# TITLE 9 VEHICLE CODE

**LIST OF SECTIONS AFFECTED (WITH DATES)**
**SEPT. 1, 2007 – DEC. 31, 2010**
standard type: amended section; **bold** type: new or reenacted section;
~~strikeout~~ type: repealed section; underlined type: renumbered section; *italics* type: corrected section

| Title | § | PL/LL & Section # | | Eff'v Date |
|---|---|---|---|---|
| 9 CMC | 2201 | PL 16-1 | 2 | 5/2/08 |
| | *2419(c)(3) correction* | | | 12/31/09 |

# DIVISION 1: GENERAL PROVISIONS

## CHAPTER 1. SHORT TITLE, DEFINITIONS AND RULES OF CONSTRUCTION.

### § 1101. Short Title.

**Case Annotations:** *Commonwealth v. Babauta*, 2001 MP 10, 6 N.M.I. 283 (2001); *Commonwealth v. Abuy*,2001 MP 9, 6 N.M.I. 276 (2001).

## CHAPTER 3. PARTIES AND PROCEDURE UPON ARREST.

### § 1303. When Officer Has Option to Take Person Before a Judge.

**Case Annotations:** *Commonwealth v. Jai Hoon Yao*, 2004 MP 5, 7 N.M.I. 30 (2004).

### § 1304. Written Traffic Citation; Discretion of Officer to Give Warning.

**Case Annotations:** *Commonwealth v. Jai Hoon Yao*, 2004 MP 5, 7 N.M.I. 30 (2004).

# DIVISION 2: REGISTRATION AND LICENSES

## CHAPTER 1. REGISTRATION OF VEHICLES.

### § 2105. Registration: Cards.

**Case Annotations:** *Commonwealth v. Yao*, 2007 MP 12, 7 N.M.I. 454 (2007).

## CHAPTER 2. OPERATOR'S LICENSES.

### Article 1. General Provisions.

### § 2201. Operator's License.

(a) No person, other than those expressly exempted in this division, shall operate any motor vehicle upon a highway in the Commonwealth unless that person has been licensed as an operator under this division.

(b) A fee of fifteen dollars shall be paid to the Director of the Department of Finance for each operator's license issued. A fee of five dollars shall be paid to the Director of the Department of Finance for each duplicate or substitute license issued.

(c) No person shall operate any motor vehicle upon a highway in the Commonwealth without having on his person or in his immediate possession a valid license issued by the Bureau or a valid operator's license from outside the Commonwealth, provided there is compliance with 9 CMC § 2202.

(d) A violation of subsection (a) of this section shall be punishable by not more than six months imprisonment, or a fine of not more than five hundred dollars or both.

(e) A violation of subsection (c) of this section shall be a civil infraction punishable by a fine of not more than fifty dollars for the first offense and not more than one hundred dollars for any second or subsequent offense. Any person assessed a civil fine under this subsection may, in lieu of appearing in court, pay the fine to the Clerk of Court prior to the court appearance date.

**Source:** . . . PL 16-1, § 2, modified.

**Commission Comment:** . . . The commission modified this section pursuant to 1 CMC § 3806(e) by removing numbers that repeated words. PL 16-1, enacted on May 2, 2008, contained severability and savings clause provisions and the following:

Section 1. Findings and Purpose. The Commonwealth Legislature finds that violation of 9 CMC § 2201(c) should be a civil offense rather than a misdemeanor due to the nature of the offense, the lack of a victim, and the current cost to the court system in appointing attorneys to represent persons charged under the section.

**Case Annotations:** *Commonwealth v. Castro*, 2002 MP 13, 6 N.M.I. 434 (2002); *Commonwealth v. Martinez*, 2000 MP 5, 6 N.M.I. 85 (2000).

**Article 4. Mandatory Driver's Education.**

**§ 2419. Records.**
(a)-(b) [unchanged]
(c) All driver education programs shall maintain for a minimum of five years records of:
(1)-(2) [unchanged]
(3) Originals of all correspondence and documentation to and from the approving authority.
(d)-(f) [unchanged]

**Source:** PL 15-25, § 2(2409), modified.

**Commission Comment:** The commission changed the original references in subsection (e) to the proper section numbers [changed "Sections 2407 and 2408" to "Sections 2417 and 2418"] and changed "documentations" to "documentation" in subsection (c)(3) pursuant to 1 CMC 3806(c) and (g).

# DIVISION 4: EQUIPMENT OF VEHICLES

## CHAPTER 1. EQUIPMENT OF VEHICLES.

**§ 4101. Vehicle Lights.**

**Case Annotations:** *Commonwealth v. Castro*, 2002 MP 13, 6 N.M.I. 434 (2002).

**§ 4104. Brakes.**

**Case Annotations:** *Commonwealth v. Castro*, 2002 MP 13, 6 N.M.I. 434 (2002).

# DIVISION 5: RULES OF THE ROAD

## CHAPTER 1. OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS.

**§ 5103. Enforcement.**

**Case Annotations:**

**MOTOR VEHICLES**

– **Generally**
No strict liability offense is defined by 9 CMC § 5103, instead this section imposes a duty to operate a vehicle with reasonable safety and failure to conform to the requisite standard of care violates the statute and subjects one to the penalty provided. 9 CMC § 5103. *Commonwealth v. Abuy*, 2001 MP 8 ¶ 16, 6 N.M.I. 271, 275 (2001).

## CHAPTER 2. TRAFFIC SIGNS, SIGNALS AND MARKINGS; SPEED RESTRICTIONS.

### Article 2. Speed Restrictions.

#### § 5251. Speed Limits.

**Case Annotations:** *Commonwealth v. Babauta*, 2001 MP 10, 6 N.M.I. 283 (2001).

## CHAPTER 3. DRIVING ON RIGHT SIDE; OVERTAKING AND PASSING; USE OF HIGHWAY; RIGHT OF WAY.

### Article 1. Driving on Right Side; Overtaking and Passing; Use of Highway.

#### § 5301. Drive on Right Side of Highway: Exceptions.

**Case Annotations:** *Commonwealth v. Yao*, 2007 MP 12, 7 N.M.I. 454 (2007).

### Article 2. Right of Way.

#### § 5351. Right of Way.

**Case Annotations:** . . .

**CRIMINAL PROCEDURE**

**Indictment and Information**

– **Specificity**
The relevant inquiry in determining which subsection of 9 CMC § 5351 should have been included in the indictment does not revolve around whether the defendants conduct fell within the catchall subsection of 9 CMC § 5351(d) or fell under other subsections. The relevant inquiry is whether the defendant received adequate notice of the charge against him. 9 CMC § 5351; 9 CMC § 5351(d). *Commonwealth v. Martinez*, 2000 MP 5 ¶ 19, 6 N.M.I. 85, 90 (2000).

Each subsection of 9 CMC § 5351 provides a different description of how a driver can fail to yield. It is clear that a charge under this section places a defendant on notice that he is being charged with failure to yield the right of way, regardless of the specific subsection violated. Consequently, the same evidence is used to prove or defend against a conviction under any subsection. In preparing a defense to the charge of violating subsection (d), a defendant necessarily prepares a defense to

subsections (a) through (c) because the issue is ultimately the same for each subsection: whether the defendant failed to yield the right of way to another car. 9 CMC § 5351(a)-(d). *Commonwealth v. Martinez*, 2000 MP 5 ¶ 20, 6 N.M.I. 85, 90-91 (2000).

## CHAPTER 4. PEDESTRIANS' RIGHTS AND DUTIES.

### § 5408. Operators to Exercise Due Care.

**Case Annotations:** *Commonwealth v. Jai Hoon Yao*, 2004 MP 5, 7 N.M.I. 30 (2004).

## CHAPTER 5. TURNING AND STARTING; SIGNALS ON STOPPING AND TURNING.

### § 5503. Starting Parked Vehicles or Backing.

**Case Annotations:**

**CRIMINAL LAW**

**Motor Vehicle Traffic Offenses, Generally**
The words unless and until the movement can be made with reasonable safety, contained in 9 CMC § 5503, provide the required mental state, similar to the civil standard of negligence. A violation of Section 5503 is predicated upon a reasonableness standard. 9 CMC § 5503. *Commonwealth v. Abuy*, 2001 MP 8 ¶ 14, 6 N.M.I. 271, 275 (2001).

**MOTOR VEHICLES**

**Generally**
Section 5503 of Title 9 of the Commonwealth Code requires the exercise of reasonable care when not only backing a vehicle but also when starting any stopped, standing or parked vehicle. 9 CMC § 5503. *Commonwealth v. Abuy*, 2001 MP 8 ¶ 20, 6 N.M.I. 271, 276 (2001).

## CHAPTER 5. OPEN CONTAINER ACT.

### § 5851. Short Title.

**Case Annotations:** *Commonwealth v. Saburo*, 2002 MP 3, 6 N.M.I. 355 (2002).

# DIVISION 7: SERIOUS TRAFFIC OFFENSES AND PENALTIES

## CHAPTER 1. SERIOUS TRAFFIC OFFENSES AND PENALTIES.

### § 7104. Reckless Driving.

**Case Annotations:** *Commonwealth v. Li*, 2007 MP 21, 7 N.M.I. 494 (2007); *Commonwealth v. Yao*, 2007 MP 12, 7 N.M.I. 454 (2007); *Commonwealth v. Blas*, 2004 MP 26, 7 N.M.I. 118 (2004).

### § 7105. Driving While Under the Influence of Alcohol or Drugs.

**Case Annotations:** *Commonwealth v. Andrew*, 2007 MP 25, 7 N.M.I. 515 (2007); *Commonwealth v. Yao*, 2007 MP 12, 7 N.M.I. 454 (2007); *Commonwealth v. Blas*, 2004 MP 26, 7 N.M.I. 118 (2004); *Commonwealth v. Saburo*, 2002 MP 3, 6 N.M.I. 355 (2002); *Commonwealth v. Scragg*, 2000 MP 4, 6 N.M.I. 80 (2000).

**CRIMINAL LAW**

**Driving Under Influence of Alcohol or Other Drug**
No one may drive while under the influence of alcohol or other drugs. 9 CMC § 7105. *Commonwealth v. Martinez*, 2000 MP 5 ¶ 22, 6 N.M.I. 85, 91 (2000).

### § 7106. Implied Consent of Operator to Submit to Test.

**Case Annotations:** *Commonwealth v. Andrew*, 2007 MP 25, 7 N.M.I. 515 (2007); *Commonwealth v. Yao*, 2007 MP 12, 7 N.M.I. 454 (2007).

**CRIMINAL LAW**

**Driving Under Influence of Alcohol or Other Drug**
The driver of a motor vehicle impliedly consents to a breath test for alcohol or drugs. 9 CMC § 7106(a). *Commonwealth v. Martinez*, 2000 MP 5 ¶ 22, 6 N.M.I. 85, 91 (2000).

If a driver refuses to submit to a breath test, his license will be revoked for six months. 9 CMC § 7106(c). *Commonwealth v. Martinez*, 2000 MP 5 ¶ 22, 6 N.M.I. 85, 91 (2000).

– **Intoxication Testing**
Pursuant to 9 CMC § 7106(a) & (c), a person who operates a motor vehicle on the highways in the CNMI is deemed to have given his or her consent to submit to intoxication testing, and he or she only has the power to revoke his or her implied consent 9 CMC § 7106(a); 9 CMC § 7106 (c). *Commonwealth v. Suda*, 1999 MP 17 ¶ 9, 6 N.M.I. 24, 27 (1999).

– **Particular Cases**

Subsection 7106(a) of Title 9 of the Commonwealth Code allows an officer to request a test of a person's breath if the officer has reasonable grounds for believing that the person was driving while under the influence of alcohol. Reasonable grounds are established where a reasonable person in the position of the officer viewing the facts and circumstances as they appeared at trial could have concluded that the motorist had operated the vehicle while under the influence of alcohol. 9 CMC § 7106(a). *Commonwealth v. Scragg*, 2000 MP 4 ¶ 25, 6 N.M.I. 80, 85 (2000).

Subsection 7106(a) of Title 9 of the Commonwealth Code allows an officer to request a test of a person's breath if the officer has reasonable grounds for believing that the person was driving while under the influence of alcohol. For reasonable grounds to exist, the police officer need not be correct in his belief that the motorist had been driving while under the influence. 9 CMC § 7106(a). *Commonwealth v. Scragg*, 2000 MP 4 ¶ 25, 6 N.M.I. 80, 85 (2000).

## § 7107. Chemical and Other Tests.

**Case Annotations:** *Commonwealth v. Andrew*, 2007 MP 25, 7 N.M.I. 515 (2007).

## § 7109. Penalties for Driving Under the Influence of Drugs or Alcohol.

**Case Annotations:** *Commonwealth v. Blas*, 2004 MP 26, 7 N.M.I. 118 (2004).

## § 7110. Homicide by Vehicle.

**Case Annotations:** *Commonwealth v. Blas*, 2004 MP 26, 7 N.M.I. 118 (2004).