



# State of New Mexico

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Susana Martinez  
*Governor*

April 8, 2011

## SENATE EXECUTIVE MESSAGE NO. 49

The Honorable Timothy Z. Jennings, President Pro Tempore  
And Members of the New Mexico State Senate  
State Capitol Building  
Santa Fe, New Mexico 87501

Dear President Pro Tempore Jennings and Members of the Senate:

Pursuant to the Constitution of the State of New Mexico, Article IV, Section 22, I hereby VETO and am returning SENATE BILL 124, enacted by the Fiftieth Legislature, First Session, 2011

This bill prohibits motorists from passing a bicycle when there is less than five feet of space between the vehicle and the bicycle.

Current law already provides penalties for careless driving. NMSA § 66-8-114(B) states that, "Any person who operates a vehicle in a careless, inattentive or imprudent manner, without due regard for the width, grade, curves, corners, traffic, weather and road conditions and all other attendant circumstances is guilty of a misdemeanor." I feel existing law already addresses the criminality of endangering cyclists in our state.

Respectfully yours,

Susana Martinez  
Governor

SENATE EXECUTIVE MESSAGE NO. 49  
The Honorable Timothy Z. Jennings  
April 8, 2011  
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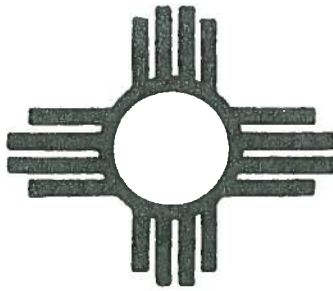
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Time: 8:44 a.m. p.m.  
Date: April 8 2011

By Billy Ne  
Secretary of State

Time: \_\_\_\_\_ a.m. p.m.  
Date: \_\_\_\_\_ 2011

By \_\_\_\_\_  
Chief Clerk of the Senate



The Legislature  
of the  
State of New Mexico

50th Legislature, 1st Session

LAWS 2011

CHAPTER \_\_\_\_\_

SENATE BILL 124

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Introduced by

SENATOR PETER WIRTH

**VETOED**



1 AN ACT

2 RELATING TO MOTOR VEHICLES; PROVIDING THAT A MOTORIST MUST  
3 PASS A BICYCLIST WITH AT LEAST A FIVE-FOOT DISTANCE;  
4 ESTABLISHING A PENALTY ASSESSMENT MISDEMEANOR.

5  
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 SECTION 1. A new Section 66-7-374 NMSA 1978 is enacted  
8 to read:

9 "66-7-374. APPROACHING OR PASSING BICYCLIST.--A driver  
10 of a motor vehicle shall proceed with caution when  
11 approaching or passing a person on a bicycle and shall pass  
12 the bicyclist at a reasonable speed and keep a safe distance  
13 from the bicyclist; provided that in no event shall a  
14 distance of less than five feet be considered a safe distance  
15 within the meaning of this section, and provided further that  
16 the motorist shall not pass the bicyclist if the requirements  
17 of this section cause the motorist to cross the center line  
18 of the road when there is a vehicle approaching in the  
19 opposite direction, but a motorist may cross the center line,  
20 notwithstanding the provisions of Section 66-7-315 NMSA 1978,  
21 if allowing the requisite five feet requires the motorist to  
22 cross the center line and there is no oncoming traffic."

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

25 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--

1 DEFINITION--SCHEDULE OF ASSESSMENTS.--

2 A. As used in the Motor Vehicle Code, "penalty  
3 assessment misdemeanor" means violation of any of the  
4 following listed sections of the NMSA 1978 for which, except  
5 as provided in Subsections D and E of this section, the  
6 listed penalty assessment is established:

7 COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY
8		ASSESSMENT
9 Permitting unlicensed		
10 minor to drive	66-5-40	\$ 10.00
11 Failure to obey sign	66-7-104	10.00
12 Failure to obey signal	66-7-105	10.00
13 Speeding	66-7-301	
14 (1) up to and including		
15 ten miles an hour		
16 over the speed limit		15.00
17 (2) from eleven up to		
18 and including fifteen		
19 miles an hour		
20 over the speed limit		30.00
21 (3) from sixteen up to		
22 and including twenty		
23 miles an hour over the		
24 speed limit		65.00
25 (4) from twenty-one up to		

1	and including twenty-five		
2	miles an hour		
3	over the speed limit		100.00
4	(5) from twenty-six up to		
5	and including thirty		
6	miles an hour over the		
7	speed limit		125.00
8	(6) from thirty-one up to		
9	and including thirty-five		
10	miles an hour over the		
11	speed limit		150.00
12	(7) more than thirty-five		
13	miles an hour over the		
14	speed limit		200.00
15	Unfastened safety belt	66-7-372	25.00
16	Child not in restraint device		
17	or seat belt	66-7-369	25.00
18	Minimum speed	66-7-305	10.00
19	Speeding	66-7-306	15.00
20	Improper starting	66-7-324	10.00
21	Improper backing	66-7-354	10.00
22	Improper lane	66-7-308	10.00
23	Improper lane	66-7-313	10.00
24	Improper lane	66-7-316	10.00
25	Improper lane	66-7-317	10.00

1	Improper lane	66-7-319	10.00
2	Improper passing	66-7-309 through 66-7-312	10.00
3	Improper passing	66-7-315	10.00
4	Controlled access		
5	violation	66-7-320	10.00
6	Controlled access		
7	violation	66-7-321	10.00
8	Improper turning	66-7-322	10.00
9	Improper turning	66-7-323	10.00
10	Improper turning	66-7-325	10.00
11	Following too closely	66-7-318	10.00
12	Failure to yield	66-7-328 through 66-7-331	10.00
13	Failure to yield	66-7-332	50.00
14	Failure to yield	66-7-332.1	25.00
15	Pedestrian violation	66-7-333	10.00
16	Pedestrian violation	66-7-340	10.00
17	Failure to stop	66-7-342 and 66-7-344	
18		through 66-7-346	10.00
19	Railroad-highway grade		
20	crossing violation	66-7-341 and 66-7-343	150.00
21	Passing school bus	66-7-347	100.00
22	Approaching or passing	66-7-374	25.00
23	bicyclist		
24	Failure to signal	66-7-325 through 66-7-327	10.00
25	Failure to secure load	66-7-407	100.00





1 misdemeanor elects to accept a notice to appear in lieu of a  
2 notice of penalty assessment, a fine imposed upon later  
3 conviction shall not exceed the penalty assessment  
4 established for the particular penalty assessment misdemeanor  
5 and probation imposed upon a suspended or deferred sentence  
6 shall not exceed ninety days.

7 D. The penalty assessment for speeding in violation  
8 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA  
9 1978 is twice the penalty assessment established in  
10 Subsection A of this section for the equivalent miles per  
11 hour over the speed limit.

12 E. Upon a second conviction for operation without a  
13 permit for excessive size or weight pursuant to Section  
14 66-7-413 NMSA 1978, the penalty assessment shall be two  
15 hundred fifty dollars (\$250). Upon a third or subsequent  
16 conviction, the penalty assessment shall be five hundred  
17 dollars (\$500)."

18 SECTION 3. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2011. \_\_\_\_\_

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s/John A. Sanchez  
John A. Sanchez, President  
Senate

s/Lenore M. Naranjo  
Lenore M. Naranjo, Chief Clerk  
Senate

s/Ben Lujan  
Ben Lujan, Speaker  
House of Representatives

s/Stephen R. Arias  
Stephen R. Arias, Chief Clerk  
House of Representatives

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2011

s/Governor Susana Martinez  
Governor Susana Martinez  
State of New Mexico