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HOUSE BILL 711

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

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO MOTOR VEHICLES; REPEALING THE MANDATORY FINANCIAL
RESPONSIBILITY ACT; AMENDING SECTIONS OF THE NMSA 1978 TO
CONFORM

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

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

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

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

~~[B. "financial responsibility" means the ability
to respond in damages for liability resulting from traffic
accidents arising out of the ownership, maintenance or use of~~

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1 ~~a motor vehicle of a type subject to registration under the~~
2 ~~laws of New Mexico, in amounts not less than specified in the~~
3 ~~Mandatory Financial Responsibility Act or having in effect a~~
4 ~~motor vehicle insurance policy. "Financial responsibility"~~
5 ~~includes a motor vehicle insurance policy, a surety bond or~~
6 ~~evidence of a sufficient cash deposit with the state~~
7 ~~treasurer;~~

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

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

19 ~~E.]~~ D. "foreign jurisdiction" means any
20 jurisdiction other than a state of the United States or the
21 District of Columbia;

22 ~~F.]~~ E. "foreign vehicle" means every vehicle of a
23 type required to be registered under the provisions of the
24 Motor Vehicle Code brought into this state from another state,
25 territory or country; and

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1 ~~[G-]~~ F. "freight trailer" means any trailer,
2 semi trailer or pole trailer drawn by a truck tractor or road
3 tractor, and any trailer, semi trailer or pole trailer drawn by
4 a truck that has a gross vehicle weight of more than
5 twenty-six thousand pounds, but "freight trailer" does not
6 include manufactured homes, trailers of less than one-ton
7 carrying capacity used to transport animals or fertilizer
8 trailers of less than three thousand five hundred pounds empty
9 weight. "

10 Section 2. Section 66-1-4.11 NMSA 1978 (being Laws 1990,
11 Chapter 120, Section 12, as amended) is amended to read:

12 "66-1-4.11. DEFINITIONS. --As used in the Motor Vehicle
13 Code:

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

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

24 C. "manufacturer" means every person engaged in
25 the business of constructing or assembling vehicles of a type

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1 required to be registered under the Motor Vehicle Code;

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

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

23 F. "moped" means a two-wheeled or three-wheeled
24 vehicle with an automatic transmission and a motor having a
25 piston displacement of less than fifty cubic centimeters, that

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1 is capable of propelling the vehicle at a maximum speed of not
2 more than thirty miles an hour on level ground, at sea level;

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

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

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

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

21 (1) shall include:

22 (a) motor vehicle bodily injury and
23 property damage liability coverages [~~in compliance with the~~
24 ~~Mandatory Financial Responsibility Act~~]; and

25 (b) uninsured motorist coverage,

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1 subject to the provisions of Section 66-5-301 NMSA 1978
2 permitting the insured to reject such coverage; and

- 3 (2) may include:
4 (a) physical damage coverage;
5 (b) medical payments coverage; and
6 (c) other coverages that the insured
7 and the insurer agree to include within the policy."

8 Section 3. Section 66-5-11 NMSA 1978 (being Laws 1978,
9 Chapter 35, Section 233) is amended to read:

10 "66-5-11. APPLICATION OF MINORS. --

11 A. The application of any person under the age of
12 eighteen years for an instruction permit or driver's license
13 shall be signed and verified by the father, mother or guardian
14 or, in the event there is no parent or guardian, [then] by
15 another responsible adult who is willing to assume the
16 obligation imposed under this article upon a person signing
17 the application of a minor.

18 B. Any negligence or willful misconduct of a minor
19 under the age of eighteen years when driving a motor vehicle
20 upon a highway shall be imputed to the person who has signed
21 the application of [such] the minor for a permit or license,
22 which person shall be jointly and severally liable with [such]
23 the minor for any damages caused by [such] the negligence or
24 willful misconduct [except as otherwise provided in Subsection
25 ~~C of this section.~~

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1 C. ~~In the event a minor deposits or there is~~
2 ~~deposited upon his behalf proof of financial responsibility in~~
3 ~~respect to the operation of a motor vehicle owned by him or,~~
4 ~~if not the owner of a motor vehicle, then with respect to the~~
5 ~~operation of any motor vehicle, in form and in amounts as~~
6 ~~required under the motor vehicle financial responsibility laws~~
7 ~~of this state, then the division may accept the application of~~
8 ~~such minor when signed by one parent or the guardian of such~~
9 ~~minor, and, while such proof is maintained, such parent or~~
10 ~~guardian shall not be subject to the liability imposed under~~
11 ~~Subsection B of this section]. "~~

12 Section 4. Section 66-5-35 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 257, as amended) is amended to read:

14 "66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR
15 REVOCATION-- HEARING-- REVIEW. --

16 A. Upon suspension or revocation of license
17 following conviction or adjudication as a delinquent under any
18 law, ordinance or regulation relating to motor vehicles, a
19 person may apply to the director for a license or permit to
20 drive, limited to use allowing him to engage in gainful
21 employment, except that no person shall be eligible to apply
22 for a limited license when the person's license was revoked or
23 suspended pursuant to:

24 (1) the provisions of the Implied Consent
25 Act, except as provided in Subsection B of this section; or

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1 (2) an offense for which the person is a
2 subsequent offender as defined in the Motor Vehicle Code.

3 B. A person who has had his license revoked for
4 the first time pursuant to the provisions of Paragraph (1) or
5 (2) of Subsection C of Section 66-8-111 NMSA 1978 may apply
6 for and shall receive a limited license or permit thirty days
7 after suspension or revocation of his license if the person
8 provides the director with documentation of the following:

9 (1) that the person is enrolled in an
10 approved DWI school and an approved alcohol screening program;

11 [~~(2) proof of financial responsibility~~
12 ~~pursuant to the provisions of the Mandatory Financial~~
13 ~~Responsibility Act]~~ and either

14 [~~(3)~~] (2) proof of gainful employment or
15 gainful self-employment and that the person needs a limited
16 license to travel to and from his place of employment; or

17 [~~(4)~~] (3) that the person is enrolled in
18 school and needs a limited license to travel to and from
19 school.

20 C. Upon receipt of the application, proof of
21 financial responsibility for the future and a hearing as
22 provided in Subsection D of this section, the director shall
23 issue a limited license or permit to the applicant showing the
24 limitations specified in the approved application, provided
25 that the applicant meets established uniform criteria for

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1 limited driving privileges adopted by regulation of the
2 department. For each limited license or permit to drive, the
3 applicant shall pay to the division a fee of forty-five
4 dollars (\$45.00), which shall be transferred to the state
5 highway and transportation department. All money collected
6 under this subsection shall be used for DWI prevention and
7 education programs for elementary and secondary school
8 students. The state highway and transportation department
9 shall coordinate with the department of health to ensure that
10 there is no program duplication. The limited license or
11 permit to drive may be suspended as provided in Section
12 66-5-30 NMSA 1978.

13 D. The director, within twenty days of receipt of
14 an application for a limited driver's license or permit
15 pursuant to this section, shall afford the applicant a hearing
16 in the county in which the applicant resides, unless the
17 division and the licensee agree that the hearing may be held
18 in some other county. The director may, in his discretion,
19 extend the twenty-day period, provided that the extension is
20 in writing and made no later than fifteen days after receipt
21 of an application. Upon hearing, the director or his duly
22 authorized hearing officer may administer oaths and may issue
23 subpoenas for the attendance of witnesses and the production
24 of relevant books and papers. The director shall make
25 specific findings as to whether the applicant has shown proof

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1 of financial responsibility for the future and meets
2 established uniform criteria for limited driving privileges
3 adopted by regulation of the department. The director shall
4 enter an order either approving or denying the applicant's
5 request for a limited license or permit to drive. If any of
6 the specific findings set forth in this subsection are not
7 found by the director, the applicant's request for a limited
8 license or permit shall not be approved.

9 E. A person adversely affected by an order of the
10 director may seek review within thirty days in the district
11 court in the county in which he resides. The district court,
12 upon thirty days' written notice to the director, shall hear
13 the case. On review, it is for the court to determine only
14 whether the applicant met the requirements in this section for
15 issuance of a limited license or permit to drive."

16 Section 5. REPEAL. -- Sections 66-5-201 through 66-5-239
17 NMSA 1978 (being Laws 1978, Chapter 35, Section 277, Laws
18 1983, Chapter 318, Section 2, Laws 1978, Chapter 35, Section
19 279, Laws 1983, Chapter 318, Sections 5 and 6, Laws 1989,
20 Chapter 214, Section 1, Laws 1983, Chapter 318, Sections 7 and
21 8, Laws 1986, Chapter 111, Section 2, Laws 1978, Chapter 35,
22 Sections 282 and 283, Laws 1971, Chapter 59, Section 2, Laws
23 1978, Chapter 35, Sections 289, 290 and 294, Laws 1955,
24 Chapter 182, Section 315, Laws 1978, Chapter 35, Sections 298
25 through 300 and 302, Laws 1955, Chapter 182, Section 323, Laws

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1 1977, Chapter 61, Section 2, Laws 1978, Chapter 35, Sections
2 309 and 310, Laws 1955, Chapter 182, Section 330, Laws 1978,
3 Chapter 35, Sections 314, 316, 318, 320 and 321, Laws 1983,
4 Chapter 318, Sections 31 through 35, Laws 1978, Chapter 35,
5 Sections 323 and 324 and Laws 1983, Chapter 318, Section 38,
6 as amended) are repealed.

7 Section 6. EFFECTIVE DATE. --The effective date of the
8 provisions of this act is July 1, 1999.

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 February 25, 1999
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8 Mr. Speaker:
9

10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
11 been referred
12

13 HOUSE BILL 711
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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 JUDICIARY COMMITTEE.

18 Respectfully submitted,
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22 _____
23 Debbie A. Rodella, Chairwoman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HBIC/HB 711

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4 Adopted _____ Not Adopted _____

6 (Chief Clerk)

(Chief Clerk)

8 Date _____

10 The roll call vote was 7 For 3 Against

11 Yes: 7

12 No: Hanosh, Kissner, Rodella

13 Excused: Sanchez

14 Absent: Mohorovic

16 J:\99BillsWP\H0711

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