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SENATE BILL 122

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Howie Morales

AN ACT

RELATING TO MOTOR VEHICLES; ADDRESSING SALVAGE VEHICLES;
DEFINING "SALVAGE VEHICLE POOL" AND PROVIDING FOR LICENSING AS
A DEALER; ADDRESSING THE SALE OF SALVAGE VEHICLES; MAKING AN
APPROPRIATION; 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 66-1-4.4 NMSA 1978 (being Laws 1990,
Chapter 120, Section 5, as amended) is amended to read:

"66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle
Code:

A. "day" means calendar day, unless otherwise
provided in the Motor Vehicle Code;

B. "dealer", except as specifically excluded, means
any person who sells or solicits or advertises the sale of new

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1 or used motor vehicles, manufactured homes or trailers subject
2 to registration in this state or who operates as a salvage
3 vehicle pool; "dealer" does not include:

4 (1) receivers, trustees, administrators,
5 executors, guardians or other persons appointed by or acting
6 under judgment, decree or order of any court;

7 (2) public officers while performing their
8 duties as such officers;

9 (3) persons making casual sales of their own
10 vehicles;

11 (4) finance companies, banks and other lending
12 institutions making sales of repossessed vehicles; or

13 (5) licensed brokers under the Manufactured
14 Housing Act who, for a fee, commission or other valuable
15 consideration, engage in brokerage activities related to the
16 sale, exchange or lease purchase of pre-owned manufactured
17 homes on a site installed for a consumer;

18 C. "declared gross weight" means the maximum gross
19 vehicle weight or gross combination vehicle weight at which a
20 vehicle or combination will be operated during the registration
21 period, as declared by the registrant for registration and fee
22 purposes; the vehicle or combination shall have only one
23 declared gross weight for all operating considerations;

24 D. "department" means the taxation and revenue
25 department, the secretary of taxation and revenue or any

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1 employee of the department exercising authority lawfully
2 delegated to that employee by the secretary;

3 E. "designated accessible parking space for persons
4 with significant mobility limitation" means any space,
5 including an access aisle, that is marked and reserved for the
6 parking of a passenger vehicle that carries registration plates
7 or a parking placard with the international symbol of access
8 issued in accordance with Section 66-3-16 NMSA 1978 and that is
9 designated by a conspicuously posted sign bearing the
10 international symbol of access and, if the parking space is
11 paved, by a clearly visible depiction of this symbol painted in
12 blue on the pavement of the space;

13 F. "director" means the secretary;

14 G. "disqualification" means a prohibition against
15 driving a commercial motor vehicle;

16 H. "distinguishing number" means the number
17 assigned by the department to a vehicle whose identifying
18 number has been destroyed or obliterated or the number assigned
19 by the department to a vehicle that has never had an
20 identifying number;

21 I. "distributor" means a person who distributes or
22 sells new or used motor vehicles to dealers and who is not a
23 manufacturer;

24 J. "division", without further specification,
25 "division of motor vehicles" or "motor vehicle division" means

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1 the department;

2 K. "driver" means every person who drives or is in
3 actual physical control of a motor vehicle, including a
4 motorcycle, upon a highway, who is exercising control over or
5 steering a vehicle being towed by a motor vehicle or who
6 operates or is in actual physical control of an off-highway
7 motor vehicle;

8 L. "driver's license" means a license or a class of
9 license issued by a state or other jurisdiction to an
10 individual that authorizes the individual to drive a motor
11 vehicle; and

12 M. "driveaway-towaway operation" means an operation
13 in which any motor vehicle, new or used, is the item being
14 transported when one set or more of wheels of any such motor
15 vehicle is on the roadway during the course of transportation,
16 whether or not the motor vehicle furnishes the motive power."

17 SECTION 2. Section 66-1-4.16 NMSA 1978 (being Laws 1990,
18 Chapter 120, Section 17, as amended) is amended to read:

19 "66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle
20 Code:

21 A. "safety glazing materials" means glazing
22 materials constructed, treated or combined with other materials
23 to reduce substantially, in comparison with ordinary sheet
24 glass or plate glass, the likelihood of injury to persons by
25 objects from exterior sources or by these safety glazing

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1 materials when they are cracked and broken;

2 B. "safety zone" means the area or space that is
3 officially set apart within a highway for the exclusive use of
4 pedestrians and that is protected or is so marked or indicated
5 by adequate signs as to be plainly visible at all times while
6 set apart as a safety zone;

7 C. "salvage vehicle" means a vehicle:

8 (1) other than a nonrepairable vehicle, of a
9 type subject to registration that has been wrecked, destroyed
10 or damaged excluding, pursuant to rules issued by the
11 department, hail damage, to the extent that the owner, leasing
12 company, financial institution or the insurance company that
13 insured or is responsible for repair of the vehicle considers
14 it uneconomical to repair the vehicle and that is subsequently
15 not repaired by or for the person who owned the vehicle at the
16 time of the event resulting in damage; or

17 (2) that was determined to be uneconomical to
18 repair and for which a total loss payment is made by an
19 insurer, whether or not the vehicle is subsequently repaired,
20 if, prior to or upon making payment to the claimant, the
21 insurer obtained the agreement of the claimant to the amount of
22 the total loss settlement and informed the claimant that,
23 pursuant to rules of the department, the title must be branded
24 and submitted to the department for issuance of a salvage
25 certificate of title for the vehicle;

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1 D. "salvage vehicle pool" means a dealer engaged in
2 the business of selling, transferring, auctioning or disposing
3 of total loss or salvage vehicles on behalf of owners,
4 insurance companies, authorized adjusters, leasing companies,
5 self-insured persons or financial institutions;

6 ~~[D-]~~ E. "school bus" means a commercial motor
7 vehicle used to transport preprimary, primary or secondary
8 school students from home to school, from school to home or to
9 and from school-sponsored events, but not including a vehicle:

10 (1) operated by a common carrier, subject to
11 and meeting all requirements of the public regulation
12 commission but not used exclusively for the transportation of
13 students;

14 (2) operated solely by a government-owned
15 transit authority, if the transit authority meets all safety
16 requirements of the public regulation commission but is not
17 used exclusively for the transportation of students; or

18 (3) operated as a per capita feeder [~~as~~
19 ~~defined in~~] pursuant to Section 22-16-6 NMSA 1978;

20 ~~[E-]~~ F. "seal" means the official seal of the
21 taxation and revenue department as designated by the secretary;

22 ~~[F-]~~ G. "secretary" means the secretary of taxation
23 and revenue, and, except for the purposes of Sections 66-2-3
24 and 66-2-12 NMSA 1978, also includes the deputy secretary and
25 any division director delegated by the secretary;

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1 ~~[G.]~~ H. "semitrailer" means a vehicle without
2 motive power, other than a pole trailer, designed for carrying
3 persons or property and for being drawn by a motor vehicle and
4 so constructed that some significant part of its weight and
5 that of its load rests upon or is carried by another vehicle;

6 ~~[H.]~~ I. "sidewalk" means a portion of street
7 between the curb lines, or the lateral lines of a roadway, and
8 the adjacent property lines, intended for the use of
9 pedestrians;

10 ~~[I.]~~ J. "slow-moving vehicle" means a vehicle that
11 is ordinarily moved, operated or driven at a speed less than
12 twenty-five miles per hour;

13 ~~[J.]~~ K. "solid tire" means every tire of rubber or
14 other resilient material that does not depend upon compressed
15 air for the support of the load;

16 ~~[K.]~~ L. "special mobile equipment" means a vehicle
17 not designed or used primarily for the transportation of
18 persons or property and incidentally operated or moved over the
19 highways, including but not limited to farm tractors, road
20 construction or maintenance machinery, ditch-digging apparatus,
21 well-boring apparatus and concrete mixers;

22 ~~[L.]~~ M. "specially constructed vehicle" means a
23 vehicle of a type required to be registered under the Motor
24 Vehicle Code not originally constructed under a distinctive
25 name, make, model or type by a generally recognized

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1 manufacturer of vehicles and not materially altered from its
2 original construction;

3 [M-] N. "state" means a state, territory or
4 possession of the United States, the District of Columbia or
5 any state of the Republic of Mexico or the Federal District of
6 Mexico or a province of the Dominion of Canada;

7 [N-] O. "state highway" means a public highway that
8 has been designated as a state highway by the legislature, the
9 state transportation commission or the secretary of
10 transportation;

11 [O-] P. "stop", when required, means complete
12 cessation from movement;

13 [P-] Q. "stop, stopping or standing", when
14 prohibited, means any stopping or standing of a vehicle,
15 whether occupied or not, except when necessary to avoid
16 conflict with other traffic or in compliance with the
17 directions of a police officer or traffic-control sign or
18 signal;

19 [Q-] R. "street" or "highway" means a way or place
20 generally open to the use of the public as a matter of right
21 for the purpose of vehicular travel, even though it may be
22 temporarily closed or restricted for the purpose of
23 construction, maintenance, repair or reconstruction;

24 [R-] S. "subsequent offender" means a person who
25 was previously a first offender and who again, under state law,

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1 federal law or a municipal ordinance or a tribal law, has been
2 adjudicated guilty of the charge of driving a motor vehicle
3 while under the influence of intoxicating liquor or any drug
4 that rendered the person incapable of safely driving a motor
5 vehicle, regardless of whether the person's sentence was
6 suspended or deferred; and

7 ~~[S-]~~ T. "suspension" means that a person's driver's
8 license and privilege to drive a motor vehicle on the public
9 highways are temporarily withdrawn."

10 SECTION 3. Section 66-3-10.1 NMSA 1978 (being Laws 2005,
11 Chapter 324, Section 8) is amended to read:

12 "66-3-10.1. SALVAGE VEHICLES--NONREPAIRABLE VEHICLES--
13 CERTIFICATE OF TITLE--TRANSFER OF OWNERSHIP.--

14 A. It is unlawful for a person to sell or otherwise
15 convey ownership of a salvage or nonrepairable vehicle unless
16 the certificate of title or ownership is branded as a salvage
17 vehicle or a comparable title, certificate or ownership
18 document has been issued by another state or jurisdiction.

19 B. The brand described in Subsection A of this
20 section shall include a disclaimer and shall read: "SALVAGE
21 VEHICLE - NOT FOR RESALE WITHOUT DISCLOSURE. WARNING: A
22 SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION, AND SOME STATES
23 PROHIBIT REGISTRATION OF CERTAIN SALVAGE TITLE VEHICLES OR
24 REQUIRE INSPECTIONS BEFORE A VEHICLE MAY BE REGISTERED. SOME
25 STATES MAY REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED.

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1 MANY INSURANCE COMPANIES WILL NOT INSURE SALVAGE VEHICLES OR
2 MAY DO SO ONLY AT A DIMINISHED VALUE FOR PAYMENT OF A CLAIM.".
3 The brand shall be stamped on the front of the certificate of
4 title, centrally aligned immediately above the signature line,
5 in capital letters and in twelve-point, boldfaced arial font.

6 ~~[B-]~~ C. An owner of a salvage or nonrepairable
7 vehicle shall sell or otherwise convey that vehicle only to a
8 licensed ~~[wrecker of vehicles]~~ auto recycler or a person
9 licensed by a jurisdiction outside of this state and who
10 provides proof of a license to process vehicles by dismantling,
11 wrecking, shredding, crushing or selling motor vehicle parts or
12 scrap material or otherwise disposing of motor vehicles.

13 ~~[G-]~~ D. A nonrepairable vehicle shall not be
14 repaired, reconstructed or restored for operation on the roads
15 or highways of this state.

16 ~~[D-]~~ E. This section does not apply to:

17 (1) a person whose motor vehicle has been
18 stolen or taken without that person's consent unless, if the
19 motor vehicle is recovered, it is a salvage or nonrepairable
20 vehicle; or

21 (2) a person conveying ownership of a motor
22 vehicle to an insurance company as a result of a total loss
23 insurance settlement. For the purpose of this paragraph,
24 "total loss insurance settlement" means the transfer of
25 ownership of a motor vehicle by a person to an insurance

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1 company as a result of a settlement in which the motor vehicle
2 is determined to be salvage or nonrepairable."

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

7 "66-4-1. DEALERS, SALVAGE VEHICLE POOLS, WHOLESALERS AND
8 DISTRIBUTORS OF VEHICLES AND TITLE SERVICE COMPANIES MUST BE
9 LICENSED--PRESUMPTION OF CONDUCTING BUSINESS--SALES OF SALVAGE
10 VEHICLES.--

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

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

17 (a) trailers, but not trailers sold as
18 kits;

19 (b) recreational vehicles designed to be
20 towed;

21 (c) motorcycles over fifty-five cubic
22 centimeters; and

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

25 (2) a salvage vehicle pool. Any person

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1 engaged in the business of selling, transferring, auctioning or
2 disposing of total loss or salvage vehicles on behalf of
3 owners, insurance companies, authorized adjusters, leasing
4 companies, self-insured persons or financial institutions shall
5 be presumed to be conducting the business of a dealer operating
6 as a salvage vehicle pool. A salvage vehicle pool shall sell a
7 salvage vehicle only to a licensed auto recycler;

8 [~~(2)~~] (3) wholesaling of vehicles. Any person
9 who sells or offers for sale vehicles of a type subject to
10 registration in this state, to a vehicle dealer licensed
11 pursuant to the Motor Vehicle Code or who is franchised by
12 a manufacturer, distributor or vehicle dealer to sell or
13 promote the sale of vehicles dealt in by such manufacturer,
14 distributor or vehicle dealer shall be presumed to be
15 conducting the business of wholesaling;

16 [~~(3)~~] (4) distributing of vehicles. Any
17 person who distributes or sells new or used motor vehicles to
18 dealers and who is not a manufacturer shall be presumed to be
19 conducting the business of distributing vehicles; or

20 [~~(4)~~] (5) a title service company. Any person
21 who for consideration prepares or submits applications for the
22 registration of or title to vehicles shall be presumed to be
23 engaging in the business of a title service company.

24 B. Application for a dealer, wholesaler,
25 distributor or title service company license shall be made upon

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1 the form prescribed by the department and shall contain, when
2 the applicant is an individual, the name and address of the
3 applicant [~~and~~]; when the applicant is a partnership, the name
4 and address of each partner; or, when the applicant is a
5 corporation, the names of the principal officers of the
6 corporation and the state in which incorporated [~~and~~]; the
7 place where the business is to be conducted [~~and~~]; the nature
8 of the business; and such other information as may be required
9 by the department. Every application shall be verified by the
10 oath or affirmation of the applicant, if an individual, or, in
11 the event an applicant is a partnership or corporation, by a
12 partner or officer of the partnership or corporation. Every
13 application shall be accompanied by the fee required by law.

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

23 SECTION 5. APPROPRIATION.--One hundred thousand dollars
24 (\$100,000) is appropriated from the general fund to the
25 taxation and revenue department for expenditure in fiscal year
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1 2013 to implement the licensing of salvage vehicle pools as
2 dealers. Any unexpended or unencumbered balance remaining at
3 the end of fiscal year 2013 shall revert to the general fund.

4 SECTION 6. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2012.

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