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HOUSE BILL 265

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

LARRY A. LARRANAGA

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

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1 drawn by another vehicle and that has collapsible partial side
2 walls that fold for towing and unfold at the campsite;

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

9 D. "casual sale" means the sale of a motor vehicle
10 by the registered owner of the vehicle if the owner has not
11 sold more than four vehicles in that calendar year;

12 [~~E.~~] "~~certified motor vehicle liability policy~~"
13 ~~means an owner's policy or a driver's policy of liability~~
14 ~~insurance to or for the benefit of the person named therein as~~
15 ~~insured, certified as provided in the Motor Vehicle Code and~~
16 ~~meeting the requirements of the Motor Vehicle Code as evidence~~
17 ~~of financial responsibility and issued by an insurance carrier~~
18 ~~duly authorized to transact business in New Mexico;~~

19 ~~F.~~] E. "chassis" means the complete motor vehicle,
20 including standard factory equipment, exclusive of the body
21 and cab;

22 [~~G.~~] F. "collector" means a person who is the
23 owner of one or more vehicles of historic or special interest
24 who collects, purchases, acquires, trades or disposes of these
25 vehicles or parts thereof for the person's own use in order to

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1 preserve, restore and maintain a similar vehicle for hobby
2 purposes;

3 ~~[H.]~~ G. "combination" means any connected
4 assemblage of a motor vehicle and one or more semitrailers,
5 trailers or semitrailers converted to trailers by means of a
6 converter gear;

7 ~~[I.]~~ H. "combination gross vehicle weight" means
8 the sum total of the gross vehicle weights of all units of a
9 combination;

10 ~~[J.]~~ I. "commerce" means the transportation of
11 persons, property or merchandise for hire, compensation,
12 profit or in the furtherance of a commercial enterprise in
13 this state or between New Mexico and a place outside New
14 Mexico, including a place outside the United States;

15 ~~[K.]~~ J. "commercial motor vehicle" means a motor
16 vehicle used in commerce:

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

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

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

25 ~~[L.]~~ K. "controlled-access highway" means every

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1 highway, street or roadway in respect to which owners or
2 occupants of abutting lands and other persons have no legal
3 right of access to or from the highway, street or roadway
4 except at those points only and in the manner as may be
5 determined by the public authority having jurisdiction over
6 the highway, street or roadway;

7 [M-] L. "controlled substance" means any substance
8 defined in Section 30-31-2 NMSA 1978 as a controlled
9 substance;

10 [N-] M "converter gear" means any assemblage of
11 one or more axles with a fifth wheel mounted thereon, designed
12 for use in a combination to support the front end of a
13 semitrailer but not permanently attached thereto. A converter
14 gear shall not be considered a vehicle, as that term is
15 defined in Section 66-1-4.19 NMSA 1978, but weight
16 attributable thereto shall be included in declared gross
17 weight;

18 [O-] N. "conviction" means the alleged violator
19 has entered a plea of guilty or nolo contendere or has been
20 found guilty in the trial court and has waived or exhausted
21 all rights to an appeal;

22 [P-] O. "crosswalk" means:

23 (1) that part of a roadway at an intersection
24 included within the connections of the lateral lines of the
25 sidewalks on opposite sides of the highway measured from the

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1 curbs or, in the absence of curbs, from the edges of the
2 traversable roadway; and

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

6 [Q-] P. "curb cut" means a short ramp through a
7 curb or built up to the curb. "

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

10 "66-1-4.6. DEFINITIONS. -- As used in the Motor Vehicle
11 Code:

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

15 B. "financial responsibility" means the ability to
16 respond in damages for liability resulting from traffic
17 accidents arising out of the ownership, maintenance or use of
18 a motor vehicle of a type subject to registration under the
19 laws of New Mexico, in [the] amounts not less than [that]
20 specified in the Mandatory Financial Responsibility Act [the
21 term] or having in effect a motor vehicle insurance policy.

22 "Financial responsibility" includes a motor vehicle [liability
23 policy, a certified motor vehicle liability] insurance policy,
24 a surety bond or evidence of a sufficient cash deposit with
25 the state treasurer;

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

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

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

15 F. "foreign vehicle" means every vehicle of a type
16 required to be registered under the provisions of the Motor
17 Vehicle Code brought into this state from another state,
18 territory or country; and

19 G. "freight trailer" means any trailer,
20 semitrailer or pole trailer drawn by a truck tractor or road
21 tractor, and any trailer, semitrailer or pole trailer drawn by
22 a truck that has a gross vehicle weight of more than twenty-
23 six thousand pounds, but [the term] "freight trailer" does not
24 include manufactured homes, trailers of less than one-ton
25 carrying capacity used to transport animals or fertilizer

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1 trailers of less than three thousand five hundred pounds empty
2 weight. "

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

5 "66-1-4.11. DEFINITIONS. --As used in the Motor Vehicle
6 Code:

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

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

17 C. "manufacturer" means every person engaged in
18 the business of constructing or assembling vehicles of a type
19 required to be registered under the Motor Vehicle Code;

20 D. "manufacturer's certificate of origin" means a
21 certification, on a form supplied by or approved by the
22 [~~division~~] department, signed by the manufacturer that the new
23 vehicle described therein has been transferred to the New
24 Mexico dealer or distributor named therein or to a dealer duly
25 licensed or recognized as such in another state, territory or

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1 possession of the United States and that such transfer is the
2 first transfer of the vehicle in ordinary trade and commerce;
3 every such certificate shall contain space for proper
4 reassignment to a New Mexico dealer or to a dealer duly
5 licensed or recognized as such in another state, territory or
6 possession of the United States, and the certificate shall
7 contain a description of the vehicle, the number of cylinders,
8 type of body, engine number and the serial number or other
9 standard identification number provided by the manufacturer of
10 the vehicle;

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

16 F. "moped" means a two-wheeled or three-wheeled
17 vehicle with an automatic transmission and a motor having a
18 piston displacement of less than fifty cubic centimeters, that
19 is capable of propelling the vehicle at a maximum speed of not
20 more than thirty miles an hour on level ground, at sea level;

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

25 H. "motor home" means a camping body built on a

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1 self-propelled motor vehicle chassis so designed that seating
2 for driver and passengers is within the body itself;

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

9 J. "motor vehicle [~~liability~~] insurance policy"
10 means [~~an owner's policy or a driver's policy of liability~~
11 ~~insurance, providing limits of coverage not less than the~~
12 ~~dollar amounts set forth in the Mandatory Financial~~
13 ~~Responsibility Act as evidence of financial responsibility,~~
14 ~~and issued by an insurance carrier duly authorized to transact~~
15 ~~business in New Mexico] that term as defined in the New Mexico
16 Insurance Code. "~~

17 Section 4. Section 66-5-201.1 NMSA 1978 (being Laws
18 1983, Chapter 318, Section 2) is amended to read:

19 "66-5-201.1. PURPOSE.--The legislature is aware that
20 motor vehicle accidents in [~~the state of~~] New Mexico can
21 result in catastrophic financial hardship. The purpose of the
22 Mandatory Financial Responsibility Act is to require [~~and~~
23 ~~encourage~~] residents of [~~the state of~~] New Mexico who own and
24 operate motor vehicles upon the highways of the state either
25 to have the ability to respond in damages to accidents arising

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1 out of the use and operation of a motor vehicle [~~it is the~~
2 ~~intent that the risks and financial burdens of motor vehicle~~
3 ~~accidents be equitably distributed among all owners and~~
4 ~~operators of motor vehicles within the state~~] or to obtain a
5 motor vehicle insurance policy. "

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

8 "66-5-205. VEHICLE MUST BE INSURED OR OWNER MUST HAVE
9 EVIDENCE OF FINANCIAL RESPONSIBILITY--PENALTIES.--

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

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

23 C. For the purposes of the Mandatory Financial
24 Responsibility Act, "uninsured motor vehicle" means a motor
25 vehicle for which a motor vehicle [~~liability policy or a~~

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1 ~~certified motor vehicle liability~~ insurance policy meeting
2 the requirements of the laws of New Mexico and of the
3 [~~director~~] secretary is not in effect.

4 D. The provisions of the Mandatory Financial
5 Responsibility Act requiring the deposit of evidence of
6 financial responsibility as provided in Section 66-5-218 NMSA
7 1978, subject to certain exemptions, may apply with respect to
8 persons who have been convicted of or forfeited bail for
9 certain offenses under motor vehicle laws or who have failed
10 to pay judgments or written settlement agreements upon causes
11 of action arising out of ownership, maintenance or use of
12 vehicles of a type subject to registration under the laws of
13 New Mexico.

14 E. Any person who violates the provisions of this
15 section is guilty of a misdemeanor and upon conviction shall
16 be sentenced to a fine not to exceed three hundred dollars
17 (\$300). "

18 Section 6. Section 66-5-205.1 NMSA 1978 (being Laws
19 1989, Chapter 214, Section 1) is amended to read:

20 "66-5-205.1. UNINSURED MOTORIST CITATION-- REQUIREMENTS
21 TO BE FOLLOWED AT TIME OF ACCIDENT-- SUBSEQUENT PROCEDURES. --

22 A. When a law enforcement officer issues a driver
23 who is involved in an accident a citation for failure to
24 comply with the provisions of the Mandatory Financial
25 Responsibility Act, the law enforcement officer shall

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1 personally at the same time:

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

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

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

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1 C. The [~~director~~] secretary shall adopt and
2 promulgate regulations prescribing the form and use of the
3 sticker required to be issued under Subsection A of this
4 section.

5 D. The [~~director~~] secretary may adopt and promulgate
6 regulations requiring insurance carriers who terminate or
7 cancel any motor vehicle [~~liability policy or certified motor~~
8 ~~vehicle liability~~] insurance policy to report monthly each
9 cancellation or termination to the [~~division~~] department.
10 Information pertaining to each motor vehicle shall be made a
11 part of that vehicle file for one year. Notification of
12 termination or cancellation made under such a regulation is
13 not grounds for revocation of the motor vehicle registration."

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

16 "66-5-206. REGISTRATION WITHOUT INSURANCE OR EVIDENCE OF
17 FINANCIAL RESPONSIBILITY PROHIBITED--SUSPENSION REQUIRED.--

18 A. The [~~division~~] department shall not issue or
19 renew the registration for any motor vehicle not covered by a
20 motor vehicle [~~liability policy or a certified motor vehicle~~
21 ~~liability~~] insurance policy or by evidence of financial
22 responsibility currently valid meeting the requirements of the
23 laws of New Mexico and of the [~~director~~] secretary, unless
24 specifically exempted from the Mandatory Financial
25 Responsibility Act.

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1 B. Upon a showing by its records or other sufficient
2 evidence that the required insurance or evidence of financial
3 responsibility has not been provided or maintained for a motor
4 vehicle, the [~~division~~] department shall suspend its
5 registration of the motor vehicle. "

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

8 "66-5-207. EXEMPT MOTOR VEHICLES. --The following motor
9 vehicles are exempt from the Mandatory Financial
10 Responsibility Act:

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

13 B. an implement of husbandry or special mobile
14 equipment [~~which~~] that is only incidentally operated on a
15 highway;

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

19 D. a commercial motor vehicle registered or
20 proportionally registered in this and any other jurisdiction,
21 provided such motor vehicle is covered by a motor vehicle
22 [~~liability policy or certified motor vehicle liability~~]
23 insurance policy or equivalent coverage or other form of
24 financial responsibility in compliance with the laws of any
25 other jurisdiction in which it is registered;

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

4 F. any motor vehicle when the owner has submitted to
5 the ~~[division]~~ department a signed statement, in ~~[such]~~ the
6 form ~~[as may be]~~ prescribed by the ~~[division]~~ department,
7 declaring that the vehicle will not be operated on the
8 highways of New Mexico and explaining the reasons therefor. "

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

11 "66-5-218. ALTERNATE METHODS OF GIVING EVIDENCE. --
12 Evidence of financial responsibility, when required under the
13 Mandatory Financial Responsibility Act, may be given by
14 filing:

15 A. evidence of a motor vehicle ~~[liability]~~ insurance
16 policy;

17 ~~[B. evidence of a certified motor vehicle liability~~
18 ~~policy as provided in Section 66-5-219 NMSA 1978;~~

19 ~~C.] B.~~ a surety bond as provided in Section 66-5-225
20 NMSA 1978; or

21 ~~[D.] C.~~ a certificate of deposit of money as
22 provided in Section 66-5-226 NMSA 1978. "

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

25 "66-5-220. DEFAULT BY NONRESIDENT INSURER. -- If any

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1 insurance carrier not authorized to transact business in New
2 Mexico [~~which~~] that has qualified to furnish evidence of
3 financial responsibility defaults in any undertakings or
4 agreements, the [~~division~~] department shall not thereafter
5 accept [~~as~~] evidence [~~any certificate~~] of financial
6 responsibility of that carrier, whether previously filed or
7 thereafter tendered as evidence, so long as the default
8 continues. "

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

11 "66-5-222. [~~DRIVERS~~] DRIVER EXCLUSION ENDORSEMENT
12 FORM -- Any motor vehicle insurance policy may be endorsed to
13 exclude a named driver from coverage. The endorsement shall
14 be signed by at least one named insured. Endorsements shall
15 be substantially similar to the following form:

16 "[~~DRIVERS~~] DRIVER EXCLUSION ENDORSEMENT

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

21 Effective-- 12:01 a. m., standard time. Attached
22 to and forming part of Policy No. _____
23 issued to _____
24 by _____
25 (insert name of insurance company)

1 In consideration of the premium for which the
2 policy is written, it is agreed that the company
3 shall not be liable and no liability or obligation of
4 any kind shall be attached to the company for losses
5 or damages sustained after the effective date of this
6 endorsement while any motor vehicle insured
7 hereinunder is driven or operated by

8 _____
(name of excluded driver(s))

9 Date: _____ Name insured(s)

10 _____
(signature)

11 _____ " "
(signature)

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

14 "66-5-228. SUBSTITUTION OF EVIDENCE. --The [~~division~~
15 department shall consent to the cancellation of any bond [~~or~~
16 ~~certified motor vehicle liability policy~~] or the [~~division~~
17 department shall direct and the state treasurer shall return
18 any money to the person entitled thereto upon the substitution
19 and acceptance of any other adequate evidence of financial
20 responsibility as set forth in [~~Subsection B, C or D of~~
21 Section 66-5-218 NMSA 1978. "

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

24 "66-5-229. DURATION OF EVIDENCE--WHEN [~~PROOF MAY BE~~
25 ~~CANCELED OR RETURNED~~] FILING OF EVIDENCE MAY BE WAIVED. --

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1 A. The ~~[division]~~ department shall, upon request,
2 consent to the immediate cancellation of any bond or
3 ~~[certified motor vehicle liability policy or]~~ the ~~[division]~~
4 department shall direct and the state treasurer shall return
5 to the person entitled thereto any money deposited pursuant to
6 the Mandatory Financial Responsibility Act as evidence of
7 financial responsibility or the ~~[division]~~ department shall
8 waive the requirement of filing evidence of financial
9 responsibility in any of the following events:

10 (1) after one year of providing satisfactory
11 evidence as ~~[required]~~ specified in ~~[Subsection B, C or D of]~~
12 Section 66-5-218 NMSA 1978 ~~[and upon the deposit with the~~
13 ~~division of evidence of financial responsibility as set forth~~
14 ~~in Subsection A of that section];~~

15 (2) ~~[in the event of]~~ the death of the person on
16 whose behalf evidence was filed or the permanent incapacity of
17 the person to operate a motor vehicle; or

18 (3) ~~[in the event]~~ the person who has ~~[given]~~
19 filed evidence surrenders his license and registration to the
20 ~~[division]~~ department.

21 B. Provided, however, that the ~~[division]~~ department
22 shall not consent to the cancellation of any bond or the
23 return of any money or waive the requirement of filing
24 evidence of financial responsibility in the event any action
25 for damages upon a liability covered by the evidence is then

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1 pending or any judgment upon any such liability is then
2 unsatisfied or in the event the person who has filed the bond
3 or deposited the money has, within one year immediately
4 preceding the request, been involved as a driver or owner in
5 any motor vehicle accident resulting in injury or damage to
6 the person or property of others. An affidavit of the
7 applicant as to the nonexistence of such facts or that he has
8 been released from all of his liability or has been finally
9 adjudicated not to be liable for such injury or damage shall
10 be sufficient evidence thereof in the absence of evidence to
11 the contrary in the records of the [~~division~~] department.

12 C. Every owner or operator of a vehicle subject to
13 the requirements of the Mandatory Financial Responsibility Act
14 shall carry evidence of financial responsibility as defined by
15 that act in the vehicle at all times while the vehicle is in
16 operation on the highways of this state. The failure to
17 comply with this subsection shall be a misdemeanor and shall
18 be punishable by the penalty set forth in Section 66-8-7 NMSA
19 1978; provided that no person charged with violating this
20 section shall be convicted if he produces in court evidence of
21 financial responsibility valid at the time of issuance of the
22 citation. "

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

25 "66-5-232. SAMPLING--LETTER TO OWNER.--

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1 A. The [~~division~~] department, at various times as it
2 considers necessary or appropriate to assure compliance with
3 the Mandatory Financial Responsibility Act, shall select for
4 financial responsibility affirmation an appropriate sample
5 number of the motor vehicles registered in New Mexico. The
6 [~~division~~] department is authorized to emphasize, in
7 accordance with rules adopted by the [~~division~~] department,
8 for affirmation of financial responsibility, individuals whose
9 affirmations of financial responsibility have previously been
10 found to be incorrect.

11 B. When a motor vehicle is selected for financial
12 responsibility affirmation under Subsection A of this section,
13 the [~~division~~] department shall mail an affirmation form to
14 the registered owner of the motor vehicle notifying him that
15 his motor vehicle has been selected for financial
16 responsibility affirmation and requiring him to respond and to
17 affirm, by at least one signature shown on the affirmation
18 form, the existence of evidence satisfying the financial
19 responsibility requirements of the Mandatory Financial
20 Responsibility Act for the motor vehicle.

21 C. Failure by an owner to return the affirmation of
22 financial responsibility to the [~~division~~] department within
23 fifteen days after mailing by the [~~division~~] department or a
24 determination by the [~~division~~] department that an affirmation
25 is not accurate constitutes reasonable grounds under Section

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1 66-5-235 NMSA 1978 to believe that a person is operating a
2 motor vehicle in violation of Section 66-5-205 NMSA 1978 or
3 has falsely affirmed the existence of means of satisfying the
4 financial responsibility requirements of the Mandatory
5 Financial Responsibility Act.

6 D. The [~~division~~] department may investigate all
7 affirmations required by the Mandatory Financial
8 Responsibility Act returned to the [~~division~~] department. If
9 the owner affirms the existence of a motor vehicle [~~liability~~
10 ~~policy or certified motor vehicle liability~~] insurance policy
11 covering the motor vehicle, the [~~division~~] department may
12 forward the affirmation to the listed insurer to determine
13 whether the affirmation is correct. An insurer shall mail
14 notification to the [~~division~~] department within twenty
15 working days of receipt of the affirmation inquiry in the
16 event the affirmation is not correct. The notification shall
17 be prima facie evidence of failure to satisfy the financial
18 responsibility requirements of the Mandatory Financial
19 Responsibility Act. The [~~division~~] department may determine
20 the correctness of affirmation of other means of satisfying
21 the financial responsibility requirements of that act for the
22 motor vehicle.

23 E. The [~~division~~] department may use accident
24 reports as basic material for the construction of its sampling
25 procedure.

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1 F. No civil liability shall accrue to the insurer or
2 any of its employees for reports made to the [~~division~~]
3 department under this section when the reports are made in
4 good faith based on the most recent information available to
5 the insurer.

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

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

12 "66-5-233. AFFIRMATION FORM --The affirmation of
13 financial responsibility required under Sections 66-5-208,
14 66-5-225 and 66-5-226 NMSA 1978 shall be in a form prescribed
15 by the [~~division~~] department and shall require an applicant to
16 provide such information as may be required by the [~~division~~]
17 department. If a person affirms the existence of a motor
18 vehicle [~~liability policy or certified motor vehicle~~
19 ~~liability~~] insurance policy, the affirmation form shall
20 require him to report at least the name of the insurer issuing
21 the policy and the policy number. "

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

24 "66-5-234. REGISTRATION--APPLICATION AND RENEWAL. --

25 A. The [~~division~~] department shall indicate in

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1 boldface print on every new application form for registration
2 and every registration form that the owner of the motor
3 vehicle affirms that he is financially responsible within the
4 meaning of the Mandatory Financial Responsibility Act. The
5 payment of the registration fee and acceptance by the
6 [~~division~~] department of the application for registration
7 shall be affirmation by the owner of the registered vehicle
8 that he has complied with the requirements of that act.

9 B. The [~~division~~] department shall not renew the
10 registration of a motor vehicle unless the owner of the motor
11 vehicle affirms the existence of a motor vehicle [~~liability~~
12 ~~policy or certified motor vehicle liability~~] insurance policy
13 covering the motor vehicle or the existence of some other
14 means of satisfying the financial responsibility requirements
15 of the Mandatory Financial Responsibility Act for the motor
16 vehicle. "

17 Section 17. Section 66-5-235 NMSA 1978 (being Laws 1983,
18 Chapter 318, Section 34, as amended) is amended to read:

19 "66-5-235. FALSE AFFIRMATION--VIOLATION.--When the
20 [~~division~~] department has reasonable grounds to believe that a
21 person is operating a motor vehicle in violation of Section
22 66-5-205 NMSA 1978 or has falsely affirmed the existence of a
23 motor vehicle [~~liability policy, a certified motor vehicle~~
24 ~~liability~~] insurance policy or the existence of some other
25 means of satisfying the financial responsibility requirements

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1 of the Mandatory Financial Responsibility Act, the [~~division~~
2 department shall demand satisfactory evidence from the person
3 that the person meets the requirements of that act as provided
4 in Section 66-5-233 NMSA 1978. If the person cannot provide
5 evidence of financial responsibility within twenty days after
6 receipt of the [~~division's~~ department's demand for
7 satisfactory proof of financial responsibility, the [~~division~~
8 ~~may notify the district attorney of the county in which the~~
9 ~~person resides of the division's belief that violations of the~~
10 ~~Mandatory Financial Responsibility Act were or are being~~
11 ~~committed by that person~~] department shall suspend the
12 person's registration as provided in Section 66-5-236 NMSA
13 1978. "

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

16 "66-5-236. SUSPENSION FOR NONPAYMENT OF JUDGMENT OR FOR
17 FALSE AFFIRMATION. --

18 A. Except as otherwise provided, the [~~director~~
19 secretary shall suspend:

20 (1) the motor vehicle registration for all motor
21 vehicles and the driver's license of any person against whom a
22 judgment has been rendered, the [~~division~~ department being in
23 receipt of a certified copy of the judgment on a form provided
24 by the [~~division~~ department]; or

25 (2) the registration for a period not to exceed

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1 one year of a person who is operating a motor vehicle in
2 violation of Section 66-5-205 NMSA 1978 or falsely affirms the
3 existence of a motor vehicle [~~liability policy, a certified~~
4 ~~motor vehicle liability~~] insurance policy or some other means
5 of satisfying the financial responsibility requirements of the
6 Mandatory Financial Responsibility Act, but only if evidence
7 of financial responsibility is not submitted within [~~thirty~~
8 twenty days after the date of the mailing of the [~~division's~~
9 department's demand therefor [~~under Section 66-5-232 NMSA~~
10 ~~1978~~]. The [~~division~~] department shall notify the person that
11 he may request a hearing within twenty days after the date of
12 the mailing of the [~~division's~~] department's demand as
13 provided under this subsection.

14 B. [That] The registration shall remain [~~so~~]
15 suspended and shall not be renewed, nor shall any registration
16 be issued thereafter in the name of that person, unless and
17 until every judgment is stayed, satisfied in full or to the
18 extent provided in the Mandatory Financial Responsibility Act
19 and evidence of financial responsibility as required in
20 Section 66-5-218 NMSA 1978 is provided to the [~~division~~]
21 department. "

22 Section 19. A new Section 59A-7-7.1 NMSA 1978 is enacted
23 to read:

24 "59A-7-7.1. [NEW MATERIAL] "MOTOR VEHICLE INSURANCE
25 POLICY" DEFINED. -- "Motor vehicle insurance policy" means a

. 120953. 1

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1 policy of vehicle insurance that covers self-propelled
2 vehicles of a kind required to be registered under New Mexico
3 law for use on public streets and highways. A "motor vehicle
4 insurance policy":

5 A. shall include:

6 (1) motor vehicle bodily injury and property
7 damage liability coverages in compliance with the Mandatory
8 Financial Responsibility Act; and

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

12 B. may include:

13 (1) physical damage coverage;

14 (2) medical payments coverage; and

15 (3) other coverages that the insured and the
16 insurer agree to include within the policy."

17 Section 20. REPEAL. -- Sections 66-5-219, 66-5-221 and
18 66-5-223 NMSA 1978 (being Laws 1955, Chapter 182, Section 321
19 and Laws 1978, Chapter 35, Sections 306 and 308, as amended)
20 are repealed.

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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5

6 February 4, 1998
7

8 Mr. Speaker:
9

10 Your TRANSPORTATION COMMITTEE, to whom has been
11 referred
12

13 HOUSE BILL 265
14

15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On page 11, line 3, after "effect", insert "or a surety
18 bond or evidence of a sufficient cash deposit with the state
19 treasurer".
20

21 2. On page 26, line 21, insert the following new section:
22

23 "Section 21. EFFECTIVE DATE. --The effective date of the
24 provisions of this act is July 1, 1998.".,
25

and thence referred to the JUDICIARY COMMITTEE.

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

3 HTC/HB 265

Page 28

5 Respectfully submitted,

10 _____
11 Daniel P. Silva, Chairman

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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HTC/HB 265

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Date _____

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

3 HTC/HB 265

Page 30

4 The roll call vote was 7 For 0 Against

5 Yes: 7

6 Excused: Olguin, Rodella, Watchman, Whitaker

7 Absent: Corley

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
3

4 February 4, 1998
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6
7 Mr. Speaker:
8

9 Your TRANSPORTATION COMMITTEE, to whom has been
10 referred

11 HOUSE BILL 265
12

13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:
15

16 1. On page 11, line 3, after "effect", insert "or a surety
17 bond or evidence of a sufficient cash deposit with the state
18 treasurer".

19 2. On page 26, line 21, insert the following new section:
20

21 "Section 21. EFFECTIVE DATE. --The effective date of the
22 provisions of this act is July 1, 1998.".,
23

24 and thence referred to the JUDICIARY COMMITTEE.
25

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

3 HTC/HB 265

Page 32

5 Respectfully submitted,

11 Daniel P. Silva, Chairman

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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HTC/HB 265

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(Chief Clerk)

(Chief Clerk)

Date _____

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

3 HTC/HB 265

Page 34

4 The roll call vote was 7 For 0 Against

5 Yes: 7

6 Excused: Olguin, Rodella, Watchman, Whitaker

7 Absent: Corley

11 G:\BILLTEXT\BILLW_98\H0265

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3
4 February 13, 1998
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6
7 Mr. Speaker:

8
9 Your JUDICIARY COMMITTEE, to whom has been referred

10 HOUSE BILL 265, as amended
11

12 has had it under consideration and reports same with
13 recommendation that it DO PASS, amended as follows:
14

15 1. On page 9, lines 15 and 16, strike all underlined
16 material and insert in lieu thereof "a policy of vehicle
17 insurance that covers self-propelled vehicles of a kind required
18 to be registered pursuant to New Mexico law for use on the
19 public streets and highways. A "motor vehicle insurance
20 policy":

21 A. shall include:

22
23 (1) motor vehicle bodily injury and property
24 damage liability coverages in compliance with the Mandatory
25 Financial Responsibility Act; and

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 HJC/HB 265/a

Page 36

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

7
8 B. may include:

9 (1) physical damage coverage;

10 (2) medical payments coverage; and

11 (3) other coverages that the insured and the
12 insurer agree to include within the policy."
13

14
15
16 2. On page 24, line 11 change "shall" to "may".

17
18 3. On page 25, strike lines 22 through 25 and on page 26,
19 strike lines 1 through 16.

20 4. Renumber the succeeding section accordingly.
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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 HJC/HB 265/a

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5 Respectfully submitted,
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11 Thomas P. Foy, Chairman
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13

14 Adopted _____ Not Adopted _____

15 (Chief Clerk)

16 (Chief Clerk)

17 Date _____
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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 HJC/HB 265/a

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4 The roll call vote was 6 For 4 Against

5 Yes: 6

6 No: Alwin, Carpenter, Larranaga, Vaughn

7 Excused: King, Mallory, Sanchez

8 Absent: None

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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February 16, 1998

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Mr. President:

11

12

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to

13

whom has been referred

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15

HOUSE BILL 265, as amended

16

has had it under consideration and reports same with

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recommendation that it DO PASS.

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Respectfully submitted,

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Roman M. Maes, III, Chairman

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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6 (Chief Clerk)

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12 The roll call vote was 10 For 0 Against

13 Yes: 10

14 No: 0

15 Excused: None

16 Absent: None

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