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HOUSE BILL 52

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Monica Youngblood and Patricio Ruiloba and Howie C. Morales

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING AUTO RECYCLERS TO ELECTRONICALLY REPORT ALL VEHICLE PURCHASES TO THE TAXATION AND REVENUE DEPARTMENT; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO MAINTAIN AND MAKE AVAILABLE CERTAIN INFORMATION.

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

SECTION 1. A new section of the Motor Vehicle Code is enacted to read:

"[NEW MATERIAL] AUTO RECYCLERS--NOTIFICATION OF PURCHASE.--

A. Prior to taking actual possession of a vehicle that an auto recycler has purchased, the auto recycler shall verify with the department if the vehicle has been reported stolen by checking an electronic system maintained by the department. The auto recycler shall include the seller's name,

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1 address, contact information and unique auto recycling license
2 number of the purchaser, unless the purchaser is not a licensed
3 auto recycler, in which case the auto recycler shall include
4 the unique number of the purchaser's government-issued
5 identification document.

6 B. Within forty-eight hours of the close of
7 business on the day a vehicle is purchased by an auto recycler,
8 the auto recycler shall report the purchase to the department
9 in an electronic format.

10 C. The reporting requirements pursuant to
11 Subsection B of this section shall include:

12 (1) the name, address and contact information
13 of the seller and the purchaser;

14 (2) the unique auto recycling license number
15 of the seller, unless the seller is not a licensed auto
16 recycler, in which case the unique number of the seller's
17 government-issued identification document;

18 (3) the unique auto recycling license number
19 of the purchaser, unless the purchaser is not a licensed auto
20 recycler, in which case the unique number of the purchaser's
21 government-issued identification document;

22 (4) the make, model, year, vehicle
23 identification number and, if available, current odometer
24 reading of the vehicle;

25 (5) the dates of the transfer of ownership of

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1 the vehicle;

2 (6) a statement specifying if the vehicle was,
3 or will be, crushed, disposed of or used for other purposes;
4 and

5 (7) a statement specifying if the vehicle is
6 intended for export outside of the United States.

7 D. The department shall maintain and make available
8 to auto recyclers an electronic system that allows auto
9 recyclers to verify, prior to taking actual possession of a
10 vehicle that an auto recycler has purchased, that the vehicle
11 has not been reported stolen. If the electronic system shows
12 that the vehicle was reported stolen, the auto recycler shall
13 not complete the transaction and shall notify a law enforcement
14 agency of the current location of the vehicle and
15 identification information provided by the person attempting to
16 transfer ownership of the vehicle. If the electronic system
17 shows that the vehicle was not reported stolen, the auto
18 recycler may proceed with the transaction and shall not be held
19 criminally or civilly liable if the vehicle was stolen, unless
20 the auto recycler had knowledge that the vehicle was stolen.

21 E. The department shall make information contained
22 in the electronic system available, without charge and upon
23 request, to any law enforcement agency or the department, when
24 the person acting on behalf of the agency or department is
25 acting within the course and scope of the agency's or

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1 department's duties. Except as authorized by this section, the
2 department shall not release personally identifiable
3 information received under this section.

4 F. This section shall not apply to sales at salvage
5 pools."

6 SECTION 2. Section 66-2-5 NMSA 1978 (being Laws 1978,
7 Chapter 35, Section 9) is amended to read:

8 "66-2-5. DIRECTOR TO PRESCRIBE FORMS.--

9 A. The director shall prescribe and provide
10 suitable forms of applications, certificates of title,
11 evidences of registration, [~~drivers'~~ driver's licenses and all
12 other forms requisite or deemed necessary to carry out the
13 provisions of the Motor Vehicle Code and any other laws, the
14 enforcement and administration of which are vested in the
15 division.

16 B. The director shall make available to the public
17 electronic versions of all forms requisite or deemed necessary
18 to carry out the provisions of the Motor Vehicle Code and any
19 other laws, the enforcement and administration of which are
20 vested in the division."

21 SECTION 3. Section 66-3-119 NMSA 1978 (being Laws 1978,
22 Chapter 35, Section 66) is amended to read:

23 "66-3-119. VEHICLE [~~OR MOTOR VEHICLE~~] TO BE DISMANTLED.--
24 In addition to any requirements pursuant to Section 1 of this
25 2018 act:

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1 A. except as provided in Sections [~~64-3-114 through~~
2 ~~64-3-121 NMSA 1953~~] 66-3-115, 66-3-116 and 66-3-118 through
3 66-3-121 NMSA 1978, any person who sells, gives away, trades or
4 disposes of any vehicle [~~or motor vehicle~~] as scrap or to be
5 dismantled or destroyed by any person required to be licensed
6 under Section [~~64-4-1 NMSA 1953~~] 66-4-1 NMSA 1978 shall assign
7 the certificate of title of [~~such~~] the vehicle [~~or motor~~
8 ~~vehicle~~] to the recipient and shall deliver the [~~same~~]
9 certificate of title to the recipient. A licensed dismantler
10 receiving any registration plates shall either return them to
11 the owner upon demand or [~~surrender~~] destroy them within five
12 days [~~of receiving the plates to the division~~];

13 B. except as provided in Sections [~~64-3-114 through~~
14 ~~64-3-121 NMSA 1953~~] 66-3-115, 66-3-116 and 66-3-118 through
15 66-3-121 NMSA 1978, no person shall dismantle or destroy a
16 vehicle [~~or motor vehicle~~] unless [~~he~~] the person possesses a
17 certificate of title or other proof of ownership of the vehicle
18 [~~or motor vehicle~~] and completes and sends in the dismantler's
19 notification form to the [~~motor vehicle~~] division and any law
20 enforcement agency designated by the [~~motor vehicle~~] division
21 for that purpose; and

22 C. any person licensed under Section [~~64-4-1 NMSA~~
23 ~~1953~~] 66-4-1 NMSA 1978 may take possession of an abandoned
24 [~~motor~~] vehicle; provided that:

25 (1) [~~he~~] the person obtains at the time of

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1 acquisition a written clearance form from a law enforcement
2 agency mentioned in Section [~~64-3-121 NMSA 1953~~] 66-3-121 NMSA
3 1978;

4 (2) [~~he~~] within five days after acquisition of
5 [~~said~~] the abandoned vehicle [~~or motor vehicle~~], the person
6 requests from the [~~motor vehicle~~] division an official
7 [~~printout~~] form indicating the names and addresses of all
8 lienholders and owners of record. If the abandoned vehicle [~~or~~
9 ~~motor vehicle~~] has out-of-state license plates or the licensee
10 has some other reason to believe that the abandoned vehicle [~~or~~
11 ~~motor vehicle~~] is registered in a state other than New Mexico,
12 [~~he must~~] the person shall request the same information from
13 the appropriate agency of that state;

14 (3) [~~he~~] within five days after receiving the
15 names and addresses of all lienholders and owners of record,
16 the person informs them by certified mail, return receipt
17 requested, of [~~his~~] the person's possession of the abandoned
18 vehicle [~~or motor vehicle~~] and of all charges, if any, against
19 the abandoned vehicle [~~or motor vehicle, if any~~] and of [~~his~~]
20 the person's intent to dispose of [~~said~~] the vehicle if no
21 claim [~~be~~] is made within thirty days after the delivery of the
22 letter;

23 (4) in those cases where neither the [~~motor~~
24 ~~vehicle~~] division nor the appropriate state agency specified in
25 this section is able to furnish the names of any lienholders or

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1 owners of record, the vehicle shall then be deemed as
2 abandoned, and a licensed dismantler may dispose of the
3 abandoned vehicle [~~or motor vehicle~~] once [~~he~~] the dismantler
4 has properly completed a dismantler's notification form for the
5 abandoned vehicle [~~or motor vehicle~~] and has [~~mailed one copy~~
6 ~~of~~] submitted the form to the [~~motor vehicle~~] division [~~and one~~
7 ~~copy of the form to the law enforcement agency designated by~~
8 ~~the motor vehicle division for that purpose~~] together with a
9 copy of the correspondence with either the [~~motor vehicle~~]
10 division or the state agency specified in this section
11 indicating that there are no lienholders or owners of record;

12 (5) when a lienholder or owner of record is
13 known and the required notice has been sent and the dismantler
14 has waited the required thirty days and has not received a
15 valid claim, [~~he~~] the dismantler shall properly complete a
16 dismantler's notification form for the abandoned vehicle [~~or~~
17 ~~motor vehicle~~] and [~~send one copy of~~] submit the form together
18 with any correspondence with the [~~motor vehicle~~] division or
19 appropriate state agency specified in this subsection
20 indicating the names and addresses of lienholders and owners of
21 record plus proof of notification together with an affidavit
22 signed by the dismantler stating under oath or affirmation that
23 [~~he~~] the dismantler has complied with provisions of this
24 section and [~~he~~] the dismantler has not received during the
25 thirty-day period following notification any valid claim

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1 against the abandoned vehicle [~~or motor vehicle~~] in question
2 or, while a valid claim has been made, [~~he~~] the dismantler has
3 not received within sixty days following [~~such~~] the
4 notification payment for fees connected with towing and storage
5 of the abandoned vehicle [~~or motor vehicle~~] in question [~~One~~
6 ~~copy of the dismantler's notification form shall be sent to the~~
7 ~~law enforcement agency designated by the motor vehicle division~~
8 ~~for that purpose~~];

9 (6) any person who fails to give notice
10 required in this subsection within the time limit specified
11 shall forfeit all liens, interest and claims to the abandoned
12 vehicle [~~or motor vehicle~~] in question if claimed by an owner
13 or lienholder;

14 (7) failure of an owner or lienholder to
15 assert a claim or to pay all legal storage or towing fees, if
16 any, within the specified period of time shall result in that
17 person's forfeiture of liens, interest or claims to the
18 abandoned vehicle [~~or motor vehicle~~]; and

19 (8) upon complying with the [~~above~~] conditions
20 of this section and waiting the required period of time, [~~such~~
21 ~~a) the~~] the abandoned vehicle [~~or motor vehicle shall be deemed~~] is
22 the property of the dismantler for dismantling or salvage
23 purposes, and [~~he~~] the dismantler shall not be required to take
24 further action under the lien laws of this state unless the
25 abandoned vehicle [~~or motor vehicle~~] is used for other than

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1 dismantling or salvage purposes, and any person licensed under
2 Section ~~[64-4-1 NMSA 1953]~~ 66-4-1 NMSA 1978 may dismantle or
3 destroy ~~[such a]~~ the abandoned vehicle ~~[or motor vehicle]."~~

4 SECTION 4. Section 66-3-123 NMSA 1978 (being Laws 1978,
5 Chapter 35, Section 70, as amended) is amended to read:

6 "66-3-123. REQUIREMENTS OF PURCHASER--FORMS--
7 DISTRIBUTION.--In addition to any requirements pursuant to
8 Section 1 of this 2018 act, purchasers licensed under the
9 provisions of Section 66-4-1 NMSA 1978 shall, upon purchase of
10 a vehicle to be dismantled, crushed or otherwise destroyed,
11 ~~[send]~~ submit copies of the dismantler's notification form as
12 provided for in Section 66-3-124 NMSA 1978 ~~[to the following~~
13 ~~persons]~~ as follows:

14 A. ~~[one copy]~~ electronically to the department as
15 required by Section 66-3-121 NMSA 1978, along with the actual
16 title or proof of ownership required in the state in which the
17 vehicle is registered or licensed ~~[provided that with the prior~~
18 ~~approval of the department, the required information may be~~
19 ~~transmitted electronically to the department in lieu of~~
20 ~~submitting a copy of the form];~~

21 B. one copy by certified mail within thirty days of
22 acquisition to the local law enforcement agency designated by
23 the department. The agency ~~[must]~~ shall process the form
24 through the files of stolen or embezzled vehicles within five
25 days of receipt of the form;

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1 C. one copy to be retained by the purchaser for as
2 long as the vehicle remains in the purchaser's possession or
3 until the vehicle is destroyed, but in no instance fewer than
4 three years; and

5 D. one copy to be retained and provided to any
6 subsequent purchaser of the vehicle. The purchaser shall
7 retain the copy for as long as the vehicle remains in [~~his~~] the
8 purchaser's possession or until the vehicle is destroyed."

9 SECTION 5. Section 66-3-124 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 71, as amended) is amended to read:

11 "66-3-124. DEPARTMENT TO PROVIDE FORMS.--In addition to
12 any requirements pursuant to Section 1 of this 2018 act, the
13 department shall issue a dismantler's notification form to be
14 used by any persons licensed under the provisions of Section
15 66-4-1 NMSA 1978 for all vehicles purchased to be dismantled,
16 crushed or otherwise destroyed. The form shall require such
17 information as is determined by the department to be
18 necessary."

19 SECTION 6. Section 66-3-125 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 72, as amended) is amended to read:

21 "66-3-125. RESTRICTIONS UPON LICENSEES.--In addition to
22 any requirements pursuant to Section 1 of this 2018 act, a
23 person licensed under the provisions of Sections 66-4-1 through
24 66-4-7 and 66-4-9 NMSA 1978 may, no earlier than thirty days
25 after [~~mailing~~] sending the dismantler's notification form as

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1 required by Section 66-3-123 NMSA 1978, proceed with the
2 business of shredding, compacting, crushing or otherwise
3 disposing of a vehicle [~~or motor vehicle~~] purchased in
4 accordance with the provisions of Sections 66-4-1 through
5 66-4-7 and 66-4-9 NMSA 1978; provided, however, dismantling of
6 the vehicle [~~or motor vehicle~~] may proceed immediately upon the
7 [~~mailing~~] sending of the dismantler's notification form."

8 SECTION 7. Section 66-4-9 NMSA 1978 (being Laws 1978,
9 Chapter 35, Section 222) is amended to read:

10 "66-4-9. PENALTY FOR DESTROYING OR DISMANTLING IN
11 VIOLATION OF [~~THE ACT~~] CERTAIN SECTIONS OF THE MOTOR VEHICLE
12 CODE.--[A.] Any person violating any provision of Sections
13 [~~64-3-119 and 64-3-121, 64-3-123 through 64-3-125 and 64-4-1~~
14 ~~through 64-4-9 NMSA 1953~~] 66-3-119, 66-3-121, 66-3-123 through
15 66-3-125, 66-4-1 through 66-4-7 and 66-4-9 NMSA 1978 or Section
16 1 of this 2018 act is guilty of a misdemeanor and shall be
17 punished by a fine of three hundred dollars (\$300) or by
18 imprisonment for not less than thirty days or both.

19 [~~B. The penalty upon second conviction of such~~
20 ~~offense shall be that provided for a fourth degree felony.]"~~

21 SECTION 8. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is January 1, 2019.