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HOUSE BILL 475

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO MOTOR VEHICLES; ESTABLISHING A MINIMUM FINE FOR VIOLATION OF THE MANDATORY FINANCIAL RESPONSIBILITY ACT; REQUIRING PROCEDURES FOLLOWING THE ISSUANCE OF A CITATION FOR VIOLATION OF THE MANDATORY FINANCIAL RESPONSIBILITY ACT; REQUIRING NONRESIDENT PROOF OF FINANCIAL RESPONSIBILITY; ALLOWING LAW ENFORCEMENT OFFICERS TO VERIFY FINANCIAL RESPONSIBILITY BY CHECKING COMPUTER DATABASES.

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

Section 1. Section 66-5-201.1 NMSA 1978 (being Laws 1983, Chapter 318, Section 2, as amended) is amended to read:

"66-5-201.1. PURPOSE.--The legislature is aware that motor vehicle accidents in New Mexico can result in catastrophic financial hardship. The purpose of the Mandatory Financial Responsibility Act is to require residents of New

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1 Mexico and nonresidents who own and operate motor vehicles upon  
2 the highways of the state either to have the ability to respond  
3 in damages to accidents arising out of the use and operation of  
4 a motor vehicle or to obtain a motor vehicle insurance policy."

5 Section 2. Section 66-5-205 NMSA 1978 (being Laws 1983,  
6 Chapter 318, Section 6, as amended) is amended to read:

7 "66-5-205. VEHICLE MUST BE INSURED OR OWNER MUST HAVE  
8 EVIDENCE OF FINANCIAL RESPONSIBILITY--PENALTIES.--

9 A. No owner shall permit the operation of an  
10 uninsured motor vehicle, or a motor vehicle for which evidence  
11 of financial responsibility as was affirmed to the department  
12 is not currently valid, upon the streets or highways of New  
13 Mexico unless the vehicle is specifically exempted from the  
14 provisions of the Mandatory Financial Responsibility Act.

15 B. No person shall drive an uninsured motor  
16 vehicle, or a motor vehicle for which evidence of financial  
17 responsibility as was affirmed to the department is not  
18 currently valid, upon the streets or highways of New Mexico  
19 unless ~~[he]~~ the person is specifically exempted from the  
20 provisions of the Mandatory Financial Responsibility Act.

21 C. For the purposes of the Mandatory Financial  
22 Responsibility Act, "uninsured motor vehicle" means a motor  
23 vehicle for which a motor vehicle insurance policy meeting the  
24 requirements of the laws of New Mexico and of the secretary, or  
25 a surety bond or evidence of a sufficient cash deposit with the

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1 state treasurer, is not in effect [~~or a surety bond or evidence~~  
2 ~~of a sufficient cash deposit with the state treasurer~~].

3 D. The provisions of the Mandatory Financial  
4 Responsibility Act requiring the deposit of evidence of  
5 financial responsibility as provided in Section 66-5-218 NMSA  
6 1978, subject to certain exemptions, may apply with respect to  
7 persons who have been convicted of or forfeited bail for  
8 certain offenses under motor vehicle laws or who have failed to  
9 pay judgments or written settlement agreements upon causes of  
10 action arising out of ownership, maintenance or use of vehicles  
11 of a type subject to registration under the laws of New Mexico.

12 E. Any person who violates the provisions of this  
13 section is guilty of a misdemeanor and upon conviction shall be  
14 sentenced to a fine of not less than one hundred fifty dollars  
15 (\$150), that cannot be suspended, but not to exceed three  
16 hundred dollars (\$300)."

17 Section 3. Section 66-5-205.1 NMSA 1978 (being Laws 1989,  
18 Chapter 214, Section 1, as amended) is amended to read:

19 "66-5-205.1. UNINSURED MOTORIST CITATION--REQUIREMENTS TO  
20 BE FOLLOWED AT TIME OF [~~ACCIDENT~~] CITATION--SUBSEQUENT  
21 PROCEDURES--INSURER NOTIFICATION REQUIREMENTS--SUSPENSION  
22 PROCEDURES.--

23 A. When a law enforcement officer issues to a  
24 driver [~~who is involved in an accident~~] a citation for failure  
25 to comply with the provisions of the Mandatory Financial

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1 Responsibility Act, the law enforcement officer shall at the  
2 same time:

3 (1) issue to the driver cited a temporary  
4 operation sticker, valid for thirty days after the date the  
5 sticker is issued, and forward by mail or delivery to the  
6 department a duplicate of the issued sticker; and

7 (2) remove the license plate from the vehicle  
8 and send it with the duplicate of the sticker to the  
9 department or, if it cannot be removed, permanently deface the  
10 plate.

11 B. The department shall return or replace, in its  
12 discretion, a license plate removed under the provisions of  
13 Paragraph (2) of Subsection A of this section or replace a  
14 license plate defaced under that paragraph when the person  
15 cited for failure to comply with the provisions of the  
16 Mandatory Financial Responsibility Act furnishes proof of  
17 compliance to the department and pays to the division a  
18 reinstatement fee of twenty-five dollars (\$25.00). If a person  
19 to whom the temporary operation sticker is issued furnishes to  
20 the department, within fifteen days after the issuance of the  
21 sticker, evidence of financial responsibility in compliance  
22 with the Mandatory Financial Responsibility Act and in effect  
23 on the date and at the time of the issuance of the sticker, the  
24 department shall replace or return the license plate and waive  
25 the twenty-five-dollar (\$25.00) reinstatement fee.

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1 C. The secretary shall adopt and promulgate rules  
2 prescribing the form and use of the sticker required to be  
3 issued under Subsection A of this section.

4 D. The secretary shall adopt and promulgate rules  
5 requiring insurance carriers to report canceled, terminated and  
6 newly issued motor vehicle insurance policies each month to the  
7 department. Information pertaining to each motor vehicle shall  
8 be made a part of that vehicle file for one year.

9 E. Within ten days of notification by the insurance  
10 carrier of a termination or cancellation of a motor vehicle  
11 insurance policy, the department shall demand satisfactory  
12 evidence from the owner of the motor vehicle that ~~[he]~~ the  
13 owner meets the requirements of the Mandatory Financial  
14 Responsibility Act. Failure to provide evidence of financial  
15 responsibility within twenty days after the department has  
16 mailed its demand for proof:

17 (1) constitutes reasonable grounds to believe  
18 that a person is operating a motor vehicle in violation of the  
19 provisions of Section 66-5-205 NMSA 1978; and

20 (2) requires the department to suspend the  
21 person's registration as provided in Section 66-5-236 NMSA  
22 1978.

23 F. The department shall notify the superintendent of  
24 insurance if an insurance carrier fails to provide monthly  
25 reports to the department regarding motor vehicle insurance

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1 policy information as required by Subsection D of this  
2 section."

3 Section 4. Section 66-5-220 NMSA 1978 (being Laws 1955,  
4 Chapter 182, Section 323, as amended) is amended to read:

5 "66-5-220. NONRESIDENT--PROOF OF FINANCIAL  
6 RESPONSIBILITY--DEFAULT BY NONRESIDENT INSURER.--

7 A. The nonresident owner of a motor vehicle not  
8 registered in this state may give proof of financial  
9 responsibility by filing with the secretary evidence of  
10 insurance on the motor vehicle in the form of a written  
11 certificate of an insurance carrier authorized to transact  
12 business in the state in which the motor vehicle described in  
13 the certificate is registered, or if the nonresident does not  
14 own a motor vehicle, then in the state in which the nonresident  
15 resides, provided the certificate otherwise conforms to the  
16 provisions of the Mandatory Financial Responsibility Act. The  
17 secretary shall accept the certificate upon the condition that  
18 the insurance carrier complies with the following provisions  
19 with respect to the insurance being certified:

20 (1) the insurance carrier shall execute a power  
21 of attorney authorizing the secretary to accept service on its  
22 behalf of notice or process in any action arising out of a  
23 motor vehicle accident in this state; and

24 (2) the insurance carrier shall agree in writing  
25 that the insurance shall be deemed to conform with the laws of

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1 New Mexico relating to the terms of motor vehicle insurance  
2 policies.

3 B. If any insurance carrier not authorized to  
4 transact business in New Mexico that has qualified to furnish  
5 evidence of financial responsibility defaults in any  
6 undertakings or agreements, the department shall not  
7 thereafter accept evidence of financial responsibility of that  
8 carrier, whether previously filed or thereafter tendered as  
9 evidence, so long as the default continues."

10 Section 5. Section 66-5-229 NMSA 1978 (being Laws 1978,  
11 Chapter 35, Section 318, as amended) is amended to read:

12 "66-5-229. DURATION OF EVIDENCE--WHEN FILING OF EVIDENCE  
13 MAY BE WAIVED--PENALTY--

14 A. The department shall, upon request, consent to the  
15 immediate cancellation of any bond or the department shall  
16 direct and the state treasurer shall return to the person  
17 entitled thereto any money deposited pursuant to the Mandatory  
18 Financial Responsibility Act as evidence of financial  
19 responsibility or the department shall waive the requirement of  
20 filing evidence of financial responsibility in any of the  
21 following events:

22 (1) after one year of providing satisfactory  
23 evidence as specified in Section 66-5-218 NMSA 1978;

24 (2) the death of the person on whose behalf  
25 evidence was filed or the permanent incapacity of the person to

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1 operate a motor vehicle; or

2 (3) the person who has filed evidence surrenders  
3 [~~his~~] the person's license and registration to the department.

4 B. [~~Provided, however, that~~] The department shall not  
5 consent to the cancellation of any bond or the return of any  
6 money or waive the requirement of filing evidence of financial  
7 responsibility in the event any action for damages upon a  
8 liability covered by the evidence is then pending or any  
9 judgment upon any such liability is then unsatisfied or in the  
10 event the person who has filed the bond or deposited the money  
11 has, within one year immediately preceding the request, been  
12 involved as a driver or owner in any motor vehicle accident  
13 resulting in injury or damage to the person or property of  
14 others. An affidavit of the applicant as to the nonexistence  
15 of such facts or that [~~he~~] the applicant has been released from  
16 all of [~~his~~] the applicant's liability or has been finally  
17 adjudicated not to be liable for such injury or damage shall be  
18 sufficient evidence thereof in the absence of evidence to the  
19 contrary in the records of the department.

20 C. Every owner or operator of a vehicle subject to  
21 the requirements of the Mandatory Financial Responsibility Act  
22 shall carry evidence of financial responsibility as defined by  
23 that act in the vehicle at all times while the vehicle is in  
24 operation on the highways of this state. The failure to comply  
25 with this subsection shall be a misdemeanor and shall be

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1 punishable by the penalty set forth in Section 66-8-7 NMSA  
2 1978; provided that a law enforcement officer shall not charge  
3 a person with a violation of this section if the officer can  
4 verify the person's compliance with the Mandatory Financial  
5 Responsibility Act by checking a computer database of motor  
6 vehicle information immediately available to the officer; and  
7 provided further that no person charged with violating this  
8 section shall be convicted if [~~he~~] the person produces in court  
9 evidence of financial responsibility valid at the time of  
10 issuance of the citation."

11 Section 6. EFFECTIVE DATE.--The effective date of the  
12 provisions of this act is July 1, 2007.

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