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HOUSE BILL 117

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO MOTOR VEHICLES; ENACTING A NEW SECTION OF THE MANDATORY FINANCIAL RESPONSIBILITY ACT TO MANDATE COVERAGE FOR PERMISSIVE DRIVERS WITH THE EXPRESS OR IMPLIED PERMISSION OF THE OWNER OR NAMED INSURED.

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

Section 1. A new section of the Mandatory Financial Responsibility Act is enacted to read:

" NEW MATERIAL CERTIFIED MOTOR VEHICLE LIABILITY POLICY-- PROCEDURES. --

A. The owner's certified motor vehicle liability policy shall:

(1) designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is to be granted; and

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1 (2) insure the person named in the policy and  
2 any other person, as insured, using any such motor vehicle  
3 with the express or implied permission of the named insured,  
4 against loss from the liability imposed by law for damages  
5 arising out of the ownership, maintenance or use of the motor  
6 vehicle within any jurisdiction, subject to limits exclusive  
7 of interest and costs, with respect to each such motor  
8 vehicle, as follows: twenty-five thousand dollars (\$25,000)  
9 because of bodily injury to or death of one person in any one  
10 accident; and, subject to this limit for one person, fifty  
11 thousand dollars (\$50,000) because of bodily injury to or  
12 death of two or more persons in any one accident and ten  
13 thousand dollars (\$10,000) because of injury to or destruction  
14 of property of others in any one accident.

15 B. The driver's certified motor vehicle liability  
16 policy shall insure the person named as insured against loss  
17 from the liability imposed upon him by law for damages arising  
18 out of the use by him of any motor vehicle not owned by him,  
19 within the same territorial limits and subject to the same  
20 limits of liability as are set forth in Subsection A of this  
21 section with respect to a certified motor vehicle liability  
22 policy.

23 C. The certified motor vehicle liability policy  
24 shall state the name and address of the insured, the coverage  
25 afforded by the policy, the premium charged, the policy period

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1 and the limits of liability and shall contain an agreement, or  
2 be endorsed, that insurance is provided in accordance with  
3 this coverage defined in the Mandatory Financial  
4 Responsibility Act as respects bodily injury and death or  
5 property damage or both and is subject to all the provisions  
6 of that act.

7 D. The certified motor vehicle liability policy  
8 need not insure any liability under any workers' compensation  
9 law nor any liability on account of bodily injury to or death  
10 of an employee of the insured while engaged in the employment,  
11 other than domestic, of the insured or while engaged in the  
12 operation, maintenance or repair of any such motor vehicle nor  
13 any liability for damage to property owned by, rented to, in  
14 charge of or transported by the insured.

15 E. Every certified motor vehicle liability policy  
16 shall be subject to the following provisions, which need not  
17 be contained in the policy:

18 (1) the liability of the insurance carrier  
19 with respect to the insurance required by the Mandatory  
20 Financial Responsibility Act becomes absolute whenever injury  
21 or damage covered by the certified motor vehicle liability  
22 policy occurs. The policy may not be canceled or annulled as  
23 to such liability by any agreement between the insurance  
24 carrier and the insured after the occurrence of the injury or  
25 damage. No statement made by the insured or on his behalf and

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1 no violation of the policy shall defeat or void the policy;

2 (2) the satisfaction by the insured of a  
3 judgment for injury or damage shall not be a condition  
4 precedent to the right or duty of the insurance carrier to  
5 make payment on account of injury or damage;

6 (3) the insurance carrier has the right to  
7 settle any claim covered by the policy, and, if such  
8 settlement is made in good faith, the amount of the settlement  
9 is deductible from the limits of liability specified in  
10 Paragraph (2) of Subsection A of this section; and

11 (4) the policy, the written application  
12 therefor, if any, and any rider or endorsement that does not  
13 conflict with the provisions of the Mandatory Financial  
14 Responsibility Act constitute the entire contract between the  
15 parties.

16 F. Any policy that grants the coverage required  
17 for a certified motor vehicle liability policy may also grant  
18 any lawful coverage in excess of or in addition to the  
19 coverage specified for a certified motor vehicle liability  
20 policy, and excess or additional coverage is not subject to  
21 the provisions of the Mandatory Financial Responsibility Act.  
22 With respect to a policy that grants such excess or additional  
23 coverage, the term "certified motor vehicle liability policy"  
24 applies only to that part of the coverage that is required by  
25 this section.

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G. Any certified motor vehicle liability policy may provide that the insured reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of the Mandatory Financial Responsibility Act.

H. Any certified motor vehicle liability policy may provide for the prorating of the insurance under the policy with other valid and collectible insurance.

I. The requirements for a certified motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers whose policies together meet those requirements.

J. Any binder issued pending the issuance of a certified motor vehicle liability policy is deemed to fulfill the requirements for such a policy.

K. The certified motor vehicle liability policy may be endorsed to eliminate a named driver. Such endorsement must bear the signatures of the named insured. Forms for such named drivers' exclusion must be substantially similar to the form provided in Section 66-5-222 NMSA 1978. Such endorsement applies only to private passenger motor vehicles. "