

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT
RELATING TO MOTOR VEHICLES; CREATING AN AUTO RECYCLER LICENSE
TO REPLACE A WRECKER OF VEHICLES LICENSE; DISTINGUISHING
BETWEEN SALVAGE AND NONREPAIRABLE VEHICLES FOR TITLE
PURPOSES; LIMITING SALE OF NONREPAIRABLE VEHICLES TO CERTAIN
LICENSED ENTITIES; AMENDING, REPEALING AND ENACTING SECTIONS
OF THE NMSA 1978.

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

Section 1. Section 66-1-4.1 NMSA 1978 (being Laws 1990,
Chapter 120, Section 2, as amended) is amended to read:

"66-1-4.1. DEFINITIONS.--As used in the Motor Vehicle
Code:

A. "abandoned vehicle" means a vehicle or motor
vehicle that has been determined by a New Mexico law
enforcement agency:

(1) to have been left unattended on either
public or private property for at least thirty days;

(2) not to have been reported stolen;

(3) not to have been claimed by any person
asserting ownership; and

(4) not to have been shown by normal record
checking procedures to be owned by any person;

B. "access aisle" means a space designed to allow
a person with severe mobility impairment to safely exit and

1 enter a motor vehicle and that is immediately adjacent to a
2 designated disabled parking space and that may be common to
3 two such parking spaces of at least sixty inches in width or,
4 if the parking space is designed for van accessibility,
5 ninety-six inches in width, and clearly marked with blue
6 striping;

7 C. "additional place of business", for dealers and
8 auto recyclers, means locations in addition to an established
9 place of business as defined in Section 66-1-4.5 NMSA 1978
10 and meeting all the requirements of an established place of
11 business, except Paragraph (5) of Subsection B of Section
12 66-1-4.5 NMSA 1978, but "additional place of business" does
13 not mean a location used solely for storage and that is not
14 used for wrecking, dismantling, sale or resale of vehicles;

15 D. "alcoholic beverages" means any and all
16 distilled or rectified spirits, potable alcohol, brandy,
17 whiskey, rum, gin, aromatic bitters or any similar alcoholic
18 beverage, including all blended or fermented beverages,
19 dilutions or mixtures of one or more of the foregoing
20 containing more than one-half percent alcohol but excluding
21 medicinal bitters;

22 E. "authorized emergency vehicle" means any fire
23 department vehicle, police vehicle, ambulance and any
24 emergency vehicles of municipal departments or public
25 utilities that are designated or authorized as emergency

1 vehicles by the director of the New Mexico state police
2 division of the department of public safety or local
3 authorities; and

4 F. "auto recycler" means a person engaged in this
5 state in an established business that includes acquiring
6 vehicles that are required to be registered under the Motor
7 Vehicle Code for the purpose of dismantling, wrecking,
8 shredding, compacting, crushing or otherwise destroying
9 vehicles for reclaimable parts or scrap material to sell."

10 Section 2. Section 66-1-4.5 NMSA 1978 (being Laws 1990,
11 Chapter 120, Section 6) is amended to read:

12 "66-1-4.5. DEFINITIONS.--As used in the Motor Vehicle
13 Code:

14 A. "essential parts" means all integral and body
15 parts of a vehicle of a type required to be registered by the
16 provisions of the Motor Vehicle Code, the removal, alteration
17 or substitution of which would tend to conceal the identity
18 of the vehicle or substantially alter its appearance, model,
19 type or mode of operation;

20 B. "established place of business", for a dealer
21 or auto recycler, means a place:

22 (1) devoted exclusively to the business for
23 which the dealer or auto recycler is licensed and related
24 business;

25 (2) identified by a prominently displayed

1 sign giving the dealer's or auto recycler's trade name used
2 by the business;

3 (3) of sufficient size or space to permit
4 the display of one or more vehicles or to permit the parking
5 or storing of vehicles to be dismantled or wrecked for
6 recycling;

7 (4) on which there is located an enclosed
8 building on a permanent foundation, which building meets the
9 building requirements of the community and is large enough to
10 accommodate the office or offices of the dealer or auto
11 recycler and large enough to provide a safe place to keep the
12 books and records of the dealer or auto recycler;

13 (5) where the principal portion of the
14 business of the dealer or auto recycler is conducted and
15 where the books and records of the business are kept and
16 maintained; and

17 (6) where vehicle sales are of new vehicles
18 only, such as a department store or a franchisee of a
19 department store, as long as the department store or
20 franchisee keeps the books and records of its vehicle
21 business in a general office location at its place of
22 business; as used in this paragraph, "department store" means
23 a business that offers a variety of merchandise other than
24 vehicles, and sales of the merchandise other than vehicles
25 constitute at least eighty percent of the gross sales of the

1 business; and

2 C. "explosives" means any chemical compound or
3 mechanical mixture that is commonly used or intended for the
4 purpose of producing an explosion and that contains any
5 oxidizing and combustive units or other ingredients in such
6 proportions, quantities or packing that an ignition by fire,
7 friction, concussion, percussion or detonator of any part of
8 the compound or mixture may cause such a sudden generation of
9 highly heated gases that the resultant gaseous pressures are
10 capable of producing destructive effects on contiguous
11 objects or of destroying life or limb."

12 Section 3. Section 66-1-4.12 NMSA 1978 (being Laws
13 1990, Chapter 120, Section 13) is amended to read:

14 "66-1-4.12. DEFINITIONS.--As used in the Motor Vehicle
15 Code:

16 A. "nonrepairable vehicle" means a vehicle of a
17 type otherwise subject to registration that:

18 (1) has no resale value except as a source
19 of parts or scrap metal or that the owner irreversibly
20 designates as a source of parts or scrap metal or for
21 destruction;

22 (2) has been substantially stripped as a
23 result of theft or is missing all of the bolts on sheet metal
24 body panels, all of the doors and hatches, substantially all
25 of the interior components and substantially all of the grill

1 and light assemblies and has little or no resale value other
2 than its worth as a source of a vehicle identification number
3 that could be used illegally; or

4 (3) is a substantially burned vehicle that
5 has burned to the extent that there are no more usable or
6 repairable body or interior components, tires and wheels or
7 drive train components or that the owner irreversibly
8 designates for destruction or as having little or no resale
9 value other than its worth as a source of scrap metal or as a
10 source of a vehicle identification number that could be used
11 illegally;

12 B. "nonrepairable vehicle certificate" means a
13 vehicle ownership document conspicuously labeled
14 "NONREPAIRABLE" issued to the owner of the nonrepairable
15 vehicle;

16 C. "nonresident" means every person who is not a
17 resident of this state;

18 D. "nonresident commercial driver's license" means
19 a commercial driver's license issued by a state defined
20 within "state" to an individual who resides in another state
21 or foreign jurisdiction; and

22 E. "nonresident's operating privilege" means the
23 privilege conferred upon a nonresident by the laws of this
24 state pertaining to the operation by the nonresident of a
25 motor vehicle, or the use of a motor vehicle owned by the

1 nonresident, in this state."

2 Section 4. Section 66-1-4.16 NMSA 1978 (being Laws
3 1990, Chapter 120, Section 17, as amended) is amended to
4 read:

5 "66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle
6 Code:

7 A. "safety glazing materials" means glazing
8 materials constructed, treated or combined with other
9 materials to reduce substantially, in comparison with
10 ordinary sheet glass or plate glass, the likelihood of injury
11 to persons by objects from exterior sources or by these
12 safety glazing materials when they are cracked and broken;

13 B. "safety zone" means the area or space that is
14 officially set apart within a highway for the exclusive use
15 of pedestrians and that is protected or is so marked or
16 indicated by adequate signs as to be plainly visible at all
17 times while set apart as a safety zone;

18 C. "salvage vehicle" means a vehicle:

19 (1) other than a nonrepairable vehicle, of a
20 type subject to registration that has been wrecked, destroyed
21 or damaged excluding, pursuant to rules issued by the
22 department, hail damage, to the extent that the owner,
23 leasing company, financial institution or the insurance
24 company that insured or is responsible for repair of the
25 vehicle considers it uneconomical to repair the vehicle and

1 that is subsequently not repaired by or for the person who
2 owned the vehicle at the time of the event resulting in
3 damage; or

4 (2) that was determined to be uneconomical
5 to repair and for which a total loss payment is made by an
6 insurer, whether or not the vehicle is subsequently repaired,
7 if, prior to or upon making payment to the claimant, the
8 insurer obtained the agreement of the claimant to the amount
9 of the total loss settlement and informed the claimant that,
10 pursuant to rules of the department, the title must be
11 branded and submitted to the department for issuance of a
12 salvage certificate of title for the vehicle;

13 D. "school bus" means a commercial motor vehicle
14 used to transport preprimary, primary or secondary school
15 students from home to school, from school to home or to and
16 from school-sponsored events, but not including a vehicle:

17 (1) operated by a common carrier, subject to
18 and meeting all requirements of the public regulation
19 commission but not used exclusively for the transportation of
20 students;

21 (2) operated solely by a government-owned
22 transit authority, if the transit authority meets all safety
23 requirements of the public regulation commission but is not
24 used exclusively for the transportation of students; or

25 (3) operated as a per capita feeder as

1 defined in Section 22-16-6 NMSA 1978;

2 E. "seal" means the official seal of the taxation
3 and revenue department as designated by the secretary;

4 F. "secretary" means the secretary of taxation and
5 revenue, and, except for the purposes of Sections 66-2-3
6 and 66-2-12 NMSA 1978, also includes the deputy secretary and
7 any division director delegated by the secretary;

8 G. "semitrailer" means a vehicle without motive
9 power, other than a pole trailer, designed for carrying
10 persons or property and for being drawn by a motor vehicle
11 and so constructed that some significant part of its weight
12 and that of its load rests upon or is carried by another
13 vehicle;

14 H. "sidewalk" means a portion of street between
15 the curb lines, or the lateral lines of a roadway, and the
16 adjacent property lines, intended for the use of pedestrians;

17 I. "slow-moving vehicle" means a vehicle that is
18 ordinarily moved, operated or driven at a speed less than
19 twenty-five miles per hour;

20 J. "solid tire" means every tire of rubber or
21 other resilient material that does not depend upon compressed
22 air for the support of the load;

23 K. "special mobile equipment" means a vehicle not
24 designed or used primarily for the transportation of persons
25 or property and incidentally operated or moved over the

1 highways, including but not limited to farm tractors, road
2 construction or maintenance machinery, ditch-digging
3 apparatus, well-boring apparatus and concrete mixers;

4 L. "specially constructed vehicle" means a vehicle
5 of a type required to be registered under the Motor Vehicle
6 Code not originally constructed under a distinctive name,
7 make, model or type by a generally recognized manufacturer of
8 vehicles and not materially altered from its original
9 construction;

10 M. "state" means a state, territory or possession
11 of the United States, the District of Columbia or a province
12 of the Dominion of Canada;

13 N. "state highway" means a public highway that has
14 been designated as a state highway by the legislature, the
15 state transportation commission or the secretary of
16 transportation;

17 O. "stop", when required, means complete cessation
18 from movement;

19 P. "stop, stopping or standing", when prohibited,
20 means any stopping or standing of a vehicle, whether occupied
21 or not, except when necessary to avoid conflict with other
22 traffic or in compliance with the directions of a police
23 officer or traffic-control sign or signal;

24 Q. "street" or "highway" means a way or place
25 generally open to the use of the public as a matter of right

1 for the purpose of vehicular travel, even though it may be
2 temporarily closed or restricted for the purpose of
3 construction, maintenance, repair or reconstruction;

4 R. "subsequent offender" means a person who was
5 previously a first offender and who again, under state law,
6 federal law or a municipal ordinance or a tribal law, has
7 been adjudicated guilty of the charge of driving a motor
8 vehicle while under the influence of intoxicating liquor or
9 any drug that rendered the person incapable of safely driving
10 a motor vehicle, regardless of whether the person's sentence
11 was suspended or deferred; and

12 S. "suspension" means that a person's driver's
13 license and privilege to drive a motor vehicle on the public
14 highways are temporarily withdrawn."

15 Section 5. Section 66-1-4.19 NMSA 1978 (being Laws
16 1990, Chapter 120, Section 20) is amended to read:

17 "66-1-4.19. DEFINITIONS.--As used in the Motor Vehicle
18 Code:

19 A. "validating sticker" means the tab or sticker
20 issued by the division to signify, upon a registration plate,
21 renewed registration;

22 B. "vehicle" means every device in, upon or by
23 which any person or property is or may be transported or
24 drawn upon a highway, including any frame, chassis, body or
25 unitized frame and body of any vehicle or motor vehicle,

1 except devices moved exclusively by human power or used
2 exclusively upon stationary rails or tracks; and

3 C. "vehicle-business number" means the distinctive
4 registration number given by the division to any
5 manufacturer, auto recycler or dealer."

6 Section 6. Section 66-1-4.20 NMSA 1978 (being Laws
7 1990, Chapter 120, Section 21) is amended to read:

8 "66-1-4.20. DEFINITIONS.--As used in the Motor Vehicle
9 Code:

10 A. "wholesaler" means any person, except a person
11 making a casual sale of the person's own vehicle, who sells
12 or offers for sale vehicles of a type subject to registration
13 in this state, to a vehicle dealer who is licensed under the
14 Motor Vehicle Code or who is franchised by a manufacturer,
15 distributor or vehicle dealer; provided, however, that if any
16 person except a person making a casual sale of the person's
17 own vehicle also sells a vehicle at retail, that person shall
18 be deemed to be a dealer and is subject to the
19 dealer-licensing provisions of the Motor Vehicle Code; and

20 B. "written clearance from a law enforcement
21 agency" means any written statement signed by a full-time,
22 salaried law enforcement officer stating that a check has
23 been made of the law enforcement agency's records and the
24 computerized records of the national crime information center
25 and that the check of records indicates that the vehicle or

1 motor vehicle in question has not been reported stolen."

2 Section 7. Section 66-3-4 NMSA 1978 (being Laws 1978,
3 Chapter 35, Section 24, as amended) is amended to read:

4 "66-3-4. APPLICATION FOR REGISTRATION AND CERTIFICATE
5 OF TITLE--NONREPAIRABLE VEHICLE CERTIFICATE.--

6 A. Every owner of a vehicle of a type required to
7 be registered in this state shall make application to the
8 division for the registration and issuance of a certificate
9 of title for the vehicle. Applications shall be upon the
10 appropriate forms furnished by the division and shall bear
11 the signature of the owner written with pen and ink. All
12 applications presented to the division shall contain:

13 (1) for a vehicle other than a recreational
14 vehicle, the name, bona fide New Mexico residence address and
15 mail address of the owner or, if the owner is a firm,
16 association or corporation, the name, bona fide New Mexico
17 business address and mail address of the firm, association or
18 corporation and for a recreational vehicle, the name, bona
19 fide residence address and mail address of the owner and
20 proof of delivery in New Mexico;

21 (2) a description of the vehicle including,
22 insofar as the hereinafter specified data may exist with
23 respect to a given vehicle, the make, model, type of body,
24 number of cylinders, type of fuel used, serial number of the
25 vehicle, odometer reading, engine or other identification

1 number provided by the manufacturer of the vehicle, whether
2 new or used and, if a vehicle not previously registered, date
3 of sale by the manufacturer or dealer to the person intending
4 to operate the vehicle. In the event a vehicle is designed,
5 constructed, converted or rebuilt for the transportation of
6 property, the application shall include a statement of its
7 rated capacity as established by the manufacturer of the
8 chassis or the complete vehicle;

9 (3) a statement of the applicant's title and
10 of all liens or encumbrances upon the vehicle and the names
11 and addresses of all persons having any interest therein and
12 the nature of every such interest and the name and address of
13 the person to whom the certificate of title shall be
14 delivered by the division;

15 (4) if the vehicle required to be registered
16 is a house trailer, as defined in the Motor Vehicle Code, a
17 certificate from the treasurer or assessor of the county in
18 which the house trailer is located showing that either:

19 (a) all property taxes due or to become
20 due on the house trailer for the current tax year or any past
21 tax years have been paid; or

22 (b) no liability for property taxes on
23 the house trailer exists for the current year or any past tax
24 years; and

25 (5) further information as may reasonably be

1 required by the division to enable it to determine whether
2 the vehicle is lawfully entitled to registration and the
3 owner entitled to a certificate of title.

4 B. Any owner of a vehicle subject to registration
5 that has never been registered in this state and that has
6 been registered in another state shall have such vehicle
7 examined and inspected for its identification number or
8 engine number by the division or an officer or designated
9 agent thereof incident to securing registration,
10 reregistration or a certificate of title from the division.

11 C. When such application refers to a vehicle not
12 previously registered and the vehicle is purchased from a
13 dealer licensed in this state or a dealer licensed or
14 recognized as such in any other state, territory or
15 possession of the United States, the application shall be
16 accompanied by a manufacturer's certificate of origin duly
17 assigned by the dealer to the purchaser. In the event that a
18 vehicle not previously registered is sold by the manufacturer
19 to a dealer in a state not requiring a manufacturer's
20 certificate of origin and in the event that the vehicle is
21 subsequently purchased by a dealer or any person in this
22 state, the application for title shall be accompanied by the
23 evidence of title accepted by the state in which the vehicle
24 was sold by the manufacturer to a dealer in that state
25 together with evidence of subsequent transfers.

1 D. Prior to the sale or disposal of a
2 nonrepairable vehicle, the owner, owner's agent or salvage
3 pool shall obtain a properly endorsed nonrepairable vehicle
4 certificate from the department and deliver it to the
5 purchaser within twenty days after payment in full for the
6 nonrepairable vehicle and shall also comply with Section
7 66-3-10.1 NMSA 1978. The department shall accept the
8 endorsed nonrepairable vehicle certificate in lieu of the
9 certificate of ownership or other evidence of ownership when
10 accompanied by an application and other documents and fees as
11 may be required by the department. A vehicle for which a
12 nonrepairable vehicle certificate has been issued shall not
13 be titled or registered for use on the highways of this
14 state.

15 E. If an insurance company makes a total loss
16 settlement on a nonrepairable vehicle and takes possession of
17 that vehicle, either itself or through an agent or salvage
18 pool, the insurance company or an authorized agent of the
19 insurance company shall:

20 (1) stamp the face of the title or
21 manufacturer's certificate of origin with the word
22 "NONREPAIRABLE", in letters no less than one-half inch high,
23 at an angle of approximately forty-five degrees to the text
24 of the title or manufacturer's certificate of origin; and

25 (2) within twenty days after receipt of

1 title by the insurer, free and clear of all liens, submit a
2 copy of the branded title or manufacturer's certificate of
3 title to the department together with documents explaining
4 the reason for branding, and shall forward a properly
5 endorsed certificate of title or manufacturer's certificate
6 of origin or other evidence of ownership acceptable to the
7 department together with the proper fee to the department.
8 The department, upon receipt of the title or manufacturer's
9 certificate of origin or other evidence of ownership, shall
10 issue a nonrepairable vehicle certificate for the vehicle.

11 F. If an owner of a nonrepairable vehicle elects
12 to retain possession of the vehicle, the insurance company
13 shall notify the department of the retention on a form
14 prescribed by the department. The insurance company shall
15 also notify the insured or owner of the insured's or owner's
16 responsibility to comply with this section. The owner shall,
17 within twenty days from the date of settlement of the loss,
18 forward a properly endorsed certificate of title or
19 manufacturer's certificate of origin or other evidence of
20 ownership acceptable to the department together with the
21 proper fee to the department. The department, upon receipt
22 of the title or manufacturer's certificate of origin or other
23 evidence of ownership, shall issue a nonrepairable vehicle
24 certificate for the vehicle.

25 G. If a nonrepairable vehicle is not the subject

1 of an insurance settlement, the owner shall, within twenty
2 days from the date of the loss, forward a properly endorsed
3 certificate of title or manufacturer's certificate of origin
4 or other evidence of ownership acceptable to the department
5 together with the proper fee to the department. The
6 department, upon receipt of the title or manufacturer's
7 certificate of origin or other evidence of ownership, shall
8 issue a nonrepairable vehicle certificate for the vehicle.

9 H. The department shall not issue a new
10 registration card and certificate of ownership pursuant to
11 Subsection A, B or C of this section on a vehicle that has
12 been issued a nonrepairable vehicle certificate pursuant to
13 Subsections E, F and G of this section."

14 Section 8. Section 66-3-10.1 NMSA 1978 (being Laws
15 1990, Chapter 120, Section 24) is repealed and a new Section
16 66-3-10.1 NMSA 1978 is enacted to read:

17 "66-3-10.1. SALVAGE VEHICLES--NONREPAIRABLE VEHICLES--
18 CERTIFICATE OF TITLE--TRANSFER OF OWNERSHIP.--

19 A. It is unlawful for a person to sell or
20 otherwise convey ownership of a salvage or nonrepairable
21 vehicle unless the certificate of title or ownership is
22 branded or a comparable title, certificate or ownership
23 document has been issued by another state or jurisdiction.

24 B. An owner of a nonrepairable vehicle shall sell
25 or otherwise convey that vehicle only to a licensed wrecker

1 of vehicles or a person licensed by a jurisdiction outside of
2 this state to process vehicles by dismantling, wrecking,
3 shredding, crushing or selling motor vehicle parts or scrap
4 material or otherwise disposing of motor vehicles.

5 C. A nonrepairable vehicle shall not be repaired,
6 reconstructed or restored for operation on the roads or
7 highways of this state.

8 D. This section does not apply to:

9 (1) a person whose motor vehicle has been
10 stolen or taken without that person's consent unless, if the
11 motor vehicle is recovered, it is a salvage or nonrepairable
12 vehicle; or

13 (2) a person conveying ownership of a motor
14 vehicle to an insurance company as a result of a total loss
15 insurance settlement. For the purpose of this paragraph,
16 "total loss insurance settlement" means the transfer of
17 ownership of a motor vehicle by a person to an insurance
18 company as a result of a settlement in which the motor
19 vehicle is determined to be salvage or nonrepairable."

20 Section 9. Section 66-3-401 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 80, as amended) is amended to read:

22 "66-3-401. OPERATION OF VEHICLES UNDER SPECIAL DEALER
23 PLATES.--

24 A. Any vehicle that is required to be registered
25 pursuant to the Motor Vehicle Code and that is included in

1 the inventory of an auto recycler or dealer may be operated
2 or moved upon the highways for any purpose, provided that the
3 vehicle display in the manner prescribed in Section 66-3-18
4 NMSA 1978 a special plate issued to the dealer or auto
5 recycler as provided in Section 66-3-402 NMSA 1978. This
6 subsection shall not be construed as limiting the use of
7 temporary permits issued to dealers pursuant to Section
8 66-3-6 NMSA 1978.

9 B. The provisions of this section do not apply to
10 work or service vehicles used by an auto recycler or dealer.

11 For the purposes of this subsection, "work or service
12 vehicle" includes any vehicle used substantially as a:

- 13 (1) parts or delivery vehicle;
- 14 (2) vehicle used to tow another vehicle;
- 15 (3) courtesy shuttle; or
- 16 (4) vehicle loaned to customers for their
17 convenience.

18 C. Each vehicle included in a dealer's inventory
19 required to be registered pursuant to the provisions of
20 Subsection A of this section must conform to the registration
21 provisions of the Motor Vehicle Code, but is not required to
22 be titled pursuant to the provisions of that code. When a
23 vehicle is no longer included in a dealer's inventory, and is
24 not sold or leased to an unrelated entity, the dealer must
25 title the vehicle and pay the motor vehicle excise tax that

1 would have been due when the vehicle was first registered by
2 the dealer.

3 D. In lieu of the use of special dealer plates
4 pursuant to this section, a dealer or auto recycler may
5 register and title a vehicle included in a dealer's inventory
6 in the name of the dealer or auto recycler upon payment of
7 the registration fee applicable to that vehicle, but without
8 payment of the motor vehicle excise tax, provided the vehicle
9 is subsequently sold or leased in the ordinary course of
10 business in a transaction subject to the motor vehicle excise
11 tax or the leased vehicle gross receipts tax."

12 Section 10. Section 66-3-402 NMSA 1978 (being Laws
13 1978, Chapter 35, Section 81, as amended) is amended to read:

14 "66-3-402. APPLICATION FOR SPECIAL DEALER PLATES.--

15 A. An auto recycler or dealer may apply to the
16 department upon the appropriate form for one or more special
17 dealer plates. The applicant shall submit proof of being a
18 bona fide auto recycler or dealer as may reasonably be
19 required by the department.

20 B. The maximum number of special dealer plates for
21 which a dealer of new or used motor vehicles or motorcycles
22 may apply pursuant to this section shall be:

23 (1) for a dealer who sold in the previous
24 calendar year five or more but fewer than fifty vehicles, one
25 plate;

1 (2) for a dealer who sold in the previous
2 calendar year more than fifty but fewer than one hundred
3 vehicles, three plates;

4 (3) for a dealer who sold in the previous
5 calendar year more than one hundred but fewer than five
6 hundred vehicles, five plates; and

7 (4) for a dealer who sold in the previous
8 calendar year five hundred or more vehicles, ten plates.

9 C. The maximum number of special dealer plates for
10 which an auto recycler may apply pursuant to this section
11 shall be:

12 (1) for an auto recycler who wrecked or
13 dismantled three or more but fewer than fifty vehicles, one
14 plate;

15 (2) for an auto recycler who wrecked or
16 dismantled fifty or more but fewer than one hundred vehicles,
17 three plates;

18 (3) for an auto recycler who wrecked or
19 dismantled one hundred or more but fewer than five hundred
20 vehicles, five plates; and

21 (4) for an auto recycler who wrecked or
22 dismantled five hundred vehicles or more, ten plates.

23 D. A dealer or auto recycler shall be entitled to
24 five plates in the first calendar year in which it begins
25 business. A dealer or auto recycler who is licensed pursuant

1 to the provisions of Section 66-4-1 NMSA 1978 on or after
2 August 1 of any calendar year shall also be entitled to five
3 plates in the calendar year following the year in which it is
4 first licensed to do business.

5 E. The department upon granting application shall
6 issue to the applicant a certificate containing the
7 applicant's name and address and the numbers of the special
8 dealer plates assigned to the applicant."

9 Section 11. Section 66-3-404 NMSA 1978 (being Laws
10 1978, Chapter 35, Section 83, as amended) is amended to read:

11 "66-3-404. SPECIAL VEHICLE-BUSINESS PLATES NOT
12 TRANSFERABLE.--

13 A. Special vehicle-business plates issued to a
14 manufacturer, auto recycler or dealer are not transferable.

15 B. Whenever the holder of special vehicle-business
16 plates ceases operation for any reason, the current special
17 vehicle-business plates issued to him shall be surrendered to
18 the division."

19 Section 12. 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, WHOLESALERS AND DISTRIBUTORS OF
22 VEHICLES AND TITLE SERVICE COMPANIES MUST BE LICENSED--
23 PRESUMPTION OF CONDUCTING BUSINESS.--

24 A. A person, unless licensed to do so by the
25 department, shall not carry on or conduct the active trade or

1 business of:

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

5 (a) trailers, but not trailers sold as
6 kits;

7 (b) recreational vehicles designed to
8 be towed; and

9 (c) motorcycles over fifty-five cubic
10 centimeters;

11 (2) wholesaling of vehicles. Any person who
12 sells or offers for sale vehicles of a type subject to
13 registration in this state, to a vehicle dealer licensed
14 pursuant to the Motor Vehicle Code or who is franchised by
15 a manufacturer, distributor or vehicle dealer to sell or
16 promote the sale of vehicles dealt in by such manufacturer,
17 distributor or vehicle dealer shall be presumed to be
18 conducting the business of wholesaling;

19 (3) distributing of vehicles. Any person
20 who distributes or sells new or used motor vehicles to
21 dealers and who is not a manufacturer shall be presumed to be
22 conducting the business of distributing vehicles; or

23 (4) a title service company. Any person who
24 for consideration prepares or submits applications for the
25 registration of or title to vehicles shall be presumed to be

1 engaging in the business of a title service company.

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

17 C. To ensure that a dealer, wholesaler,
18 distributor or title service company complies with this
19 section, the secretary may apply to a district court of this
20 state to have a person operating without a license as
21 required by this section or operating without the bond
22 required by Section 66-4-7 NMSA 1978 enjoined from engaging
23 in business until that person complies with the requirements
24 of licensing as provided by this section and the bonding
25 requirements of Section 66-4-7 NMSA 1978."

1 Section 13. A new section of the Motor Vehicle Code,
2 Section 66-4-1.1 NMSA 1978, is enacted to read:

3 "66-4-1.1. AUTO RECYCLER LICENSE--PRESUMPTION OF
4 CONDUCTING BUSINESS.--

5 A. A person desiring to engage in the business of
6 wrecking or dismantling vehicles for the purpose of reselling
7 parts or scrap material shall apply to the department for an
8 auto recycler license. A person possessing three or more
9 wrecked, dismantled or partially wrecked or dismantled
10 vehicles who regularly sells or offers for sale used vehicle
11 parts or vehicle scrap material within the period of one year
12 shall be presumed to be conducting business as an auto
13 recycler.

14 B. An auto recycler licensee shall not sell motor
15 vehicles of a type subject to registration pursuant to the
16 Motor Vehicle Code.

17 C. Application for an auto recycler license shall
18 be made upon the form prescribed by the department and shall
19 contain the name and address of the applicant and, when the
20 applicant is a partnership, the name and address of each
21 partner or, when the applicant is a corporation, the names of
22 the principal officers of the corporation and the state in
23 which incorporated and the place where the business is to be
24 conducted and the nature of the business and such other
25 information as may be required by the department. Every

1 application shall be verified by the oath or affirmation of
2 the applicant, if an individual, or, in the event an
3 applicant is a partnership or corporation, by a partner or
4 officer of the partnership or corporation. Every application
5 shall be accompanied by the fee required by law.

6 D. To ensure that an auto recycler complies with
7 this section, the secretary may apply to a district court of
8 this state to have a person operating without a license as
9 required by this section or operating without the bond
10 required by Section 66-4-7 NMSA 1978 enjoined from engaging
11 in business until that person complies with the requirements
12 of licensing as provided by this section and the bonding
13 requirements of Section 66-4-7 NMSA 1978."

14 Section 14. Section 66-4-2 NMSA 1978 (being Laws 1978,
15 Chapter 35, Section 215, as amended) is amended to read:

16 "66-4-2. DEPARTMENT TO ISSUE LICENSE.--

17 A. The department, upon receiving application
18 accompanied by the required fee and when satisfied that the
19 applicant is of good character and, so far as can be
20 ascertained, has complied with and will comply with the laws
21 of this state with reference to the registration of vehicles
22 and certificates of title and the provisions of the Motor
23 Vehicle Code, shall issue to the applicant a license that
24 entitles the licensee to carry on and conduct the business of
25 a dealer, auto recycler or title service company, as the case

1 may be, during the period for which the license is issued.
2 The license shall expire on the last day of the period for
3 which it is issued and may be renewed upon application and
4 payment of the fee required by law.

5 B. A dealer or auto recycler licensee, before
6 moving any one or more of the licensee's places of business
7 or opening any additional place of business, shall apply to
8 the department for and obtain a supplemental license for
9 which no fee shall be charged. No supplemental license shall
10 be issued to a dealer, other than a dealer in motorcycles,
11 for an additional place of business unless:

12 (1) the place of business is an established
13 place of business; or

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

25 C. A person to whom the department has issued a

1 license to conduct the business of a dealer in motorcycles is
2 deemed a wrecker of motorcycles without additional license.

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

17 E. On or after July 1, 2005, the holder of a
18 wrecker of vehicles license desiring to renew the license
19 shall apply for an auto recycler license, pursuant to the
20 provisions of the Motor Vehicle Code, at the time the holder
21 would have otherwise applied to renew the wrecker of vehicles
22 license."

23 Section 15. Section 66-4-5 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 218, as amended) is amended to read:

25 "66-4-5. RECORDS OF PURCHASES, OF SALES AND OF VEHICLES

1 DISMANTLED.--

2 A. A dealer licensee shall maintain a record in a
3 form prescribed by the department of every vehicle of a type
4 subject to registration pursuant to the provisions of the
5 Motor Vehicle Code that is bought, sold or exchanged by the
6 licensee or received by the licensee for sale or exchange.

7 B. An auto recycler licensee shall maintain a
8 record in a form prescribed by the department of:

9 (1) every vehicle of a type subject to
10 registration pursuant to the provisions of the Motor Vehicle
11 Code that is bought, exchanged or received and dismantled or
12 otherwise destroyed by the licensee; and

13 (2) every motor vehicle body, chassis or
14 engine that is sold or otherwise disposed of by the licensee.

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

1 D. A title service company licensee shall maintain
2 a record of:

3 (1) every temporary registration plate
4 issued;

5 (2) every title and registration application
6 accepted for processing; and

7 (3) any other information prescribed by the
8 department.

9 E. Every record required to be maintained pursuant
10 to the provisions of this section shall be retained for a
11 period of three years from the end of the year in which the
12 record was created and shall be open to inspection by any
13 peace officer or officer of the department during reasonable
14 business hours. If the licensee fails to maintain the
15 records required or to permit their inspection during
16 reasonable business hours, the license becomes invalid."

17 Section 16. Section 66-4-6 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 219, as amended) is amended to read:

19 "66-4-6. PLACE OF BUSINESS.--

20 A. No license shall be issued to a dealer or auto
21 recycler unless an established place of business as defined
22 in the Motor Vehicle Code is maintained by the dealer or auto
23 recycler. Each license to carry on or conduct the business
24 of a dealer or auto recycler becomes invalid when the
25 licensee fails to maintain an established place of business

1 as defined in the Motor Vehicle Code.

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

13 Section 17. Section 66-4-7 NMSA 1978 (being Laws 1978,
14 Chapter 35, Section 220, as amended) is amended to read:

15 "66-4-7. DEALERS, WHOLESALERS, DISTRIBUTORS AND AUTO
16 RECYCLERS--TITLE SERVICE COMPANIES--DEALERS OF MOTORCYCLES
17 ONLY--BOND.--

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

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

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

1 Conversely, no applicant for an auto recycler's license who
2 files bond in the amount and form specified in Subsection A
3 of this section shall be required to file any additional bond
4 to conduct a business of dealer, distributor, wholesaler or
5 dealer of motorcycles only.

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

11 D. The license of a dealer, wholesaler,
12 distributor or auto recycler or of a title service company
13 may be suspended or canceled if the dealer, wholesaler,
14 distributor, auto recycler or title service company fails to
15 have in effect the required bond or other security."

16 Section 18. Section 66-6-17 NMSA 1978 (being Laws 1978,
17 Chapter 35, Section 352, as amended) is amended to read:

18 "66-6-17. SPECIAL DEALER PLATE FEES.--

19 A. Except as provided otherwise in Subsection C of
20 this section, every dealer or auto recycler, except a dealer
21 in motorcycles only, shall pay each license year fifty
22 dollars (\$50.00) for each special dealer plate issued
23 pursuant to Section 66-3-402 NMSA 1978 to the dealer or auto
24 recycler for that license year.

25 B. Except as provided otherwise in Subsection C of

1 this section, every dealer in motorcycles only shall pay each
2 license year ten dollars (\$10.00) for each special dealer
3 plate issued pursuant to Section 66-3-402 NMSA 1978 to the
4 dealer for that license year.

5 C. In the event a special dealer plate is lost,
6 mutilated or becomes illegible, a dealer, auto recycler or
7 dealer in motorcycles only shall obtain a replacement plate
8 pursuant to the provisions of Section 66-3-24 NMSA 1978. The
9 fee for a replacement special dealer plate shall be fifty
10 dollars (\$50.00) for a dealer or auto recycler and ten
11 dollars (\$10.00) for a dealer in motorcycles only."

12 Section 19. Section 66-6-18 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 353, as amended) is amended to read:

14 "66-6-18. LICENSE FEE FOR DEALERS, WHOLESALERS,
15 DISTRIBUTORS, AUTO RECYCLERS AND TITLE SERVICE COMPANIES.--
16 For a license to do business as a dealer, wholesaler,
17 distributor or any combination of the foregoing or as an auto
18 recycler or as a title service company, there shall be paid a
19 fee of fifty dollars (\$50.00) for each license year or
20 portion thereof."

21 Section 20. Section 66-8-5 NMSA 1978 (being Laws 1978,
22 Chapter 35, Section 503) is amended to read:

23 "66-8-5. SUSPENDING OR REVOKING CERTIFICATE OR SPECIAL
24 PLATES OF A MANUFACTURER, DEALER OR AUTO RECYCLER.--The
25 division may suspend or revoke a certificate or the special

1 plate issued to a manufacturer, dealer or auto recycler upon
2 determining that the person is not lawfully entitled thereto
3 or has made or knowingly permitted any illegal use of such
4 plate or has committed fraud in the registration of
5 vehicles."

6 Section 21. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is January 1, 2006. _____

SCORC/SB 441
Page 36

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25