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HOUSE BILL 509

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO MOTOR VEHICLES; SUBJECTING VIOLATIONS OF THE
MANDATORY FINANCIAL RESPONSIBILITY ACT TO CIVIL PENALTIES;
PROVIDING FOR NOTICE OF VIOLATION AND PAYMENT OF PENALTIES TO
OCCUR BY MAIL; PROVIDING FOR A COMPLIANCE PROGRAM; REPEALING A
SECTION OF THE MANDATORY FINANCIAL RESPONSIBILITY ACT.

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

SECTION 1. Section 66-5-205 NMSA 1978 (being Laws 1983,
Chapter 318, Section 6, as amended) is amended to read:

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

A. No owner shall permit the operation of an
uninsured motor vehicle, or a motor vehicle for which evidence
of financial responsibility as was affirmed to the department
is not currently valid, upon the streets or highways of New

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1 Mexico unless the vehicle is specifically exempted from the
2 provisions of the Mandatory Financial Responsibility Act.

3 B. No person shall drive an uninsured motor
4 vehicle, or a motor vehicle for which evidence of financial
5 responsibility as was affirmed to the department is not
6 currently valid, upon the streets or highways of New Mexico
7 unless ~~[he]~~ the person is specifically exempted from the
8 provisions of the Mandatory Financial Responsibility Act.

9 C. For the purposes of the Mandatory Financial
10 Responsibility Act, "uninsured motor vehicle" means a motor
11 vehicle for which a motor vehicle insurance policy meeting the
12 requirements of the laws of New Mexico and of the secretary, or
13 a surety bond or evidence of a sufficient cash deposit with the
14 state treasurer, is not in effect [~~or a surety bond or evidence~~
15 ~~of a sufficient cash deposit with the state treasurer~~].

16 D. The provisions of the Mandatory Financial
17 Responsibility Act requiring the deposit of evidence of
18 financial responsibility as provided in Section 66-5-218 NMSA
19 1978, subject to certain exemptions, may apply with respect to
20 persons who have been convicted of or forfeited bail for
21 certain offenses under motor vehicle laws or who have failed to
22 pay judgments or written settlement agreements upon causes of
23 action arising out of ownership, maintenance or use of vehicles
24 of a type subject to registration under the laws of New Mexico.

25 [~~E. Any person who violates the provisions of this~~

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1 ~~section is guilty of a misdemeanor and upon conviction shall be~~
2 ~~sentenced to a fine not to exceed three hundred dollars~~
3 ~~(\$300).]"~~

4 SECTION 2. Section 66-5-205.1 NMSA 1978 (being Laws 1989,
5 Chapter 214, Section 1, as amended) is amended to read:

6 "66-5-205.1. UNINSURED MOTORIST CITATION--REQUIREMENTS TO
7 BE FOLLOWED AT TIME OF ACCIDENT--SUBSEQUENT PROCEDURES--INSURER
8 NOTIFICATION REQUIREMENTS--SUSPENSION PROCEDURES.--

9 A. When a law enforcement officer [~~issues a driver~~
10 ~~who is~~] makes a determination as provided in Section 3 of this
11 2011 act that a vehicle involved in an accident [a citation for
12 failure to comply with the provisions of the Mandatory
13 Financial Responsibility Act] is an uninsured vehicle, the law
14 enforcement officer shall at the same time:

15 (1) issue to the driver [~~cited~~] of the vehicle
16 a temporary operation sticker, valid for thirty days after the
17 date the sticker is issued, and forward by mail or delivery to
18 the department a duplicate of the issued sticker; and

19 (2) remove the license plate from the vehicle
20 and send it with the duplicate of the sticker to the
21 department or, if it cannot be removed, permanently deface the
22 plate.

23 B. The department shall mail a penalty notice
24 pursuant to Section 3 of this 2011 act, and shall return or
25 replace, in its discretion, a license plate removed under the

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1 provisions of Paragraph (2) of Subsection A of this section or
2 replace a license plate defaced under that paragraph when the
3 ~~[person cited for failure to comply with the provisions of the~~
4 ~~Mandatory Financial Responsibility Act furnishes proof of~~
5 ~~compliance to the department and pays to the division a~~
6 ~~reinstatement fee of twenty-five dollars (\$25.00). If a person~~
7 ~~to whom the temporary operation sticker is issued furnishes to~~
8 ~~the department, within fifteen days after the issuance of the~~
9 ~~sticker, evidence of financial responsibility in compliance~~
10 ~~with the Mandatory Financial Responsibility Act and in effect~~
11 ~~on the date and at the time of the issuance of the sticker, the~~
12 ~~department shall replace or return the license plate and waive~~
13 ~~the twenty-five dollar (\$25.00) reinstatement fee] owner of the~~
14 ~~vehicle responds to the department pursuant to Paragraph (1) or~~
15 ~~(2) of Subsection B of Section 3 of this 2011 act or if the~~
16 ~~owner establishes compliance with the Mandatory Financial~~
17 ~~Responsibility Act at a hearing held pursuant to Paragraph (3)~~
18 ~~of Subsection B of Section 3 of this 2011 act.~~

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

22 D. The secretary shall adopt and promulgate rules
23 requiring insurance carriers to report canceled, terminated and
24 newly issued motor vehicle insurance policies each month to the
25 department. Information pertaining to each motor vehicle shall

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1 be made a part of that vehicle file for one year.

2 E. Within ten days of notification by the insurance
3 carrier of a termination or cancellation of a motor vehicle
4 insurance policy, the department shall [~~demand satisfactory~~
5 ~~evidence from the owner of the motor vehicle that he meets the~~
6 ~~requirements of the Mandatory Financial Responsibility Act.~~
7 ~~Failure to provide evidence of financial responsibility within~~
8 ~~twenty days after the department has mailed its demand for~~
9 ~~proof:~~

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

13 (2) ~~requires the department to suspend the~~
14 ~~person's registration as provided in Section 66-5-236 NMSA~~
15 ~~1978] mail a penalty notice pursuant to Section 3 of this 2011~~
16 ~~act.~~

17 F. The department shall notify the superintendent of
18 insurance if an insurance carrier fails to provide monthly
19 reports to the department regarding motor vehicle insurance
20 policy information as required by Subsection D of this
21 section."

22 SECTION 3. A new section of the Mandatory Financial
23 Responsibility Act is enacted to read:

24 "[NEW MATERIAL] CIVIL PENALTY--PENALTY NOTICE--COMPLIANCE
25 PROGRAM.--

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1 A. Notwithstanding the provisions of Section 66-8-7
2 NMSA 1978, a person who violates the provisions of Section
3 66-5-205 NMSA 1978 is not subject to a criminal penalty but is
4 subject to a civil penalty of three hundred dollars (\$300) and
5 suspension of motor vehicle registration. Determination of a
6 violation may be made by a law enforcement officer or by the
7 department or its agent from the department's records and
8 national databases available to the department. If the
9 determination is made by a law enforcement officer, the officer
10 shall notify the department in a manner directed by the
11 department. Notice of a violation shall be made by mail to the
12 person by the department or an agent of the department.

13 B. The penalty notice shall state the name of the
14 registered owner and the registration number and description of
15 the vehicle determined to be uninsured or without current
16 evidence of financial responsibility, a statement that the
17 department has determined from its records that the owner is in
18 violation of the requirement for financial responsibility in
19 the Mandatory Financial Responsibility Act and the date and
20 time of the determination, the amount of the civil penalty, a
21 statement that failure to comply with the directions in the
22 notice may result in suspension of the vehicle's registration
23 and legal action to collect the penalty amount and a direction
24 to the owner to either:

25 (1) submit to the department, within twenty days

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1 of the mailing of the penalty notice, evidence satisfactory to
2 the department of the owner's financial responsibility in
3 effect currently and on the date and at the time of the
4 determination. Fulfillment of this paragraph shall result in
5 no further action on the part of the department and the
6 department shall update its records to reflect the evidence
7 submitted;

8 (2) submit to the department, within twenty days
9 of the mailing of the penalty notice, the amount of the civil
10 penalty, which shall be deemed an agreement by the registered
11 owner that the owner drove or permitted another person to drive
12 the vehicle in violation of the financial responsibility
13 provisions of the Mandatory Financial Responsibility Act, and
14 evidence satisfactory to the department of the owner's
15 financial responsibility in effect currently and no later than
16 the date of the submission. Fulfillment of the requirements of
17 this paragraph shall result in no further action on the part of
18 the department, and the department shall update its records to
19 reflect the evidence submitted; or

20 (3) if the owner believes the penalty notice is
21 incorrect, request a hearing pursuant to Section 66-5-204 NMSA
22 1978 to determine whether the owner is in compliance with the
23 financial responsibility provisions of the Mandatory Financial
24 Responsibility Act. The department shall take no further
25 action until a hearing decision has been made. If the decision

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1 upholds the penalty notice, within twenty days of the decision
2 the owner shall comply with Paragraph (2) of this subsection
3 or, if the owner does not comply, the owner shall be subject to
4 the provisions of Paragraphs (2) and (3) of Subsection C of
5 this section.

6 C. If the owner fails to respond as directed in
7 Paragraph (1) or (2) of Subsection B of this section within
8 twenty days after the department has mailed the penalty notice
9 or submits false evidence of compliance with the Mandatory
10 Financial Responsibility Act, the failure or false submission:

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

14 (2) requires the department to suspend the
15 person's registration for a period not to exceed one year; and

16 (3) gives the department the authority to
17 collect the penalty amount as a lawful debt pursuant to legal
18 process and to collect attorney fees if legal process is
19 necessary.

20 D. The department may establish a compliance program,
21 in conjunction with the department of public safety, other law
22 enforcement agencies and providers of pertinent technology, to
23 assist the department and law enforcement officers in making
24 the determination required in Subsection A of this section.

25 The program may include the use of electronic imaging

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1 technology to compare vehicle registration plates with the
2 records of the department or its agent or with records
3 available to the department or its agent."

4 SECTION 4. REPEAL.--Section 66-5-235 NMSA 1978 (being
5 Laws 1983, Chapter 318, Section 34, as amended) is repealed.