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SENATE BILL 143

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING CASH OR COLLATERAL TO BE DEPOSITED BY CERTAIN UNINSURED MOTORISTS INVOLVED IN ACCIDENTS; PROVIDING THAT THE CASH OR COLLATERAL BE HELD IN ESCROW FOR THE BENEFIT OF PERSONS SUFFERING DAMAGES IN THE ACCIDENT.

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

Section 1. Section 66-5-205.1 NMSA 1978 (being Laws 1989, Chapter 214, Section 1, as amended) is amended to read:

"66-5-205.1. UNINSURED MOTORIST CITATION--REQUIREMENTS TO BE FOLLOWED AT TIME OF ACCIDENT--SUBSEQUENT PROCEDURES--INSURER NOTIFICATION REQUIREMENTS--SUSPENSION PROCEDURES.--

A. When a law enforcement officer issues a driver who is involved in an accident a citation for failure to comply with the provisions of the Mandatory Financial Responsibility Act, the law enforcement officer shall at the same time:

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1 (1) issue to the driver cited a temporary  
2 operation sticker, valid for thirty days after the date the  
3 sticker is issued, and forward by mail or delivery to the  
4 department a duplicate of the issued sticker; and

5 (2) remove the license plate from the vehicle  
6 and send it with the duplicate of the sticker to the  
7 department or, if it cannot be removed, permanently deface the  
8 plate.

9 B. The department shall return or replace, in its  
10 discretion, a license plate removed under the provisions of  
11 Paragraph (2) of Subsection A of this section or replace a  
12 license plate defaced under that paragraph ~~when~~ pursuant to  
13 the following criteria:

14 (1) if the [person] driver cited for failure  
15 to comply with the provisions of the Mandatory Financial  
16 Responsibility Act was not, at the same time, issued a citation  
17 for a moving traffic violation, then the department shall  
18 return or replace the license plate when the person furnishes  
19 proof of compliance to the department and pays to the division  
20 a reinstatement fee of twenty-five dollars (\$25.00);

21 (2) if a [person] driver to whom the temporary  
22 operation sticker is issued furnishes to the department, within  
23 fifteen days after the issuance of the sticker, evidence of  
24 financial responsibility in compliance with the Mandatory  
25 Financial Responsibility Act and in effect on the date and at

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1 the time of the issuance of the sticker, the department shall  
2 replace or return the license plate and waive the twenty-five  
3 dollar (\$25.00) reinstatement fee; and

4 (3) if the driver cited for failure to comply  
5 with the provisions of the Mandatory Financial Responsibility  
6 Act was, at the same time, issued a citation for a moving  
7 traffic violation, then the department shall return or replace  
8 the license plate when the driver:

9 (a) furnishes proof of compliance with the  
10 Mandatory Financial Responsibility Act and pays to the division  
11 a reinstatement fee of twenty-five dollars (25.00); and

12 (b) deposits cash or collateral with the  
13 department in the amount of five hundred dollars (\$500) to  
14 ensure restitution to persons who suffered property damage or  
15 bodily injury as a result of the accident.

16 C. The secretary shall adopt and promulgate rules  
17 prescribing the form and use of the sticker required to be  
18 issued under Subsection A of this section.

19 D. Cash or collateral deposited with the department  
20 pursuant to Paragraph (3) of Subsection B of this section shall  
21 be held in escrow by the department to satisfy a civil judgment  
22 against the driver in favor of persons who suffered property  
23 damage or bodily injury as a result of the accident in which  
24 the driver depositing the cash or collateral was involved. The  
25 cash or collateral shall be:

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1                   (1) distributed pursuant to a court order in a  
2 civil action between a person allegedly harmed in the accident  
3 and the driver who deposited the cash or collateral;

4                   (2) returned to the driver who deposited the  
5 cash or collateral if the driver is not found guilty of  
6 violating both the Mandatory Financial Responsibility Act and  
7 the moving traffic violation alleged in the other citation; or

8                   (3) returned to the driver who deposited the  
9 cash or collateral upon a petition by the driver showing that  
10 the time for filing a civil action for injuries or damages  
11 suffered in the accident has expired.

12                   ~~[D.]~~ E. The secretary shall adopt and promulgate  
13 rules requiring insurance carriers to report canceled,  
14 terminated and newly issued motor vehicle insurance policies  
15 each month to the department. Information pertaining to each  
16 motor vehicle shall be made a part of that vehicle file for one  
17 year.

18                   ~~[E.]~~ F. Within ten days of notification by the  
19 insurance carrier of a termination or cancellation of a motor  
20 vehicle insurance policy, the department shall demand  
21 satisfactory evidence from the owner of the motor vehicle that  
22 he meets the requirements of the Mandatory Financial  
23 Responsibility Act. Failure to provide evidence of financial  
24 responsibility within twenty days after the department has  
25 mailed its demand for proof:

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1 (1) constitutes reasonable grounds to believe  
2 that a person is operating a motor vehicle in violation of the  
3 provisions of Section 66-5-205 NMSA 1978; and

4 (2) requires the department to suspend the  
5 person's registration as provided in Section 66-5-236 NMSA  
6 1978.

7 [~~F.~~] G. The department shall notify the  
8 superintendent of insurance if an insurance carrier fails to  
9 provide monthly reports to the department regarding motor  
10 vehicle insurance policy information as required by Subsection  
11 [~~D.~~] E of this section. "

12 Section 2. EFFECTIVE DATE. --The effective date of the  
13 provisions of this act is July 1, 2004.

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