

AN ACT  
RELATING TO MOTOR VEHICLES; CHANGING PROVISIONS ON MANDATORY  
FINANCIAL RESPONSIBILITY; AMENDING, REPEALING AND ENACTING  
SECTIONS OF THE NMSA 1978.

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

Section 1. Section 66-1-4.3 NMSA 1978 (being Laws  
1990, Chapter 120, Section 4) is amended to read:

"66-1-4.3. DEFINITIONS. --As used in the Motor Vehicle  
Code:

A. "camping body" means a vehicle body primarily  
designed or converted for use as temporary living quarters  
for recreational, camping or travel activities;

B. "camping trailer" means a camping body that  
exceeds neither eight feet in width nor forty feet in length,  
mounted on a chassis, or frame with wheels, designed to be  
drawn by another vehicle and that has collapsible partial  
side walls that fold for towing and unfold at the campsite;

C. "cancellation" means that a driver's license  
is annulled and terminated because of some error or defect or  
because the licensee is no longer entitled to the license,  
but cancellation of a license is without prejudice, and  
application for a new license may be made at any time after  
cancellation;

D. "casual sale" means the sale of a motor

vehicle by the registered owner of the vehicle if the owner has not sold more than four vehicles in that calendar year;

E. "chassis" means the complete motor vehicle, including standard factory equipment, exclusive of the body and cab;

F. "collector" means a person who is the owner of one or more vehicles of historic or special interest who collects, purchases, acquires, trades or disposes of these vehicles or parts thereof for the person's own use in order to preserve, restore and maintain a similar vehicle for hobby purposes;

G. "combination" means any connected assemblage of a motor vehicle and one or more semitrailers, trailers or semitrailers converted to trailers by means of a converter gear;

H. "combination gross vehicle weight" means the sum total of the gross vehicle weights of all units of a combination;

I. "commerce" means the transportation of persons, property or merchandise for hire, compensation, profit or in the furtherance of a commercial enterprise in this state or between New Mexico and a place outside New Mexico, including a place outside the United States;

J. "commercial motor vehicle" means a motor vehicle used in commerce:

(1) if the vehicle has a declared gross vehicle weight rating of twenty-six thousand one or more pounds;

(2) if the vehicle is designed to transport sixteen or more passengers, including the driver; or

(3) if the vehicle is transporting hazardous materials and is required to be placarded pursuant to applicable law;

K. "controlled-access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street or roadway except at those points only and in the manner as may be determined by the public authority having jurisdiction over the highway, street or roadway;

L. "controlled substance" means any substance defined in Section 30-31-2 NMSA 1978 as a controlled substance;

M "converter gear" means any assemblage of one or more axles with a fifth wheel mounted thereon, designed for use in a combination to support the front end of a semi trailer but not permanently attached thereto. A converter gear shall not be considered a vehicle, as that term is defined in Section 66-1-4.19 NMSA 1978, but weight attributable thereto shall be included in declared gross

weight;

N. "conviction" means the alleged violator has entered a plea of guilty or nolo contendere or has been found guilty in the trial court and has waived or exhausted all rights to an appeal;

O. "crosswalk" means:

(1) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; and

(2) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface; and

P. "curb cut" means a short ramp through a curb or built up to the curb. "

Section 2. Section 66-1-4.6 NMSA 1978 (being Laws 1990, Chapter 120, Section 7) is amended to read:

"66-1-4.6. DEFINITIONS. --As used in the Motor Vehicle Code:

A. "farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

B. "financial responsibility" means the ability to respond in damages for liability resulting from traffic

accidents arising out of the ownership, maintenance or use of a motor vehicle of a type subject to registration under the laws of New Mexico, in amounts not less than specified in the Mandatory Financial Responsibility Act or having in effect a motor vehicle insurance policy. "Financial responsibility" includes a motor vehicle insurance policy, a surety bond or evidence of a sufficient cash deposit with the state treasurer;

C. "first offender" means a person who for the first time under state or federal law or municipal ordinance has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor or any other drug that renders the person incapable of safely driving a motor vehicle, regardless of whether the person's sentence was suspended or deferred;

D. "flammable liquid" means any liquid that has a flash point of seventy degrees fahrenheit or less, as determined by a tagliabue or equivalent closed-cup test device;

E. "foreign jurisdiction" means any jurisdiction other than a state of the United States or the District of Columbia;

F. "foreign vehicle" means every vehicle of a type required to be registered under the provisions of the Motor Vehicle Code brought into this state from another

state, territory or country; and

G. "freight trailer" means any trailer, semitrailer or pole trailer drawn by a truck tractor or road tractor, and any trailer, semitrailer or pole trailer drawn by a truck that has a gross vehicle weight of more than twenty-six thousand pounds, but "freight trailer" does not include manufactured homes, trailers of less than one-ton carrying capacity used to transport animals or fertilizer trailers of less than three thousand five hundred pounds empty weight. "

Section 3. Section 66-1-4.11 NMSA 1978 (being Laws 1990, Chapter 120, Section 12) is amended to read:

"66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "mail" means any item properly addressed with postage prepaid delivered by the United States postal service or any other public or private enterprise primarily engaged in the transport and delivery of letters, packages and other parcels;

B. "manufactured home" means a movable or portable housing structure that exceeds either a width of eight feet or a length of forty feet, constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy;

C. "manufacturer" means every person engaged in

the business of constructing or assembling vehicles of a type required to be registered under the Motor Vehicle Code;

D. "manufacturer's certificate of origin" means a certification, on a form supplied by or approved by the department, signed by the manufacturer that the new vehicle described therein has been transferred to the New Mexico dealer or distributor named therein or to a dealer duly licensed or recognized as such in another state, territory or possession of the United States and that such transfer is the first transfer of the vehicle in ordinary trade and commerce; every such certificate shall contain space for proper reassignment to a New Mexico dealer or to a dealer duly licensed or recognized as such in another state, territory or possession of the United States, and the certificate shall contain a description of the vehicle, the number of cylinders, type of body, engine number and the serial number or other standard identification number provided by the manufacturer of the vehicle;

E. "metal tire" means every tire of which the surface in contact with the highway is wholly or partly of metal or other hard nonresilient material, except that a snow tire with metal studs designed to increase traction on ice or snow is not considered a metal tire;

F. "moped" means a two-wheeled or three-wheeled vehicle with an automatic transmission and a motor having a

piston displacement of less than fifty cubic centimeters, that is capable of propelling the vehicle at a maximum speed of not more than thirty miles an hour on level ground, at sea level;

G. "motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, excluding a tractor;

H. "motor home" means a camping body built on a self-propelled motor vehicle chassis so designed that seating for driver and passengers is within the body itself;

I. "motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails; but for the purposes of the Mandatory Financial Responsibility Act, "motor vehicle" does not include "special mobile equipment"; and

J. "motor vehicle insurance policy" means a policy of vehicle insurance that covers self-propelled vehicles of a kind required to be registered pursuant to New Mexico law for use on the public streets and highways. A "motor vehicle insurance policy":

(1) shall include:

(a) motor vehicle bodily injury and



property damage liability coverages in compliance with the Mandatory Financial Responsibility Act; and

(b) uninsured motorist coverage, subject to the provisions of Section 66-5-301 NMSA 1978 permitting the insured to reject such coverage; and

(2) may include:

(a) physical damage coverage;

(b) medical payments coverage; and

(c) other coverages that the insured

and the insurer agree to include within the policy."

Section 4. Section 66-5-201.1 NMSA 1978 (being Laws 1983, Chapter 318, Section 2) is amended to read:

"66-5-201.1. PURPOSE. -- The legislature is aware that motor vehicle accidents in New Mexico can result in catastrophic financial hardship. The purpose of the Mandatory Financial Responsibility Act is to require residents of New Mexico who own and operate motor vehicles upon the highways of the state either to have the ability to respond in damages to accidents arising out of the use and operation of a motor vehicle or to obtain a motor vehicle insurance policy."

Section 5. Section 66-5-205 NMSA 1978 (being Laws 1983, Chapter 318, Section 6, as amended) is amended to read:

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

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

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

C. For the purposes of the Mandatory Financial Responsibility Act, "uninsured motor vehicle" means a motor vehicle for which a motor vehicle insurance policy meeting the requirements of the laws of New Mexico and of the secretary is not in effect or a surety bond or evidence of a sufficient cash deposit with the state treasurer.

D. The provisions of the Mandatory Financial Responsibility Act requiring the deposit of evidence of financial responsibility as provided in Section 66-5-218 NMSA 1978, subject to certain exemptions, may apply with respect to persons who have been convicted of or forfeited bail for certain offenses under motor vehicle laws or who have failed

to pay judgments or written settlement agreements upon causes of action arising out of ownership, maintenance or use of vehicles of a type subject to registration under the laws of New Mexico.

E. Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced to a fine not to exceed three hundred dollars (\$300). "

Section 6. Section 66-5-205.1 NMSA 1978 (being Laws 1989, Chapter 214, Section 1) is amended to read:

"66-5-205.1. UNINSURED MOTORIST CITATION--REQUIREMENTS TO BE FOLLOWED AT TIME OF ACCIDENT--SUBSEQUENT 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 personally at the same time:

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

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

B. The department shall return or replace, in its discretion, a license plate removed under the provisions of Paragraph (2) of Subsection A of this section or replace a license plate defaced under that paragraph when the person cited for failure to comply with the provisions of the Mandatory Financial Responsibility Act furnishes proof of compliance to the department and pays to the division a reinstatement fee of twenty-five dollars (\$25.00). If a person to whom the temporary operation sticker is issued furnishes to the department within fifteen days after the issuance of the sticker evidence of financial responsibility in compliance with the Mandatory Financial Responsibility Act and in effect on the date and at the time of the issuance of the sticker, the department shall replace or return the license plate and waive the twenty-five dollar (\$25.00) reinstatement fee.

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

D. The secretary may adopt and promulgate regulations requiring insurance carriers who terminate or cancel any motor vehicle insurance policy to report monthly each cancellation or termination to the department. Information pertaining to each motor vehicle shall be made a part of that vehicle file for one year. Notification of

termination or cancellation made under such a regulation is not grounds for revocation of the motor vehicle registration. "

Section 7. Section 66-5-206 NMSA 1978 (being Laws 1983, Chapter 318, Section 7) is amended to read:

"66-5-206. REGISTRATION WITHOUT INSURANCE OR EVIDENCE OF FINANCIAL RESPONSIBILITY PROHIBITED--SUSPENSION REQUIRED. --

A. The department shall not issue or renew the registration for any motor vehicle not covered by a motor vehicle insurance policy or by evidence of financial responsibility currently valid meeting the requirements of the laws of New Mexico and of the secretary, unless specifically exempted from the Mandatory Financial Responsibility Act.

B. Upon a showing by its records or other sufficient evidence that the required insurance or evidence of financial responsibility has not been provided or maintained for a motor vehicle, the department shall suspend its registration of the motor vehicle. "

Section 8. Section 66-5-207 NMSA 1978 (being Laws 1983, Chapter 318, Section 8, as amended) is amended to read:

"66-5-207. EXEMPT MOTOR VEHICLES. --The following motor vehicles are exempt from the Mandatory Financial Responsibility Act:

A. a motor vehicle owned by the United States government, any state or any political subdivision of a state;

B. an implement of husbandry or special mobile equipment that is only incidentally operated on a highway;

C. a motor vehicle operated upon a highway only for the purpose of crossing such highway from one property to another;

D. a commercial motor vehicle registered or proportionally registered in this and any other jurisdiction, provided such motor vehicle is covered by a motor vehicle insurance policy or equivalent coverage or other form of financial responsibility in compliance with the laws of any other jurisdiction in which it is registered;

E. a motor vehicle approved as self-insured by the superintendent of insurance pursuant to Section 66-5-207.1 NMSA 1978; and

F. any motor vehicle when the owner has submitted to the department a signed statement, in the form prescribed by the department, declaring that the vehicle will not be operated on the highways of New Mexico and explaining the reasons therefor."

Section 9. Section 66-5-218 NMSA 1978 (being Laws 1978, Chapter 35, Section 302, as amended) is amended to read:

"66-5-218. ALTERNATE METHODS OF GIVING EVIDENCE. --

Evidence of financial responsibility, when required under the Mandatory Financial Responsibility Act, may be given by filing:

- A. evidence of a motor vehicle insurance policy;
- B. a surety bond as provided in Section 66-5-225 NMSA 1978; or
- C. a certificate of deposit of money as provided in Section 66-5-226 NMSA 1978."

Section 10. Section 66-5-220 NMSA 1978 (being Laws 1955, Chapter 182, Section 323, as amended) is amended to read:

"66-5-220. DEFAULT BY NONRESIDENT INSURER. -- If any insurance carrier not authorized to transact business in New Mexico that has qualified to furnish evidence of financial responsibility defaults in any undertakings or agreements, the department shall not thereafter accept evidence of financial responsibility of that carrier, whether previously filed or thereafter tendered as evidence, so long as the default continues."

Section 11. Section 66-5-222 NMSA 1978 (being Laws 1977, Chapter 61, Section 2) is amended to read:

"66-5-222. DRIVER EXCLUSION ENDORSEMENT FORM -- Any motor vehicle insurance policy may be endorsed to exclude a named driver from coverage. The endorsement shall be signed by at least one named insured. Endorsements shall be

substantially similar to the following form:

"DRIVER EXCLUSION ENDORSEMENT

Nothing herein contained shall be held to alter, vary, waive or extend any of the terms, conditions, agreements or limits of the undermentioned policy other than as stated herein below.

Effective-- 12:01 a.m., standard time. Attached to and forming part of Policy No. \_\_\_\_\_ issued to \_\_\_\_\_ (name of insured)

by \_\_\_\_\_ (insert name of insurance company)

In consideration of the premium for which the policy is written, it is agreed that the company shall not be liable and no liability or obligation of any kind shall be attached to the company for losses or damages sustained after the effective date of this endorsement while any motor vehicle insured hereinunder is driven or operated by \_\_\_\_\_ (name of excluded driver(s))

Date: \_\_\_\_\_ Name insured(s)

\_\_\_\_\_  
(signature)

". "



(signature)

Section 12. Section 66-5-228 NMSA 1978 (being Laws 1978, Chapter 35, Section 316, as amended) is amended to read:

"66-5-228. SUBSTITUTION OF EVIDENCE. --The department shall consent to the cancellation of any bond or the department shall direct and the state treasurer shall return any money to the person entitled thereto upon the substitution and acceptance of any other adequate evidence of financial responsibility as set forth in Section 66-5-218 NMSA 1978. "

Section 13. Section 66-5-229 NMSA 1978 (being Laws 1978, Chapter 35, Section 318, as amended) is amended to read:

"66-5-229. DURATION OF EVIDENCE--WHEN FILING OF EVIDENCE

MAY BE WAIVED. --

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

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

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

(3) the person who has filed evidence surrenders his license and registration to the department.

B. Provided, however, that the department shall not consent to the cancellation of any bond or the return of any money or waive the requirement of filing evidence of financial responsibility in the event any action for damages upon a liability covered by the evidence is then pending or any judgment upon any such liability is then unsatisfied or in the event the person who has filed the bond or deposited the money has, within one year immediately preceding the request, been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts or that he has been released from all of his liability or has been finally adjudicated not to be liable for such injury or damage shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

C. Every owner or operator of a vehicle subject to the requirements of the Mandatory Financial Responsibility

Act shall carry evidence of financial responsibility as defined by that act in the vehicle at all times while the vehicle is in operation on the highways of this state. The failure to comply with this subsection shall be a misdemeanor and shall be punishable by the penalty set forth in Section 66-8-7 NMSA 1978; provided that no person charged with violating this section shall be convicted if he produces in court evidence of financial responsibility valid at the time of issuance of the citation."

Section 14. Section 66-5-232 NMSA 1978 (being Laws 1983, Chapter 318, Section 31) is amended to read:

"66-5-232. SAMPLING--LETTER TO OWNER. --

A. The department, at various times as it considers necessary or appropriate to assure compliance with the Mandatory Financial Responsibility Act, shall select for financial responsibility affirmation an appropriate sample number of the motor vehicles registered in New Mexico. The department is authorized to emphasize, in accordance with rules adopted by the department, for affirmation of financial responsibility, individuals whose affirmations of financial responsibility have previously been found to be incorrect.

B. When a motor vehicle is selected for financial responsibility affirmation under Subsection A of this section, the department shall mail an affirmation form to

the registered owner of the motor vehicle notifying him that his motor vehicle has been selected for financial responsibility affirmation and requiring him to respond and to affirm, by at least one signature shown on the affirmation form, the existence of evidence satisfying the financial responsibility requirements of the Mandatory Financial Responsibility Act for the motor vehicle.

C. Failure by an owner to return the affirmation of financial responsibility to the department within fifteen days after mailing by the department or a determination by the department that an affirmation is not accurate constitutes reasonable grounds under Section 66-5-235 NMSA 1978 to believe that a person is operating a motor vehicle in violation of Section 66-5-205 NMSA 1978 or has falsely affirmed the existence of means of satisfying the financial responsibility requirements of the Mandatory Financial Responsibility Act.

D. The department may investigate all affirmations required by the Mandatory Financial Responsibility Act returned to the department. If the owner affirms the existence of a motor vehicle insurance policy covering the motor vehicle, the department may forward the affirmation to the listed insurer to determine whether the affirmation is correct. An insurer shall mail notification to the department within twenty working days of receipt of the

affirmation inquiry in the event the affirmation is not correct. The notification shall be prima facie evidence of failure to satisfy the financial responsibility requirements of the Mandatory Financial Responsibility Act. The department may determine the correctness of affirmation of other means of satisfying the financial responsibility requirements of that act for the motor vehicle.

E. The department may use accident reports as basic material for the construction of its sampling procedure.

F. No civil liability shall accrue to the insurer or any of its employees for reports made to the department under this section when the reports are made in good faith based on the most recent information available to the insurer.

G. The affirmation form used when sampling shall require the report of the name of the company issuing the policy, the policy number or any other information that identifies the policy."

Section 15. Section 66-5-233 NMSA 1978 (being Laws 1983, Chapter 318, Section 32) is amended to read:

"66-5-233. AFFIRMATION FORM --The affirmation of financial responsibility required under Sections 66-5-208, 66-5-225 and 66-5-226 NMSA 1978 shall be in a form prescribed by the department and shall require an applicant

to provide such information as may be required by the department. If a person affirms the existence of a motor vehicle insurance policy, the affirmation form shall require him to report at least the name of the insurer issuing the policy and the policy number."

Section 16. Section 66-5-234 NMSA 1978 (being Laws 1983, Chapter 318, Section 33) is amended to read:

"66-5-234. REGISTRATION--APPLICATION AND RENEWAL.--

A. The department shall indicate in boldface print on every new application form for registration and every registration form that the owner of the motor vehicle affirms that he is financially responsible within the meaning of the Mandatory Financial Responsibility Act. The payment of the registration fee and acceptance by the department of the application for registration shall be affirmation by the owner of the registered vehicle that he has complied with the requirements of that act.

B. The department shall not renew the registration of a motor vehicle unless the owner of the motor vehicle affirms the existence of a motor vehicle insurance policy covering the motor vehicle or the existence of some other means of satisfying the financial responsibility requirements of the Mandatory Financial Responsibility Act for the motor vehicle."

Section 17. Section 66-5-235 NMSA 1978 (being Laws

1983, Chapter 318, Section 34, as amended) is amended to read:

"66-5-235. FALSE AFFIRMATION--VIOLATION.--When the department has reasonable grounds to believe that a person is operating a motor vehicle in violation of Section 66-5-205 NMSA 1978 or has falsely affirmed the existence of a motor vehicle insurance policy or the existence of some other means of satisfying the financial responsibility requirements of the Mandatory Financial Responsibility Act, the department shall demand satisfactory evidence from the person that the person meets the requirements of that act as provided in Section 66-5-233 NMSA 1978. If the person cannot provide evidence of financial responsibility within twenty days after receipt of the department's demand for satisfactory proof of financial responsibility, the department may suspend the person's registration as provided in Section 66-5-236 NMSA 1978."

Section 18. Section 66-5-236 NMSA 1978 (being Laws 1983, Chapter 318, Section 35) is amended to read:

"66-5-236. SUSPENSION FOR NONPAYMENT OF JUDGMENT OR FOR FALSE AFFIRMATION.--

A. Except as otherwise provided, the secretary shall suspend:

(1) the motor vehicle registration for all motor vehicles and the driver's license of any person

against whom a judgment has been rendered, the department being in receipt of a certified copy of the judgment on a form provided by the department; or

(2) the registration for a period not to exceed one year of a person who is operating a motor vehicle in violation of Section 66-5-205 NMSA 1978 or falsely affirms the existence of a motor vehicle insurance policy or some other means of satisfying the financial responsibility requirements of the Mandatory Financial Responsibility Act, but only if evidence of financial responsibility is not submitted within twenty days after the date of the mailing of the department's demand therefor. The department shall notify the person that he may request a hearing within twenty days after the date of the mailing of the department's demand as provided under this subsection.

B. The registration shall remain suspended and shall not be renewed, nor shall any registration be issued thereafter in the name of that person, unless and until every judgment is stayed, satisfied in full or to the extent provided in the Mandatory Financial Responsibility Act and evidence of financial responsibility as required in Section 66-5-218 NMSA 1978 is provided to the department. "

Section 19. REPEAL. -- Sections 66-5-219, 66-5-221 and 66-5-223 NMSA 1978 (being Laws 1955, Chapter 182, Section 321 and Laws 1978, Chapter 35, Sections 306 and 308, as



amended) are repealed.

Section 20. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 1998. \_\_\_\_\_