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SENATE BILL 122

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Joseph A. Fidel

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING A LICENSE FOR A MOTOR VEHICLE TITLE SERVICE COMPANY TO ENGAGE IN BUSINESS; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 66-1-4.17 NMSA 1978 (being Laws 1990, Chapter 120, Section 18, as amended) is amended to read:

"66-1-4.17. DEFINITIONS. -- As used in the Motor Vehicle Code:

A. "tank vehicle" means a motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis and that has either a gross vehicle weight rating of twenty-six thousand one or more pounds or is used in the transportation of hazardous materials requiring

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1 placarding of the vehicle under applicable law;

2 B. "taxicab" means a motor vehicle used for hire  
3 in the transportation of persons, having a normal seating  
4 capacity of not more than seven persons;

5 C. "through highway" means every highway or  
6 portion thereof at the entrance to which vehicular traffic  
7 from intersecting highways is required by law to stop before  
8 entering or crossing it when stop signs are erected as  
9 provided in the Motor Vehicle Code;

10 ~~[D. "trailer" means any vehicle without motive  
11 power, designed for carrying persons or property and for being  
12 drawn by a motor vehicle, and so constructed that no  
13 significant part of its weight rests upon the towing vehicle;]~~

14 D. "title service company" means a person, other  
15 than the department, an agent of the department, a licensed  
16 dealer or the motor transportation division, who for  
17 consideration issues temporary registration plates or prepares  
18 and submits to the department on behalf of others,  
19 applications for registration of or title to motor vehicles;

20 E. "traffic" means pedestrians, ridden or herded  
21 animals, vehicles and other conveyances either singly or  
22 together using any highway for purposes of travel;

23 F. "traffic-control signal" means any device,  
24 whether manually, electrically or mechanically operated, by  
25 which traffic is alternately directed to stop and to proceed;

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G. "traffic safety bureau" means the traffic safety bureau of the state highway and transportation department;

H. "trailer" means any vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no significant part of its weight rests upon the towing vehicle;

~~[G.]~~ I. "transporter of manufactured homes" means a commercial motor vehicle operation engaged in the business of transporting manufactured homes from the manufacturer's location to the first dealer's location. A "transporter of manufactured homes" may or may not be associated with or affiliated with a particular manufacturer or dealer;

~~[H.]~~ J. "travel trailer" means a trailer that exceeds neither a width of eight feet nor a length of forty feet, when equipped for the road, and includes recreational travel trailers and camping trailers;

~~[I.]~~ K. "trial court" means the magistrate, municipal or district court that tries the case concerning an alleged violation of a provision of the Motor Vehicle Code;

~~[J.]~~ L. "truck" means every motor vehicle designed, used or maintained primarily for the transportation of property;

~~[K.]~~ M. "truck camper" means a camping body designed to be loaded onto, or affixed to, the bed or chassis

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1 of a truck. This camping body, when combined with a truck or  
2 truck cab and chassis, even though not attached permanently,  
3 becomes a part of the motor vehicle and together they are a  
4 recreational unit to be known as a "truck camper"; there are  
5 three general types of truck campers:

6 (1) "slide-in camper" means a camping body  
7 designed to be loaded onto and unloaded from the bed of a  
8 pickup truck;

9 (2) "chassis-mount camper" means a camping  
10 body designed to be affixed to a truck cab and chassis; and

11 (3) "pickup cover" or "camper shell" means a  
12 camping body designed to provide an all-weather protective  
13 enclosure over the bed of a pickup truck and to be affixed  
14 thereto; and

15 [~~E.~~] N. "truck tractor" means every motor vehicle  
16 designed and used primarily for drawing other vehicles and not  
17 so constructed as to carry a load other than a part of the  
18 weight of the vehicle and load so drawn. "

19 Section 2. Section 66-4-1 NMSA 1978 (being Laws 1978,  
20 Chapter 35, Section 214, as amended) is amended to read:

21 "66-4-1. DEALERS, WRECKERS, WHOLESALERS AND DISTRIBUTORS  
22 OF VEHICLES AND TITLE SERVICE COMPANIES MUST BE LICENSED--  
23 PRESUMPTION OF CONDUCTING BUSINESS. --

24 A. No person, unless licensed to do so by the  
25 department, shall carry on or conduct the active trade or

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1 business of:

2 (1) a dealer in motor vehicles of a type  
3 subject to registration pursuant to the Motor Vehicle Code;

4 (2) wrecking or dismantling any vehicle [ ~~or~~  
5 ~~motor vehicle~~] for the resale of the parts. Any person  
6 possessing three or more wrecked, dismantled or partially  
7 wrecked or dismantled vehicles [ ~~or motor vehicles~~] and selling  
8 or offering for sale a used vehicle [ ~~or motor vehicle~~] part  
9 and who regularly sells or offers for sale used vehicles or  
10 used [ ~~motor~~] vehicle parts shall be presumed to be conducting  
11 the business of wrecking or dismantling a vehicle [ ~~or motor~~  
12 ~~vehicle~~] for the resale of the parts;

13 (3) wholesaling of vehicles. Any person who  
14 sells or offers for sale vehicles of a type subject to  
15 registration in this state, to a vehicle dealer licensed  
16 pursuant to the Motor Vehicle Code or who is franchised by a  
17 manufacturer, distributor or vehicle dealer to sell or promote  
18 the sale of vehicles dealt in by such manufacturer,  
19 distributor or vehicle dealer shall be presumed to be  
20 conducting the business of wholesaling. Provided, however,  
21 that if any such person also sells a vehicle at retail, he  
22 shall be deemed to be a dealer and is subject to the dealer-  
23 licensing provisions of the Motor Vehicle Code; [ ~~or~~]

24 (4) distributing of vehicles. Any person who  
25 distributes or sells new or used motor vehicles to dealers and

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1 who is not a manufacturer shall be presumed to be conducting  
2 the business of distributing vehicles; or

3 (5) a title service company. Any person who  
4 for consideration prepares or submits applications for the  
5 registration of or title to vehicles shall be presumed to be  
6 engaging in the business of a title service company.

7 B. Application for a [~~dealer's, wholesaler's,~~  
8 ~~distributor's or wrecker's~~] dealer, wholesaler, distributor or  
9 wrecker of vehicles license or a title service company license  
10 shall be made upon the form prescribed by the department and  
11 shall contain the name and address of the applicant and, when  
12 the applicant is a partnership, the name and address of each  
13 partner or, when the applicant is a corporation, the names of  
14 the principal officers of the corporation and the state in  
15 which incorporated and the place where the business is to be  
16 conducted and the nature of the business and such other  
17 information as may be required by the department. Every  
18 application shall be verified by the oath or affirmation of  
19 the applicant, if an individual, or, in the event an applicant  
20 is a partnership or corporation, by a partner or officer of  
21 the partnership or corporation. Every application shall be  
22 accompanied by the fee required by law.

23 C. Any metal processor or dealer in scrap who  
24 dismantles, processes for scrap, shreds, compacts, crushes or  
25 otherwise destroys more than three vehicles [~~or motor~~

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1 ~~vehicles~~] within a period of one year shall be licensed  
2 pursuant to the provisions of Sections 66-4-1 through 66-4-9  
3 NMSA 1978.

4 D. In order to ensure that [~~any~~] a dealer,  
5 wholesaler, distributor, [~~or~~] wrecker of vehicles or title  
6 service company complies with this section, the secretary may  
7 apply to a district court of this state to have [~~any~~] a person  
8 operating without a license as required by this section or  
9 operating without the bond required by Section 66-4-7 NMSA  
10 1978 enjoined from engaging in business until [~~he~~] that person  
11 complies with the requirements of licensing as provided by  
12 this section and the bonding requirements of Section 66-4-7  
13 NMSA 1978.

14 E. Upon application to a court for the issuance of  
15 an injunction against an unlicensed [~~operator~~] person, the  
16 court may forthwith issue an order temporarily restraining  
17 [~~him~~] that person from doing business. The court shall hear  
18 the matter within three days and, upon a showing by the  
19 preponderance of the evidence that the person is operating  
20 without a license and that [~~he~~] the person has been given  
21 notice of the hearing as required by law, the court may enjoin  
22 [~~him~~] the person from engaging in business in New Mexico until  
23 [~~he~~] the person ceases to be unlicensed. Upon issuing an  
24 injunction, the court may also order the business premises of  
25 the person to be sealed by the sheriff and may allow the

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1 person access thereto only upon approval of the court.

2 F. No temporary restraining order shall be issued  
3 against ~~[any]~~ a person who has complied with the provisions of  
4 this section. Upon a showing to the court by ~~[any]~~ a person  
5 against whom a temporary restraining order has been issued  
6 that he has a license in accordance with the provisions of  
7 this section, the court shall dissolve or set aside the  
8 temporary restraining order. "

9 Section 3. Section 66-4-2 NMSA 1978 (being Laws 1978,  
10 Chapter 35, Section 215, as amended) is amended to read:

11 "66-4-2. ~~[DIVISION]~~ DEPARTMENT TO ISSUE LICENSE. --

12 A. The ~~[division]~~ department, upon receiving  
13 application accompanied by the required fee and when satisfied  
14 that the applicant is of good character and, so far as can be  
15 ascertained, has complied with and will comply with the laws  
16 of this state with reference to the registration of vehicles  
17 and certificates of title and the provisions of the Motor  
18 Vehicle Code, shall issue to the applicant a license which  
19 entitles the licensee to carry on and conduct the business of  
20 a dealer, ~~[or]~~ wrecker of vehicles or title service company,  
21 as the case may be, during the ~~[calendar year in]~~ period for  
22 which the license is issued. The license shall expire on  
23 ~~[December 31 of each year]~~ the last day of the period for  
24 which it is issued and may be renewed upon application and  
25 payment of the fee required by law.



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1                   B. Any dealer or wrecker of vehicles licensee,  
2 before moving any one or more of [~~his~~] the licensee's places  
3 of business or opening any additional place of business, shall  
4 apply to the [~~division~~] department for and obtain a  
5 supplemental license for which no fee shall be charged. No  
6 supplemental license shall be issued to a dealer, other than a  
7 dealer in motorcycles, for an additional place of business  
8 unless:

9                   (1) the place of business is an established  
10 place of business; or

11                   (2) the majority of dealers, other than  
12 dealers in motorcycles, in the county in which the proposed  
13 additional place of business would be located have been  
14 offered the opportunity, in documentation acceptable to the  
15 [~~division~~] department, to offer vehicles for sale at the  
16 proposed additional place of business by the applicant;  
17 provided that the offer shall be for sale of vehicles at all  
18 times at which the applicant proposes to sell vehicles and  
19 shall not be conditioned upon the payment of any fee by any  
20 dealer to whom it is addressed greater than a fair share of  
21 the actual expenses incurred.

22                   C. Any person to whom the [~~division~~] department  
23 has issued a license to conduct the business of a dealer in  
24 motorcycles is deemed a wrecker of motorcycles without  
25 additional license.

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D. The department is authorized to establish a staggered system for licensing of dealers, wholesalers, distributors and wreckers of vehicles and of title service companies, provided that any license issued shall expire on the last day of a month. During the initial adjustment period of July 1, 1999 through December 31, 2000, the department may issue licenses for periods less than twelve months or up to twenty-one months to establish a more uniform monthly pattern of expirations. For any license issued for a period other than twelve months during the initial adjustment period, the fee imposed pursuant to Section 66-6-18 NMSA 1978 shall be adjusted accordingly. After the initial adjustment period, licenses issued shall be issued for a period of twelve months. "

Section 4. Section 66-4-4 NMSA 1978 (being Laws 1978, Chapter 35, Section 217) is amended to read:

"66-4-4. CRIMINAL OFFENDER'S CHARACTER EVALUATION. -- The provisions of the Criminal Offender Employment Act [ ~~shall~~ ] govern any consideration of criminal records required or permitted by Sections [ ~~64-4-1 through 64-4-9 NMSA 1953~~ ] 66-4-1 through 66-4-9 NMSA 1978. "

Section 5. Section 66-4-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 218) is amended to read:

"66-4-5. RECORDS OF PURCHASES, OF SALES AND OF VEHICLES DISMANTLED. --

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1           A. Every dealer and wrecker of vehicles licensee  
2 shall maintain a record, in form as prescribed by the  
3 [~~division~~] department of:

4                   (1) every vehicle of a type subject to  
5 registration [~~hereunder which~~] pursuant to the provisions of  
6 the Motor Vehicle Code that is bought, sold or exchanged by  
7 the licensee or received by the licensee for sale or exchange;

8                   (2) every motor vehicle body, chassis or  
9 [~~motor vehicle~~] engine which is sold or otherwise disposed of;  
10 and

11                   (3) every such vehicle which is bought or  
12 otherwise acquired and dismantled by the licensee.

13           B. Every [~~said~~] record required to be maintained  
14 pursuant to Subsection A of this section shall state the name  
15 and address of the person from [~~which such~~] whom the vehicle  
16 was purchased or acquired and the date [~~thereof~~] of the  
17 purchase and the name and address of the person to whom [~~such~~]  
18 the vehicle or the motor vehicle body, chassis or [~~motor~~  
19 ~~vehicle~~] engine was sold or otherwise disposed of and the date  
20 [~~thereof~~] of the sale or disposition and a sufficient  
21 description of every [~~such~~] vehicle or motor vehicle body,  
22 chassis or [~~motor vehicle~~] engine by name and identifying  
23 numbers [~~thereon to identify the same~~] sufficient to identify  
24 the vehicle or motor vehicle body, chassis or engine.

25           C. Every title service company licensee shall

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- 1 maintain a record of:
- 2                   (1) every temporary registration plate
- 3 issued;
- 4                   (2) every title and registration application
- 5 accepted for processing; and
- 6                   (3) any other information prescribed by the
- 7 department.

8                   [~~C-~~] D. Every [~~such~~] record required to be

9 maintained pursuant to the provisions of this section shall be

10 retained for a period of three years from the end of the year

11 in which the record was created and shall be open to

12 inspection by any peace officer or officer of the [~~division~~]

13 department during reasonable business hours. If the licensee

14 fails to maintain the records required or to permit their

15 inspection during reasonable business hours, the license

16 becomes invalid. "

17                   Section 6. Section 66-4-6 NMSA 1978 (being Laws 1978,

18 Chapter 35, Section 219) is amended to read:

19                   "66-4-6. [~~ESTABLISHED~~] PLACE OF BUSINESS. --

20                   A. No license shall be issued to a dealer or

21 wrecker of vehicles unless an established place of business as

22 defined in the Motor Vehicle Code [~~be~~] is maintained by [~~said~~]

23 the dealer or wrecker of vehicles. Each license to carry on

24 or conduct the business of a dealer or wrecker of vehicles

25 [~~shall become~~] becomes invalid when the licensee [~~shall fail~~]

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1 fails to maintain an established place of business as defined  
2 in the Motor Vehicle Code.

3 B. No license shall be issued to a title service  
4 company unless that company maintains a physical place of  
5 business accessible to the public and provides the department  
6 with the physical address of that place of business. Each  
7 such place of business shall be open to inspection by a peace  
8 officer or the department during reasonable business hours.  
9 The license of the title service company may be suspended or  
10 canceled if the title service company fails to maintain a  
11 place of business accessible to the public or does not allow  
12 inspection during reasonable business hours by a peace officer  
13 or the department. "

14 Section 7. Section 66-4-7 NMSA 1978 (being Laws 1978,  
15 Chapter 35, Section 220, as amended) is amended to read:

16 "66-4-7. DEALERS, WHOLESALERS, DISTRIBUTORS AND WRECKERS  
17 OF VEHICLES-- TITLE SERVICE COMPANIES-- DEALERS OF MOTORCYCLES  
18 ONLY-- BOND. --

19 A. Before issuance of any dealer's license,  
20 wholesaler's license, distributor's license, [ ~~or~~ ] wrecker of  
21 vehicles license or title service company license, the  
22 applicant shall procure and file with the department a  
23 corporate surety bond in the amount of fifty thousand dollars  
24 (\$50,000). An applicant for a dealer's license for  
25 motorcycles only shall procure and file with the department a

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1 corporate surety bond in the amount of twelve thousand five  
2 hundred dollars (\$12,500). The corporate surety shall be  
3 licensed by the [~~state corporation~~] public regulation  
4 ~~commission~~ or a successor entity to do business in this state  
5 as a surety and the form of the bond shall be approved by the  
6 attorney general. The bond shall be payable to the state for  
7 the use and benefit of the purchaser and his vendees,  
8 conditioned upon payment of any loss, damage and expense  
9 sustained by the purchaser or his vendees, or both, by reason  
10 of failure of the title of the vendor, by any fraudulent  
11 misrepresentations or by any breach of warranty as to freedom  
12 from liens on the motor vehicle or motorcycle sold by the  
13 dealer, wholesaler, distributor, dealer of motorcycles only or  
14 wrecker of vehicles. The bond shall be continuous in form and  
15 limited to the payment of fifty thousand dollars (\$50,000) in  
16 total aggregate liability on a dealer's license, wholesaler's  
17 license, distributor's license, [~~and a~~] wrecker of vehicles  
18 license or a title service company license and twelve thousand  
19 five hundred dollars (\$12,500) on a dealer's license for  
20 motorcycles only.

21 B. No applicant for a dealer's license,  
22 wholesaler's license, distributor's license or dealer's  
23 license for motorcycles only who files bond in the amount and  
24 form specified in Subsection A of this section shall be  
25 required to file any additional bond to conduct a business of

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1 wrecking or dismantling motor vehicles or motorcycles.  
2 Conversely, no applicant for a wrecker of vehicles license who  
3 files bond in the amount and form specified in Subsection A of  
4 this section shall be required to file any additional bond to  
5 conduct a business of dealer, distributor, wholesaler or  
6 dealer of motorcycles only.

7 C. In lieu of the bond required in this section,  
8 the dealer, wholesaler, distributor, wrecker of vehicles or  
9 dealer of motorcycles only may elect to file with the  
10 department the equivalent amount of cash or bonds of the  
11 United States or New Mexico or of any political subdivision of  
12 the state.

13 D. The license of a dealer, wholesaler,  
14 distributor or wrecker of vehicles or of a title service  
15 company may be suspended or canceled if the dealer,  
16 wholesaler, distributor, wrecker of vehicles or title service  
17 company fails to have in effect the required bond or other  
18 security. "

19 Section 8. Section 66-4-8 NMSA 1978 (being Laws 1978,  
20 Chapter 35, Section 221, as amended) is amended to read:

21 "66-4-8. EXEMPTIONS FROM LICENSING AND BOND  
22 PROVISIONS. --The provisions of Sections 66-4-1 through 66-4-7  
23 NMSA 1978 requiring dealers, wholesalers and distributors of  
24 motor vehicles and wreckers of vehicles [ ~~and motor vehicles~~ ]  
25 to be licensed and post a bond do not apply to persons who

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1 deal in boats or vessels, off-highway motor vehicles,  
2 recreational vehicles that are designed to be towed by a motor  
3 vehicle, trailers, semitrailers, pole trailers and trailers  
4 designed to transport boats, vessels or off-highway motor  
5 vehicles and who do not deal in other motor vehicles of a type  
6 subject to registration. "

7 Section 9. Section 66-6-18 NMSA 1978 (being Laws 1978,  
8 Chapter 35, Section 353, as amended) is amended to read:

9 "66-6-18. LICENSE FEE FOR DEALERS, WHOLESALERS,  
10 DISTRIBUTORS AND WRECKERS OF VEHICLES AND TITLE SERVICE  
11 COMPANIES. --For a license to do business as a dealer,  
12 wholesaler, distributor or wrecker of vehicles or any  
13 combination of the foregoing or as a title service company,  
14 there shall be paid a fee of fifty dollars (\$50.00) for each  
15 license year or portion thereof. "

16 Section 10. EFFECTIVE DATE. --The effective date of the  
17 provisions of this act is July 1, 1999.



1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3  
4  
5 January 28, 1999

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7 Mr. President:

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9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to  
10 whom has been referred  
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13 SENATE BILL 122

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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, and thence referred to the  
17 PUBLIC AFFAIRS COMMITTEE.

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19 Respectfully submitted,  
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Roman M. Maes, Chairman

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Adopted \_\_\_\_\_ Not

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(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 4 For 2 Against

Yes: 4

No: Macias, McKibben

Excused: Aragon, Kysar, Rawson, Robinson

Absent: 0

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

6 February 10, 1999

8 Mr. President:

10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been  
11 referred

13 SENATE BILL 122

15 has had it under consideration and reports same with  
16 recommendation that it DO PASS.

19 Respectfully submitted,

24 \_\_\_\_\_  
25 Shannon Robinson, Chairman

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1 Adopted \_\_\_\_\_ Not

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3 (Chief Clerk)

(Chief Clerk)

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7 Date \_\_\_\_\_

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10 The roll call vote was 7 For 0 Against

11 Yes: 7

12 No: 0

13 Excused: Feldman, Smith

14 Absent: None

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1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
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6 March 16, 1999  
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8 Mr. Speaker:  
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10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
11 been referred  
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13 SENATE BILL 122  
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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS.

17 Respectfully submitted,  
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22 Fred Luna, Chairman  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HBIC/SB 122

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4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
5 (Chief Clerk) (Chief Clerk)

7 Date \_\_\_\_\_

9 The roll call vote was 11 For 0 Against

10 Yes: 11

11 Excused: J. G. Taylor

12 Absent: None

14 J:\99BillsWP\S0122

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1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

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4 March 16, 1999

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7 Mr. Speaker:

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9 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
10 been referred

11 SENATE BILL 122

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13 has had it under consideration and reports same with  
14 recommendation that it DO PASS.

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16 Respectfully submitted,

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21 Fred Luna, Chairman  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HBIC/SB 122

Page 24

4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
5 (Chief Clerk) (Chief Clerk)

7 Date \_\_\_\_\_

9 The roll call vote was 11 For 0 Against

10 Yes: 11

11 Excused: J. G. Taylor

12 Absent: None

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