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HOUSE BILL 29

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO MOTOR VEHICLES; ESTABLISHING PENALTY ASSESSMENTS  
AND FEES FOR VIOLATION OF PROVISIONS OF THE MANDATORY FINANCIAL  
RESPONSIBILITY ACT; CLARIFYING PROCEDURES FOLLOWING THE  
ISSUANCE OF A CITATION FOR VIOLATION OF THE MANDATORY FINANCIAL  
RESPONSIBILITY ACT; ALLOWING LAW ENFORCEMENT OFFICERS TO VERIFY  
FINANCIAL RESPONSIBILITY BY CHECKING COMPUTER DATABASES; MAKING  
AN APPROPRIATION.

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

Section 1. Section 66-5-33.1 NMSA 1978 (being Laws 1985,  
Chapter 47, Section 1, as amended) is amended to read:

"66-5-33.1. REINSTATEMENT OF DRIVER'S LICENSE OR  
REGISTRATION--FEE.--

A. Whenever a driver's license or registration is  
suspended or revoked and an application has been made for its

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1 reinstatement, compliance with all appropriate provisions of  
2 the Motor Vehicle Code and the payment of a fee of twenty-five  
3 dollars (\$25.00) is a prerequisite to the reinstatement of any  
4 license or registration.

5 B. If a driver's license was suspended or revoked  
6 for driving while under the influence of intoxicating liquor or  
7 drugs, for aggravated driving while under the influence of  
8 intoxicating liquor or drugs or for a violation of the Implied  
9 Consent Act, an additional fee of seventy-five dollars (\$75.00)  
10 is required to be paid to reinstate the driver's license. Fees  
11 collected pursuant to this subsection are appropriated to the  
12 local governments road fund. The department shall maintain an  
13 accounting of the fees collected pursuant to this subsection  
14 and shall report that amount upon request to the legislature.

15 C. If the registration for a vehicle was suspended  
16 for failure to comply with the requirements of the Mandatory  
17 Financial Responsibility Act, an additional fee of seventy-five  
18 dollars (\$75.00) is required to be paid to reinstate the  
19 vehicle registration. Fees collected pursuant to this  
20 subsection are appropriated to the motor vehicle division of  
21 the department for the purpose of enforcing the Mandatory  
22 Financial Responsibility Act. The department shall maintain an  
23 accounting of the fees collected pursuant to this subsection  
24 and shall report that amount upon request to the legislature."

25 Section 2. Section 66-5-205 NMSA 1978 (being Laws 1983,

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1 Chapter 318, Section 6, as amended) is amended to read:

2 "66-5-205. VEHICLE MUST BE INSURED OR OWNER MUST HAVE  
3 EVIDENCE OF FINANCIAL RESPONSIBILITY--PENALTIES.--

4 A. No owner shall permit the operation of an  
5 uninsured motor vehicle, or a motor vehicle for which evidence  
6 of financial responsibility as was affirmed to the department  
7 is not currently valid, upon the streets or highways of New  
8 Mexico unless the vehicle is specifically exempted from the  
9 provisions of the Mandatory Financial Responsibility Act.

10 B. No person shall drive an uninsured motor  
11 vehicle, or a motor vehicle for which evidence of financial  
12 responsibility as was affirmed to the department is not  
13 currently valid, upon the streets or highways of New Mexico  
14 unless ~~[he]~~ the person is specifically exempted from the  
15 provisions of the Mandatory Financial Responsibility Act.

16 C. For the purposes of the Mandatory Financial  
17 Responsibility Act, "uninsured motor vehicle" means a motor  
18 vehicle for which there is not in effect either:

19 (1) a motor vehicle insurance policy meeting  
20 the requirements of the laws of New Mexico and of the secretary  
21 ~~[is not in effect]~~; or

22 (2) a surety bond or evidence of a sufficient  
23 cash deposit with the state treasurer.

24 D. The provisions of the Mandatory Financial  
25 Responsibility Act requiring the deposit of evidence of

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1 financial responsibility as provided in Section 66-5-218 NMSA  
2 1978, subject to certain exemptions, may apply with respect to  
3 persons who have been convicted of or forfeited bail for  
4 certain offenses under motor vehicle laws or who have failed to  
5 pay judgments or written settlement agreements upon causes of  
6 action arising out of ownership, maintenance or use of vehicles  
7 of a type subject to registration under the laws of New Mexico.

8 E. Any person who violates the provisions of this  
9 section [~~is guilty of a misdemeanor and upon conviction shall~~  
10 ~~be sentenced to a fine not to exceed three hundred dollars~~  
11 ~~(\$300)] commits a penalty assessment misdemeanor for which the  
12 penalty assessment is provided in Section 66-8-116 NMSA 1978."~~

13 Section 3. Section 66-5-205.1 NMSA 1978 (being Laws 1989,  
14 Chapter 214, Section 1, as amended) is amended to read:

15 "66-5-205.1. UNINSURED MOTORIST CITATION--REQUIREMENTS TO  
16 BE FOLLOWED AT TIME OF [~~ACCIDENT~~] CITATION--SUBSEQUENT  
17 PROCEDURES--INSURER NOTIFICATION REQUIREMENTS--SUSPENSION  
18 PROCEDURES.--

19 A. When a law enforcement officer issues to a  
20 driver [~~who is involved in an accident~~] a citation for failure  
21 to comply with the provisions of the Mandatory Financial  
22 Responsibility Act, the law enforcement officer [~~shall~~] may at  
23 the same time:

24 (1) issue to the driver cited a temporary  
25 operation sticker that indicates the motor vehicle is in

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1 violation of the Mandatory Financial Responsibility Act, valid  
2 for thirty days after the date the sticker is issued, and  
3 forward by mail or delivery to the department a duplicate of  
4 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 issuance of a temporary operation sticker to  
10 a driver by a law enforcement officer pursuant to Paragraph (1)  
11 of Subsection A of this section shall not create any liability  
12 on the part of the officer or the department for damages  
13 arising from the future operation of the vehicle.

14 ~~[B.]~~ C. The department shall return or replace, in  
15 its discretion, a license plate removed under the provisions of  
16 Paragraph (2) of Subsection A of this section or replace a  
17 license plate defaced under that paragraph when the person  
18 cited for failure to comply with the provisions of the  
19 Mandatory Financial Responsibility Act furnishes proof of  
20 compliance to the department and pays to the division a  
21 reinstatement fee of [~~twenty-five dollars (\$25.00)~~] one hundred  
22 dollars (\$100). If a person to whom the temporary operation  
23 sticker is issued furnishes to the department, within fifteen  
24 days after the issuance of the sticker, evidence of financial  
25 responsibility in compliance with the Mandatory Financial

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1 Responsibility Act and in effect on the date and at the time of  
2 the issuance of the sticker, the department shall replace or  
3 return the license plate and waive the [~~twenty-five-dollar~~  
4 ~~(\$25.00)~~] reinstatement fee.

5 [~~G.~~] D. The secretary shall adopt and promulgate  
6 rules prescribing the form and use of the sticker required to  
7 be issued under Subsection A of this section.

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

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

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

25 (2) requires the department to suspend the

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1 person's registration as provided in Section 66-5-236 NMSA  
2 1978.

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

8 Section 4. Section 66-5-229 NMSA 1978 (being Laws 1978,  
9 Chapter 35, Section 318, as amended) is amended to read:

10 "66-5-229. DURATION OF EVIDENCE--WHEN FILING OF EVIDENCE  
11 MAY BE WAIVED--PENALTY.--

12 A. The department shall, upon request, consent to the  
13 immediate cancellation of any bond or the department shall  
14 direct and the state treasurer shall return to the person  
15 entitled thereto any money deposited pursuant to the Mandatory  
16 Financial Responsibility Act as evidence of financial  
17 responsibility or the department shall waive the requirement of  
18 filing evidence of financial responsibility in any of the  
19 following events:

20 (1) after one year of providing satisfactory  
21 evidence as specified in Section 66-5-218 NMSA 1978;

22 (2) the death of the person on whose behalf  
23 evidence was filed or the permanent incapacity of the person to  
24 operate a motor vehicle; or

25 (3) the person who has filed evidence surrenders

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1     ~~[his]~~ the person's license and registration to the department.

2             B. ~~[Provided, however, that]~~ The department shall not  
3 consent to the cancellation of any bond or the return of any  
4 money or waive the requirement of filing evidence of financial  
5 responsibility in the event any action for damages upon a  
6 liability covered by the evidence is then pending or any  
7 judgment upon any such liability is then unsatisfied or in the  
8 event the person who has filed the bond or deposited the money  
9 has, within one year immediately preceding the request, been  
10 involved as a driver or owner in any motor vehicle accident  
11 resulting in injury or damage to the person or property of  
12 others. An affidavit of the applicant as to the nonexistence  
13 of such facts or that ~~[he]~~ the applicant has been released from  
14 all of ~~[his]~~ the applicant's liability or has been finally  
15 adjudicated not to be liable for such injury or damage shall be  
16 sufficient evidence thereof in the absence of evidence to the  
17 contrary in the records of the department.

18             C. Every owner or operator of a vehicle subject to  
19 the requirements of the Mandatory Financial Responsibility Act  
20 shall carry evidence of financial responsibility as defined by  
21 that act in the vehicle at all times while the vehicle is in  
22 operation on the highways of this state. The failure to comply  
23 with this subsection shall be a penalty assessment misdemeanor  
24 and shall be punishable ~~[by the penalty set forth in Section~~  
25 66-8-7] as provided in Section 66-8-116 NMSA 1978; provided

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1 that a law enforcement officer shall not charge a person with a  
2 violation of this section if the officer can verify the  
3 person's compliance with the Mandatory Financial Responsibility  
4 Act by checking a computer database of motor vehicle  
5 information immediately available to the officer; and provided  
6 further that no person charged with violating this section  
7 shall be convicted if [~~he~~] the person produces in court  
8 evidence of financial responsibility valid at the time of  
9 issuance of the citation."

10 Section 5. Section 66-8-116 NMSA 1978 (being Laws 1978,  
11 Chapter 35, Section 524, as amended) is amended to read:

12 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--  
13 DEFINITION--SCHEDULE OF ASSESSMENTS.--

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

19 COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY
		ASSESSMENT
21 Permitting unlicensed		
22 minor to drive	66-5-40	\$ 10.00
23 Failure to obey sign	66-7-104	10.00
24 Failure to obey signal	66-7-105	10.00
25 Speeding	66-7-301	

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

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1	speed limit		200.00
2	Unfastened safety belt	66-7-372	25.00
3	Child not in restraint device		
4	or seat belt	66-7-369	25.00
5	Minimum speed	66-7-305	10.00
6	Speeding	66-7-306	15.00
7	Improper starting	66-7-324	10.00
8	Improper backing	66-7-354	10.00
9	Improper lane	66-7-308	10.00
10	Improper lane	66-7-313	10.00
11	Improper lane	66-7-316	10.00
12	Improper lane	66-7-317	10.00
13	Improper lane	66-7-319	10.00
14	Improper passing	66-7-309 through 66-7-312	10.00
15	Improper passing	66-7-315	10.00
16	Controlled access		
17	violation	66-7-320	10.00
18	Controlled access		
19	violation	66-7-321	10.00
20	Improper turning	66-7-322	10.00
21	Improper turning	66-7-323	10.00
22	Improper turning	66-7-325	10.00
23	Following too closely	66-7-318	10.00
24	Failure to yield	66-7-328 through 66-7-331	10.00
25	Failure to yield	66-7-332	50.00

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1	Failure to yield	66-7-332.1	25.00
2	Pedestrian violation	66-7-333	10.00
3	Pedestrian violation	66-7-340	10.00
4	Failure to stop	66-7-342 and 66-7-344	
5		through 66-7-346	10.00
6	Railroad-highway grade		
7	crossing violation	66-7-341 and 66-7-343	10.00
8	Passing school bus	66-7-347	100.00
9	Failure to signal	66-7-325 through 66-7-327	10.00
10	Failure to secure load	66-7-407	100.00
11	Operation without oversize-		
12	overweight permit	66-7-413	50.00
13	Improper equipment	66-3-801	10.00
14	Improper equipment	66-3-901	20.00
15	Improper emergency		
16	signal	66-3-853 through 66-3-857	10.00
17	Operation interference	66-7-357	5.00
18	Littering	66-7-364	300.00
19	Improper parking	66-7-349 through 66-7-352	
20		and 66-7-353	5.00
21	Improper parking	66-3-852	5.00
22	Failure to dim lights	66-3-831	10.00
23	Riding in or towing		
24	occupied house trailer	66-7-366	5.00
25	Improper opening of doors	66-7-367	5.00

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1	No slow-moving vehicle		
2	emblem or flashing		
3	amber light	66-3-887	5.00
4	Open container - first		
5	violation	66-8-138	25.00
6	<u>Uninsured motor vehicle</u>	<u>66-5-205</u>	<u>75.00</u>
7	<u>No Evidence of financial</u>		
8	<u>responsibility</u>	<u>66-5-229</u>	<u>75.00.</u>

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

12 C. When an alleged violator of a penalty assessment  
13 misdemeanor elects to accept a notice to appear in lieu of a  
14 notice of penalty assessment, a fine imposed upon later  
15 conviction shall not exceed the penalty assessment established  
16 for the particular penalty assessment misdemeanor and probation  
17 imposed upon a suspended or deferred sentence shall not exceed  
18 ninety days; provided that a fine imposed upon later conviction  
19 for a violation of Section 66-5-205 or 66-5-229 NMSA 1978 shall  
20 not be less than the penalty assessment established in  
21 Subsection A of this section for that violation, nor shall the  
22 fine be suspended, deferred or taken under advisement.

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

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

8 Section 6. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2009.