

1 HOUSE BILL 117

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PROPERTY INTERESTS; PROVIDING FOR ELECTRONIC
12 SIGNATURES OF INSUREDS ON POWERS OF ATTORNEY ON DOCUMENTS USED
13 TO TRANSFER TITLE TO AN INSURANCE COMPANY.

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

16 SECTION 1. Section 45-5B-105 NMSA 1978 (being Laws 2007,
17 Chapter 135, Section 105) is amended to read:

18 "45-5B-105. EXECUTION OF POWER OF ATTORNEY.--

19 A. A power of attorney must be signed by the
20 principal or in the principal's conscious presence by another
21 individual directed by the principal to sign the principal's
22 name on the power of attorney. A signature on a power of
23 attorney is presumed to be genuine if the principal
24 acknowledges the signature before a notary public or other
25 individual authorized by law to take acknowledgments.

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1 B. Notwithstanding any other provision that a
2 signature on a power of attorney executed in this state shall
3 be acknowledged by a notary public or others authorized
4 pursuant to state law, a power of attorney used to support an
5 application for or transfer of certificate of title by an
6 insurance company or an agent of an insurance company shall
7 only require a signature or electronic signature of the insured
8 who has received or is to receive a total loss settlement of a
9 claim for damage or theft from the insurance company."

10 SECTION 2. Section 66-3-4 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 24, as amended) is amended to read:

12 "66-3-4. APPLICATION FOR REGISTRATION AND CERTIFICATE OF
13 TITLE--NONREPAIRABLE VEHICLE CERTIFICATE.--

14 A. Except for a vehicle owned by a carrier that is
15 from a jurisdiction that is not a participant in the
16 International Fuel Tax Agreement, that is authorized by the
17 United States government or an agency of the United States
18 government to conduct cross-border operations beyond the
19 commercial border zone pursuant to the provisions of the [~~North~~
20 ~~American Free Trade~~] United States-Mexico-Canada Agreement and
21 that identifies New Mexico as the carrier's base jurisdiction,
22 every owner of a vehicle of a type required to be registered in
23 this state shall make application to the division for the
24 registration and issuance of a certificate of title for the
25 vehicle. Applications shall be upon the appropriate forms

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1 furnished by the division and shall bear the signature of the
2 owner; provided that the signature may either be made using an
3 electronic signature in conformance with the Electronic
4 Authentication of Documents Act and the Uniform Electronic
5 Transactions Act or written with pen and ink. All applications
6 presented to the division shall contain:

7 (1) for a vehicle other than a recreational
8 vehicle, the name, bona fide New Mexico residence address and
9 mail address of the owner or, if the owner is a firm,
10 association or corporation, the name, bona fide New Mexico
11 business address and mail address of the firm, association or
12 corporation and for a recreational vehicle, the name, bona fide
13 residence address and mail address of the owner and proof of
14 delivery in New Mexico;

15 (2) a description of the vehicle including, to
16 the extent that the following specified data may exist with
17 respect to a given vehicle, the make, model, type of body,
18 number of cylinders, type of fuel used, serial number of the
19 vehicle, odometer reading, engine or other identification
20 number provided by the manufacturer of the vehicle, whether new
21 or used and, if a vehicle not previously registered, date of
22 sale by the manufacturer or dealer to the person intending to
23 operate the vehicle. In the event a vehicle is designed,
24 constructed, converted or rebuilt for the transportation of
25 property, the application shall include a statement of its

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1 rated capacity as established by the manufacturer of the
2 chassis or the complete vehicle;

3 (3) a statement of the applicant's title and
4 of all liens or encumbrances upon the vehicle and the names and
5 addresses of all persons having an interest in the vehicle, the
6 nature of each interest and the name and address of the person
7 to whom the certificate of title shall be delivered by the
8 division;

9 (4) if the vehicle required to be registered
10 is a house trailer, as defined in the Motor Vehicle Code, a
11 certificate from the treasurer or assessor of the county in
12 which the house trailer is located showing that either:

13 (a) all property taxes due or to become
14 due on the house trailer for the current tax year or any past
15 tax years have been paid; or

16 (b) no liability for property taxes on
17 the house trailer exists for the current year or any past tax
18 years; and

19 (5) further information as may reasonably be
20 required by the division to enable it to determine whether the
21 vehicle is lawfully entitled to registration and the owner
22 entitled to a certificate of title.

23 B. The owner of a vehicle subject to registration
24 that has never been registered in this state and that has been
25 registered in another state, except manufactured homes, shall

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1 have the vehicle examined and inspected for its identification
2 number or engine number by the division or an officer or a
3 designated agent of the division incident to securing
4 registration, reregistration or a certificate of title from the
5 division.

6 C. When an application refers to a vehicle not
7 previously registered and the vehicle is purchased from a
8 dealer licensed in this state or a dealer licensed or
9 recognized as such in any other state, territory or possession
10 of the United States, the application shall be accompanied by a
11 manufacturer's certificate of origin duly assigned by the
12 dealer to the purchaser. In the event that a vehicle not
13 previously registered is sold by the manufacturer to a dealer
14 in a state not requiring a manufacturer's certificate of origin
15 and in the event that the vehicle is subsequently purchased by
16 a dealer or any person in this state, the application for title
17 shall be accompanied by the evidence of title accepted by the
18 state in which the vehicle was sold by the manufacturer to a
19 dealer in that state together with evidence of subsequent
20 transfers.

21 D. Prior to the sale or disposal of a nonrepairable
22 vehicle, the owner, owner's agent or salvage pool shall obtain
23 a properly endorsed nonrepairable vehicle certificate from the
24 department and deliver it to the purchaser within twenty days
25 after payment in full for the nonrepairable vehicle and shall

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1 also comply with Section 66-3-10.1 NMSA 1978. The department
2 shall accept the endorsed nonrepairable vehicle certificate in
3 lieu of the certificate of ownership or other evidence of
4 ownership when accompanied by an application and other
5 documents and fees as may be required by the department. A
6 vehicle for which a nonrepairable vehicle certificate has been
7 issued shall not be titled or registered for use on the
8 highways of this state.

9 E. The department shall accept an executed power of
10 attorney containing either a signature or an electronic
11 signature of an insured in an application for or transfer of
12 title by an insurance company in the event of a total loss
13 settlement of the insured's vehicle.

14 [~~E.~~] F. If an insurance company makes a total loss
15 settlement on a nonrepairable vehicle and takes possession of
16 that vehicle, either itself or through an agent or salvage
17 pool, the insurance company or an authorized agent of the
18 insurance company shall:

19 (1) stamp the face of the title or
20 manufacturer's certificate of origin with the word
21 "NONREPAIRABLE", in letters no less than one-half inch high, at
22 an angle of approximately forty-five degrees to the text of the
23 title or manufacturer's certificate of origin; and

24 (2) within twenty days after receipt of title
25 by the insurer, free and clear of all liens, submit a copy of

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1 the branded title or manufacturer's certificate of title to the
2 department together with documents explaining the reason for
3 branding, and shall forward a properly endorsed certificate of
4 title or manufacturer's certificate of origin or other evidence
5 of ownership acceptable to the department together with the
6 proper fee to the department. The department, upon receipt of
7 the title or manufacturer's certificate of origin or other
8 evidence of ownership, shall issue a nonrepairable vehicle
9 certificate for the vehicle.

10 ~~[F-]~~ G. If an owner of a nonrepairable vehicle
11 elects to retain possession of the vehicle, the insurance
12 company shall notify the department of the retention on a form
13 prescribed by the department. The insurance company shall also
14 notify the insured or owner of the insured's or owner's
15 responsibility to comply with this section. The owner shall,
16 within twenty days from the date of settlement of the loss,
17 forward a properly endorsed certificate of title or
18 manufacturer's certificate of origin or other evidence of
19 ownership acceptable to the department together with the proper
20 fee to the department. The department, upon receipt of the
21 title or manufacturer's certificate of origin or other evidence
22 of ownership, shall issue a nonrepairable vehicle certificate
23 for the vehicle.

24 ~~[G-]~~ H. If a nonrepairable vehicle is not the
25 subject of an insurance settlement, the owner shall, within

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1 twenty days from the date of the loss, forward a properly
2 endorsed certificate of title or manufacturer's certificate of
3 origin or other evidence of ownership acceptable to the
4 department together with the proper fee to the department. The
5 department, upon receipt of the title or manufacturer's
6 certificate of origin or other evidence of ownership, shall
7 issue a nonrepairable vehicle certificate for the vehicle.

8 [H.] I. The department shall not issue a new
9 registration card and certificate of ownership pursuant to
10 Subsection A, B or C of this section on a vehicle that has been
11 issued a nonrepairable vehicle certificate pursuant to
12 Subsections [E] F, ~~[and]~~ G and H of this section."

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