

SENATE TAX, BUSINESS AND TRANSPORTATION
COMMITTEE SUBSTITUTE FOR
SENATE BILL 88

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

AN ACT

RELATING TO CREDENTIALS; ENACTING THE ELECTRONIC CREDENTIALS
ACT TO ALLOW THE TAXATION AND REVENUE DEPARTMENT TO ISSUE
ELECTRONIC CREDENTIALS FOR DRIVER'S LICENSES AND IDENTIFICATION
CARDS.

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, as amended) 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 excluding
recreational vehicles unless used in commerce;

B. "camping trailer" means a camping body, mounted

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1 on a chassis, or frame with wheels, designed to be drawn by
2 another vehicle and that has collapsible partial side walls
3 that fold for towing and unfold at the campsite;

4 C. "cancellation" means that a driver's license is
5 annulled and terminated because of some error or defect or
6 because the licensee is no longer entitled to the license, but
7 cancellation of a license is without prejudice, and application
8 for a new license may be made at any time after 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. "chassis" means the complete motor vehicle,
13 including standard factory equipment, exclusive of the body and
14 cab;

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

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

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

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

8 J. "commercial motor vehicle" means a self-
9 propelled or towed vehicle, other than special mobile
10 equipment, used on public highways in commerce to transport
11 passengers or property when the vehicle:

12 (1) is operated interstate and has a gross
13 vehicle weight rating or gross combination weight rating, or
14 gross vehicle weight or gross combination weight, of four
15 thousand five hundred thirty-six kilograms, or ten thousand one
16 pounds or more; or is operated only in intrastate commerce and
17 has a gross vehicle weight rating or gross combination weight
18 rating, or gross vehicle weight or gross combination weight, of
19 twenty-six thousand one or more pounds;

20 (2) is designed or used to transport more than
21 eight passengers, including the driver, and is used to
22 transport passengers for compensation;

23 (3) is designed or used to transport sixteen
24 or more passengers, including the driver, and is not used to
25 transport passengers for compensation; or

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1 (4) is used to transport hazardous materials
2 of the type or quantity requiring placarding under rules
3 prescribed by applicable federal or state law;

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

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

13 M. "converter gear" means any assemblage of one or
14 more axles with a fifth wheel mounted thereon, designed for use
15 in a combination to support the front end of a semitrailer but
16 not permanently attached thereto. A converter gear shall not
17 be considered a vehicle, as that term is defined in Section
18 66-1-4.19 NMSA 1978, but weight attributable thereto shall be
19 included in declared gross weight;

20 N. "conviction":

21 (1) means:

22 (a) a finding of guilt in the trial
23 court in regard to which the violator has waived or exhausted
24 all rights to appeal;

25 (b) a plea of guilty or nolo contendere

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1 accepted by the court;

2 (c) an unvacated forfeiture of bail or
3 collateral deposited to secure a person's appearance in court;
4 or

5 (d) the promise to mail a payment on a
6 penalty assessment; and

7 (2) does not include a conditional discharge
8 as provided in Section 31-20-13 NMSA 1978 or a deferred
9 sentence when the terms of the deferred sentence are met;

10 O. "credential holder" means a person who has been
11 issued a physical or an electronic credential;

12 [~~Θ-~~] P. "crosswalk" means:

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

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

21 [~~P-~~] Q. "curb cut" means a short ramp through a
22 curb or built up to the curb."

23 **SECTION 2.** Section 66-1-4.4 NMSA 1978 (being Laws 1990,
24 Chapter 120, Section 5, as amended) is amended to read:

25 "66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle

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1 Code:

2 A. "data element" means a distinct component of a
3 customer's information that is found on the department's
4 customer record;

5 ~~[A.]~~ B. "day" means calendar day, unless otherwise
6 provided in the Motor Vehicle Code;

7 ~~[B.]~~ C. "dealer", except as specifically excluded,
8 means any person who sells or solicits or advertises the sale
9 of new or used motor vehicles, manufactured homes or trailers
10 subject to registration in this state; "dealer" does not
11 include:

12 (1) receivers, trustees, administrators,
13 executors, guardians or other persons appointed by or acting
14 under judgment, decree or order of any court;

15 (2) public officers while performing their
16 duties as such officers;

17 (3) persons making casual sales of their own
18 vehicles;

19 (4) finance companies, banks and other lending
20 institutions making sales of repossessed vehicles; or

21 (5) licensed brokers under the Manufactured
22 Housing Act who, for a fee, commission or other valuable
23 consideration, engage in brokerage activities related to the
24 sale, exchange or lease purchase of pre-owned manufactured
25 homes on a site installed for a consumer;

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1 ~~[G.]~~ D. "declared gross weight" means the maximum
2 gross vehicle weight or gross combination vehicle weight at
3 which a vehicle or combination will be operated during the
4 registration period, as declared by the registrant for
5 registration and fee purposes; the vehicle or combination shall
6 have only one declared gross weight for all operating
7 considerations;

8 ~~[D.]~~ E. "department" means the taxation and revenue
9 department, the secretary of taxation and revenue or any
10 employee of the department exercising authority lawfully
11 delegated to that employee by the secretary;

12 ~~[E.]~~ F. "designated accessible parking space for
13 persons with significant mobility limitation" means any space,
14 including an access aisle, that is marked and reserved for the
15 parking of a passenger vehicle that carries registration plates
16 or a parking placard with the international symbol of access
17 issued in accordance with Section 66-3-16 NMSA 1978 and that is
18 designated by a conspicuously posted sign bearing the
19 international symbol of access and, if the parking space is
20 paved, by a clearly visible depiction of this symbol painted in
21 blue on the pavement of the space;

22 ~~[F.]~~ G. "director" means the secretary;

23 ~~[G.]~~ H. "disqualification" means a prohibition
24 against driving a commercial motor vehicle;

25 ~~[H.]~~ I. "distinguishing number" means the number

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1 assigned by the department to a vehicle whose identifying
2 number has been destroyed or obliterated or the number assigned
3 by the department to a vehicle that has never had an
4 identifying number;

5 ~~[F.]~~ J. "distributor" means a person who
6 distributes or sells new or used motor vehicles to dealers and
7 who is not a manufacturer;

8 ~~[J.]~~ K. "division", without further specification,
9 "division of motor vehicles" or "motor vehicle division" means
10 the department;

11 ~~[K.]~~ L. "driveaway-towaway operation" means an
12 operation in which any motor vehicle, new or used, is the item
13 being transported when one set or more of wheels of any such
14 motor vehicle is on the roadway during the course of
15 transportation, whether or not the motor vehicle furnishes the
16 motive power;

17 ~~[L.]~~ M. "driver" means every person who drives or
18 is in actual physical control of a motor vehicle, including a
19 motorcycle, upon a highway, who is exercising control over or
20 steering a vehicle being towed by a motor vehicle or who
21 operates or is in actual physical control of an off-highway
22 motor vehicle;

23 ~~[M.]~~ N. "driver-assisted platoon" means a series of
24 motor vehicles platooning with a driver in each vehicle;

25 ~~[N.]~~ O. "driver's license" means any license,

1 permit or driving authorization card issued by a state or other
2 jurisdiction recognized under the laws of New Mexico pertaining
3 to the authorizing of persons to operate motor vehicles and
4 includes a REAL ID-compliant driver's license and a standard
5 driver's license; and

6 [0.] P. "dynamic driving task" means all of the
7 real-time operational and tactical functions required to
8 operate a vehicle in on-road traffic, excluding the strategic
9 functions such as trip scheduling and selection of destinations
10 and waypoints."

11 SECTION 3. Section 66-1-4.5 NMSA 1978 (being Laws 1990,
12 Chapter 120, Section 6, as amended) is amended to read:

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

15 A. "electric-assisted bicycle" means a vehicle
16 having two or three wheels, fully operable pedals and an
17 electric motor. Electric-assisted bicycles are classified as
18 follows:

19 (1) "class 1 electric-assisted bicycle" means
20 an electric-assisted bicycle equipped with a motor not
21 exceeding seven hundred fifty watts of power that provides
22 assistance only when the rider is pedaling and that ceases to
23 provide assistance when the bicycle reaches a speed of twenty
24 miles per hour;

25 (2) "class 2 electric-assisted bicycle" means

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1 an electric-assisted bicycle equipped with a motor not
2 exceeding seven hundred fifty watts of power that provides
3 assistance regardless of whether the rider is pedaling but
4 ceases to provide assistance when the bicycle reaches a speed
5 of twenty miles per hour; and

6 (3) "class 3 electric-assisted bicycle" means
7 an electric-assisted bicycle equipped with a motor not
8 exceeding seven hundred fifty watts of power that provides
9 assistance only when the rider is pedaling and that ceases to
10 provide assistance when the bicycle reaches a speed of twenty-
11 eight miles per hour;

12 B. "electric mobility device" means a two- or
13 three-wheel vehicle with an electric motor for propulsion that
14 does not meet the definition of an electric-assisted bicycle
15 and is capable of exceeding a speed of twenty miles per hour on
16 motor power alone;

17 C. "electric personal assistive mobility device"
18 means a self-balancing device having two nontandem wheels
19 designed to transport a single person by means of an electric
20 propulsion system with an average power of one horsepower and
21 with a maximum speed on a paved level surface of less than
22 twenty miles per hour when powered solely by its propulsion
23 system and while being ridden by an operator who weighs one
24 hundred seventy pounds;

25 D. "electronic credential" means an electronic

1 extension of the department-issued physical credential that
2 conveys identity and driving privilege information;

3 E. "electronic credential system" means a digital
4 process that includes a method for loading electronic
5 credentials onto a device, issuing electronic credentials,
6 requesting and transmitting electronic credential data elements
7 and performing tasks to maintain the system;

8 [~~D.~~] F. "essential parts" means all integral and
9 body parts of a vehicle of a type required to be registered by
10 the provisions of the Motor Vehicle Code, the removal,
11 alteration or substitution of which would tend to conceal the
12 identity of the vehicle or substantially alter its appearance,
13 model, type or mode of operation;

14 [~~E.~~] G. "established place of business", for a
15 dealer or auto recycler, means a place:

16 (1) devoted exclusively to the business for
17 which the dealer or auto recycler is licensed and related
18 business;

19 (2) identified by a prominently displayed sign
20 giving the dealer's or auto recycler's trade name used by the
21 business;

22 (3) of sufficient size or space to permit the
23 display of one or more vehicles or to permit the parking or
24 storing of vehicles to be dismantled or wrecked for recycling;

25 (4) on which there is located an enclosed

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1 building on a permanent foundation, which building meets the
2 building requirements of the community and is large enough to
3 accommodate the office or offices of the dealer or auto
4 recycler and large enough to provide a safe place to keep the
5 books and records of the dealer or auto recycler;

6 (5) where the principal portion of the
7 business of the dealer or auto recycler is conducted and where
8 the books and records of the business are kept and maintained;
9 and

10 (6) where vehicle sales are of new vehicles
11 only, such as a department store or a franchisee of a
12 department store, as long as the department store or franchisee
13 keeps the books and records of its vehicle business in a
14 general office location at its place of business; as used in
15 this paragraph, "department store" means a business that offers
16 a variety of merchandise other than vehicles, and sales of the
17 merchandise other than vehicles constitute at least eighty
18 percent of the gross sales of the business; and

19 ~~[F-]~~ H. "explosives" means any chemical compound or
20 mechanical mixture that is commonly used or intended for the
21 purpose of producing an explosion and that contains any
22 oxidizing and combustive units or other ingredients in such
23 proportions, quantities or packing that an ignition by fire,
24 friction, concussion, percussion or detonator of any part of
25 the compound or mixture may cause such a sudden generation of

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1 highly heated gases that the resultant gaseous pressures are
2 capable of producing destructive effects on contiguous objects
3 or of destroying life or limb."

4 SECTION 4. Section 66-1-4.15 NMSA 1978 (being Laws 1990,
5 Chapter 120, Section 16, as amended) is amended to read:

6 "66-1-4.15. DEFINITIONS.--As used in the Motor Vehicle
7 Code:

8 A. "railroad" means a carrier of persons or
9 property upon cars operated upon stationary rails;

10 B. "railroad sign or signal" means any sign, signal
11 or device erected by authority of a public body or official or
12 by a railroad and intended to give notice of the presence of
13 railroad tracks or the approach of a railroad train;

14 C. "railroad train" means a steam engine, electric
15 or other motor, with or without cars coupled thereto, operated
16 upon rails;

17 D. "REAL ID-compliant driver's license" means a
18 license or a class of license issued by a state or other
19 jurisdiction pertaining to the authorizing of persons to
20 operate motor vehicles and that meets federal requirements to
21 be accepted by federal agencies for official federal purposes;

22 E. "REAL ID-compliant identification card" means an
23 identification card that meets federal requirements to be
24 accepted by federal agencies for official federal purposes;

25 F. "reconstructed vehicle" means any vehicle

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1 assembled or constructed largely by means of essential parts,
2 new or used, derived from other vehicles or that, if originally
3 otherwise assembled or constructed, has been materially altered
4 by the removal of essential parts, new or used;

5 G. "recreational travel trailer" means a camping
6 body designed to be drawn by another vehicle;

7 H. "recreational vehicle" means a vehicle with a
8 camping body that has its own motive power, is affixed to or is
9 drawn by another vehicle and includes motor homes, travel
10 trailers and truck campers;

11 I. "registration" means registration certificates
12 and registration plates issued under the laws of New Mexico
13 pertaining to the registration of vehicles;

14 J. "registration number" means the number assigned
15 upon registration by the division to the owner of a vehicle or
16 motor vehicle required to be registered by the Motor Vehicle
17 Code;

18 K. "registration plate" means the plate, marker,
19 sticker or tag assigned by the division for the identification
20 of the registered vehicle;

21 L. "relying party" means an entity to which a
22 credential holder is presenting an electronic credential;

23 [~~E.~~] M. "residence district" means the territory
24 contiguous to and including a highway not comprising a business
25 district when the property on the highway for a distance of

1 three hundred feet or more is in the main improved with
2 residences or residences and buildings in use for business;

3 ~~[M.]~~ N. "revocation" means that the driver's
4 license and privilege to drive a motor vehicle on the public
5 highways are terminated and shall not be renewed or restored,
6 except that an application for a new license may be presented
7 to and acted upon by the division after the expiration of at
8 least one year after date of revocation;

9 ~~[N.]~~ O. "right of way" means the privilege of the
10 immediate use of the roadway;

11 ~~[O.]~~ P. "road tractor" means every motor vehicle
12 designed and used primarily for drawing other vehicles and
13 constructed not to carry a significant load on the road
14 tractor, either independently or as any part of the weight of a
15 vehicle or load drawn; and

16 ~~[P.]~~ Q. "roadway" means that portion of a street or
17 highway improved, designed or ordinarily used for vehicular
18 travel, exclusive of the berm or shoulder; when a highway
19 includes two or more separate roadways, the term "roadway"
20 refers to each roadway separately but not to all of the
21 roadways collectively."

22 **SECTION 5.** Section 66-1-4.19 NMSA 1978 (being Laws 1990,
23 Chapter 120, Section 20, as amended) is amended to read:

24 "66-1-4.19. DEFINITIONS.--As used in the Motor Vehicle
25 Code:

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1 A. "validating sticker" means the tab or sticker
2 issued by the division to signify, upon a registration plate,
3 renewed registration;

4 B. "vehicle" means every device in, upon or by
5 which any person or property is or may be transported or drawn
6 upon a highway, including any frame, chassis, body or unitized
7 frame and body of any vehicle or motor vehicle, except devices
8 moved exclusively by human power or used exclusively upon
9 stationary rails or tracks;

10 C. "vehicle-business number" means the distinctive
11 registration number given by the division to any manufacturer,
12 auto recycler or dealer; [~~and~~]

13 D. "vehicle plate" means a plate, marker, sticker
14 or tag similar to a registration plate, but that is issued by
15 the department for vehicles that are exempted from registration
16 under the Motor Vehicle Code; and

17 E. "verification process" means a method of
18 authenticating an electronic credential through the use of
19 secure and encrypted communication."

20 SECTION 6. Section 66-5-16 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 238, as amended) is amended to read:

22 "66-5-16. PHYSICAL LICENSE TO BE CARRIED AND EXHIBITED ON
23 DEMAND.--Every licensee shall have the licensee's driver's
24 license in its physical form in the licensee's immediate
25 possession at all times when operating a motor vehicle and

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1 shall display the license in its physical form upon demand of a
2 magistrate, a peace officer or a field deputy or inspector of
3 the division. A person who violates the provisions of this
4 section is guilty of a penalty assessment misdemeanor; however,
5 a person charged with violating this section shall not be
6 convicted if the person produces in court a driver's license in
7 its physical form issued to the person and valid at the time of
8 the person's citation."

9 SECTION 7. A new Section 66-5-601 NMSA 1978 is enacted to
10 read:

11 "66-5-601. [NEW MATERIAL] SHORT TITLE.--Sections 66-5-601
12 through 66-5-608 NMSA 1978 may be cited as the "Electronic
13 Credentials Act"."

14 SECTION 8. A new Section 66-5-602 NMSA 1978 is enacted to
15 read:

16 "66-5-602. [NEW MATERIAL] ELECTRONIC CREDENTIALS.--

17 A. The department may issue an electronic
18 credential to a person in addition to a physical driver's
19 license or physical identification card if the department has
20 issued to the person:

- 21 (1) a driver's license; or
- 22 (2) an identification card.

23 B. An electronic credential that is not processed
24 through a state-approved application on a device is not a valid
25 electronic credential.

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1 C. The department shall set the validity period of
2 an electronic credential."

3 SECTION 9. A new Section 66-5-603 NMSA 1978 is enacted to
4 read:

5 "66-5-603. [NEW MATERIAL] AGREEMENTS FOR ISSUANCE, USE
6 AND VERIFICATION PROCESS.--The department may enter into
7 agreements with an agency of the state, another state or the
8 United States to facilitate the issuance, use and verification
9 process of electronic credentials issued by the department or
10 another state."

11 SECTION 10. A new Section 66-5-604 NMSA 1978 is enacted
12 to read:

13 "66-5-604. [NEW MATERIAL] PHYSICAL POSSESSION OF
14 DEVICE.--The department shall design the electronic credential
15 in a manner that allows the credential holder to maintain
16 physical possession of the device on which the electronic
17 credential is accessed during verification."

18 SECTION 11. A new Section 66-5-605 NMSA 1978 is enacted
19 to read:

20 "66-5-605. [NEW MATERIAL] CONSENT TO ACCESS.--Access to
21 the credential holder's data by a relying party shall require
22 the credential holder's consent."

23 SECTION 12. A new Section 66-5-606 NMSA 1978 is enacted
24 to read:

25 "66-5-606. [NEW MATERIAL] ADMINISTRATION OF ELECTRONIC

1 CREDENTIAL SYSTEM.--A third party may administer on behalf of
2 the department a system developed to facilitate the issuance,
3 verification and use of electronic credentials."

4 SECTION 13. A new Section 66-5-607 NMSA 1978 is enacted
5 to read:

6 "66-5-607. [NEW MATERIAL] FEE.--The department may charge
7 a fee for the loading of an electronic credential onto a
8 device."

9 SECTION 14. A new Section 66-5-608 NMSA 1978 is enacted
10 to read:

11 "66-5-608. [NEW MATERIAL] RULES.--The department may
12 promulgate rules that it deems necessary or appropriate to
13 implement the provisions of the Electronic Credentials Act."

underscoring material = new
~~[bracketed material]~~ = delete