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HOUSE BILL 468

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR CIVIL PENALTIES FOR  
NONCOMPLIANT MOTOR VEHICLE DEALERS; RECONCILING MULTIPLE  
AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

SECTION 1. Section 66-4-1 NMSA 1978 (being Laws 1978,  
Chapter 35, Section 214, as amended by Laws 2005, Chapter 324,  
Section 12 and by Laws 2005, Chapter 325, Section 23) is  
amended to read:

"66-4-1. DEALERS, WHOLESALERS AND DISTRIBUTORS OF  
VEHICLES AND TITLE SERVICE COMPANIES MUST BE LICENSED--  
PRESUMPTION OF CONDUCTING BUSINESS.--

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

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

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

6 (b) recreational vehicles designed to be  
7 towed;

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

10 (d) off-highway motor vehicles pursuant  
11 to the Off-Highway Motor Vehicle Act;

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

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

24 (4) a title service company. Any person who  
25 for consideration prepares or submits applications for the

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1 registration of or title to vehicles shall be presumed to be  
2 engaging in the business of a title service company.

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

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

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1 1978."

2 SECTION 2. Section 66-4-9 NMSA 1978 (being Laws 1978,  
3 Chapter 35, Section 222) is amended to read:

4 "66-4-9. PENALTY FOR DESTROYING OR DISMANTLING IN  
5 VIOLATION OF [THE ACT] CERTAIN SECTIONS--PENALTY FOR  
6 NONCOMPLIANT MOTOR VEHICLE DEALERS.--

7 A. Any person violating any provision of Sections  
8 [64-3-119 and 64-3-121, 64-3-123 through 64-3-125 and 64-4-1  
9 through 64-4-9 NMSA 1953] 66-3-119, 66-3-121, 66-3-123 through  
10 66-3-125, 66-4-1.1 and 66-4-3 through 66-4-9 NMSA 1978 is  
11 guilty of a misdemeanor and shall be punished by a fine of  
12 three hundred dollars (\$300) or by imprisonment for not less  
13 than thirty days or both.

14 B. The penalty upon a second or subsequent  
15 conviction of [such offense shall be] a provision of a section  
16 of law identified in Subsection A of this section is that  
17 provided for a fourth degree felony.

18 C. Any person violating any provision of Section  
19 66-4-1 NMSA 1978 is guilty of a misdemeanor and shall be  
20 punished by imprisonment for not less than thirty days or by a  
21 fine of:

22 (1) one thousand dollars (\$1,000) for a first  
23 conviction, or both the fine and imprisonment;

24 (2) two thousand five hundred dollars (\$2,500)  
25 for a second conviction, or both the fine and imprisonment;

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1                   (3) five thousand dollars (\$5,000) for a third  
2 conviction, or both the fine and imprisonment; and

3                   (4) ten thousand dollars (\$10,000) for a  
4 fourth or subsequent conviction, or both the fine and  
5 imprisonment.

6                   D. Any person violating any provision of Section  
7 66-4-2.1 or 66-4-2.2 NMSA 1978 is guilty of a misdemeanor and  
8 shall be punished by imprisonment for not less than thirty days  
9 or by a fine of ten thousand dollars (\$10,000), or both."

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