ordinance**
5 **(being Ord. #2006-34) is amended to read:**

6 **12-12-3 CONDUCT OF ARRESTING OFFICER--NOTICES BY CITATION.**

7 A. Except as provided in Section 12-12-5, unless a penalty assessment or warning
8 notice is given, whenever a person is arrested for any violation of this ordinance or other law relating
9 to motor vehicles punishable as a misdemeanor, the arresting officer, using the uniform traffic
10 citation, in paper or electronic form, shall complete the information section and prepare a notice to
11 appear in court, specifying the time and place to appear, have the arrested person sign the agreement
12 to appear as specified, give a copy of the citation to the arrested person and release him from custody.

13 B. Whenever a person is arrested for violation of a penalty assessment misdemeanor and
14 elects to pay the penalty assessment, the arresting officer, using the uniform traffic citation, in paper
15 or electronic form, shall complete the information section and prepare the penalty assessment notice
16 indicating the amount of the penalty assessment, have the arrested person sign the agreement to pay
17 the amount prescribed, give a copy of the citation along with a business reply envelope addressed to
18 the municipal court with jurisdiction and release him from custody. No officer shall accept custody
19 or payment of any penalty assessment. If the arrested person declines to accept a penalty assessment
20 notice, the officer shall issue a notice to appear. (66-8-123 B NMSA 1978)

21 C. The arresting officer may issue a warning notice, but shall fill in the information
22 section of the uniform traffic citation in paper or electronic form, and give a copy to the arrested
23 person after requiring his signature on the warning notice as an acknowledgment of receipt. No
24 warning notice issued under this section shall be used as evidence of conviction for purposes of
25 suspension or revocation of license under Section 66-5-30 NMSA 1978.

1 D. In order to secure his release, the arrested person must give his written promise to
2 appear in court, or to pay the penalty assessment prescribed or acknowledge receipt of a warning
3 notice.

4 E. Any officer violating this section is guilty of misconduct in office and is subject to
5 removal. (66-8-123 NMSA 1978)

6 F. An electronic traffic citation, prescribed by Sec 12-12-3.1, is an electronic version of
7 the uniform traffic citation. For the purposes of this section, an electronic citation may be completed
8 instead of a uniform traffic citation; provided, however, that where this section requires a copy of a
9 citation to be given to an arrested person, a physical copy of the citation shall be provided whether a
10 uniform citation or an electronic form of the uniform traffic citation was used. An electronic form of
11 the uniform traffic citation may be signed electronically.

12 **Section 3. A new Section 12-12-3.1 of the City of Santa Fe Uniform Traffic**
13 **Ordinance is ordained to read:**

14 **12-12-3.1 [NEW MATERIAL] ELECTRONIC UNIFORM TRAFFIC CITATION**

15 An electronic version of a uniform traffic citation shall include the same information required
16 to be included in a uniform traffic citation. An electronic version of a uniform traffic citation may be
17 signed electronically and a law enforcement officer may submit or file with a court an electronic
18 version of a uniform traffic citation if prior permission of the department has been secured. Where
19 the law requires a law enforcement officer to provide a copy of a citation to a person cited or arrested,
20 a physical copy of the citation shall be provided regardless of whether a paper uniform traffic citation
21 or an electronic version of a uniform traffic citation was used. (66-8-128 NMSA 1978)

22 **Section 4. Section 12-12-11 of the City of Santa Fe Uniform Traffic Ordinance**
23 **(being Ord. #2006-34) is amended to read:**

24 **12-12-11 ABSTRACT OF TRAFFIC CASES--REPORT ON CONVICTIONS.**

25 A. Every municipal judge shall keep a record of every traffic complaint, uniform traffic

1 citation and other form of traffic charge filed in the judge's court or its traffic violations bureau and
2 every official action and disposition of the charge by that court. The court shall notify the
3 Department if a defendant fails to appear on a charge of violating the Motor Vehicle Code or other
4 law or ordinance relating to motor vehicles.

5 B. Within ten days of the later of entry of ~~[judgment and sentence or failure to appear on~~
6 ~~a charge of violating]~~ a final disposition on a conviction for violation of this ordinance or other law or
7 ordinance relating to motor vehicles or the final decision of any higher court that reviews the matter
8 and from which no appeal or review is successfully taken, every municipal judge, including children's
9 court judges, or the clerk of the court in which the entry of ~~[judgment and sentence or failure to~~
10 ~~appear]~~ the final disposition occurred shall prepare and forward to the department an abstract of the
11 record containing the name and address of the defendant; the specific section number and common
12 name of the provision of the local law, ordinance or regulation under which the defendant was tried;
13 the plea, finding of the court and disposition of the charge, including fine or jail sentence or both;
14 ~~[forfeiture of bail or dismissal of the charge]~~ total costs assessed to the defendant; the date of the
15 hearing; the court's name and address; whether defendant was a first or subsequent offender; and
16 whether the defendant was represented by counsel or waived his right to counsel and, if represented,
17 the name and address of counsel.

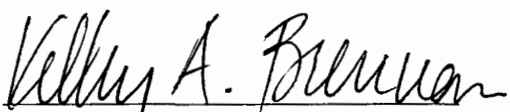
18 C. The abstract of record prepared and forwarded under Subsection B of this section
19 shall be certified as correct by the person required to prepare it. With the prior approval of the
20 department, the information required in Subsection B of this Section may be transmitted
21 electronically to the department. Report need not be made of any disposition of a charge of illegal
22 parking or standing of a vehicle except when the uniform traffic citation is used.

23 D. When the uniform traffic citation is used, the court shall provide the information
24 required in Subsection B of this Section in the manner prescribed by the director. A copy of each
25 penalty assessment processed shall be forwarded to the division within ten (10) days of completion of

1 local processing for posting to the driver's record. With the prior approval of the director, the
2 required information may be submitted to the division by electronic means in lieu of forwarding
3 copies of the penalty assessments.

4 E. The willful failure or refusal of any judicial officer to comply with this section is
5 misconduct in office and grounds for removal. (66-8-135 NMSA 1978)

6 APPROVED AS TO FORM:

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9 KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

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