

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 146

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Patricia A. Lundstrom

AN ACT

RELATING TO MOTOR VEHICLES; CREATING THE DEPARTMENT OF MOTOR
VEHICLES; TRANSFERRING THE MOTOR VEHICLE DIVISION OF THE
TAXATION AND REVENUE DEPARTMENT, INCLUDING THE POWERS AND
PERSONNEL TO ADMINISTER AND ENFORCE THE MOTOR VEHICLE CODE AND
OTHER PROVISIONS OF LAW RELATING TO MOTOR VEHICLES, TO THE
DEPARTMENT OF MOTOR VEHICLES; TRANSFERRING THE MOTOR
TRANSPORTATION DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY,
INCLUDING THE POWERS AND PERSONNEL TO ADMINISTER AND ENFORCE
THE MOTOR TRANSPORTATION ACT AND OTHER PROVISIONS OF LAW
RELATING TO MOTOR CARRIERS, TO THE DEPARTMENT OF MOTOR
VEHICLES; PROVIDING FOR THE DETENTION OF COMMERCIAL MOTOR
CARRIER VEHICLES UNTIL PAST DUE TAXES AND FEES ARE PAID;
REQUIRING RULEMAKING; RECONCILING MULTIPLE AMENDMENTS TO THE
SAME SECTIONS OF LAW IN LAWS 2005; AMENDING, REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978.

.174842.1

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 10 of this act may be cited as the "Department of Motor Vehicles Act".

Section 2. [NEW MATERIAL] PURPOSE.--The purpose of the Department of Motor Vehicles Act is to establish a single, unified department to administer and enforce laws and exercise functions concerning motor vehicles currently administered, enforced and exercised by the taxation and revenue department and the department of public safety.

Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the Department of Motor Vehicles Act:

A. "department" means the department of motor vehicles; and

B. "secretary" means the secretary of motor vehicles.

Section 4. [NEW MATERIAL] DEPARTMENT CREATED.--The "department of motor vehicles" is created in the executive branch. The department is a cabinet department and consists of the administrative division, the motor vehicles division and the motor transportation division.

Section 5. [NEW MATERIAL] SECRETARY--APPOINTMENT.--

A. The administrative head of the department is the "secretary of motor vehicles". The secretary is appointed by

underscored material = new
[bracketed material] = delete

1 the governor with the consent of the senate and serves in the
2 executive cabinet.

3 B. The appointed secretary serves and has all the
4 duties, responsibilities and authority of that office during
5 the period of time prior to final action by the senate
6 confirming or rejecting the appointment.

7 Section 6. [NEW MATERIAL] DIVISION DIRECTORS.--The
8 secretary shall appoint, with the approval of the governor,
9 directors of the divisions established within the department.
10 Division directors are exempt from the Personnel Act.

11 Section 7. [NEW MATERIAL] BUREAU CHIEFS.--The secretary
12 may establish within each division of the department those
13 bureaus the secretary deems necessary to carry out the
14 provisions of the Department of Motor Vehicles Act. The
15 secretary shall employ a chief to be the administrative head of
16 each bureau. The bureau chiefs and all subordinate employees
17 of the department are covered by the Personnel Act.

18 Section 8. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL
19 POWERS.--

20 A. The secretary is responsible to the governor for
21 the operation of the department. It is the secretary's duty to
22 manage all operations of the department and to administer and
23 enforce the laws with which the secretary or the department is
24 charged.

25 B. To perform these duties, the secretary has every

.174842.1

underscoring material = new
[bracketed material] = delete

1 power expressly enumerated in the laws, whether granted to the
2 secretary or the department or any division of the department,
3 except where authority conferred upon any division is
4 explicitly exempted from the secretary's authority by statute.

5 In accordance with these provisions, the secretary shall:

6 (1) except as otherwise provided in the
7 Department of Motor Vehicles Act, exercise general supervisory
8 and appointing authority over all department employees, subject
9 to any applicable personnel laws and regulations;

10 (2) delegate authority to subordinates as the
11 secretary deems necessary and appropriate, clearly delineating
12 the limitations of authority;

13 (3) organize the department into those
14 organizational units the secretary deems will enable it to
15 function most efficiently, subject to any provisions of law
16 requiring or establishing specific organizational units;

17 (4) within the limitations of available
18 appropriations and applicable laws, employ and fix the
19 compensation of those persons necessary to discharge the
20 secretary's duties;

21 (5) take administrative action by issuing
22 orders and instructions, consistent with law, to ensure
23 compliance with the provisions of the Department of Motor
24 Vehicles Act, and enforce those orders and instructions by
25 appropriate administrative action in the courts;

.174842.1

underscoring material = new
[bracketed material] = delete

1 (6) conduct research that will improve the
2 operation of the department and the provision of services to
3 the residents of the state;

4 (7) provide courses of instruction and
5 practical training for employees of the department and for
6 other persons involved in the administration of programs in the
7 department with the objective of improving the operation and
8 efficiency of administration;

9 (8) prepare an annual budget for the
10 department;

11 (9) cooperate with administratively attached
12 agencies and adjunct agencies to:

13 (a) minimize or eliminate duplication of
14 services and jurisdictional conflicts;

15 (b) coordinate activities and resolve
16 problems of mutual concern; and

17 (c) resolve by agreement the manner and
18 extent to which the department shall provide budgeting, record
19 keeping and related clerical assistance to administratively
20 attached agencies;

21 (10) give bond in the penal sum of twenty-five
22 thousand dollars (\$25,000) and require directors to each give
23 bond in the penal sum of ten thousand dollars (\$10,000)
24 conditioned upon the faithful performance of duties as provided
25 in the Surety Bond Act. The department shall pay the costs of

.174842.1

underscoring material = new
[bracketed material] = delete

1 these bonds; and

2 (11) require performance bonds of department
3 employees and officers as the secretary deems necessary as
4 provided in the Surety Bond Act. The department shall pay the
5 costs of these bonds.

6 C. With the governor's approval and in the name of
7 the department, the secretary may apply for and receive public
8 or private funds, including United States government funds,
9 available to the department to carry out its programs, duties
10 or services.

11 D. When functions of departments are duplicated or
12 a function assigned to one department could be performed better
13 by another department, the secretary may recommend remedial
14 legislation to the next session of the legislature for its
15 approval.

16 E. The secretary may issue reasonable procedural
17 rules necessary to carry out the duties of the department. No
18 rule promulgated by the director of any division in carrying
19 out the functions and duties of the division shall be effective
20 until approved by the secretary, unless otherwise provided by
21 statute. Unless otherwise provided by statute, no rule
22 affecting any person or agency outside the department shall be
23 adopted, amended or repealed without a public hearing on the
24 proposed action before the secretary or a hearing officer
25 designated by the secretary. The public hearing shall be held

.174842.1

underscored material = new
[bracketed material] = delete

1 in Santa Fe unless otherwise permitted by statute. Notice of
2 the subject matter of the rule, the action proposed, the time
3 and place of the hearing, the manner in which interested
4 persons may present their views and the method by which copies
5 of the proposed rule, amendment or repeal of an existing rule
6 may be obtained shall be published once at least thirty days
7 prior to the hearing date in a newspaper of general circulation
8 and mailed at least thirty days prior to the hearing date to
9 all persons who have made a written request for advance notice
10 of the hearing. Rules shall be filed in accordance with the
11 State Rules Act.

12 Section 9. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
13 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO
14 INFORMATION.--Those organizational units of the department and
15 the officers of those units specified by law shall have all of
16 the powers and duties enumerated in the specific laws involved.
17 However, the carrying out of those powers and duties shall be
18 subject to the direction and supervision of the secretary, who
19 shall retain the final decision-making authority and
20 responsibility for the administration of any laws as provided
21 in the Department of Motor Vehicles Act. The department shall
22 have access to all records, data and information of other state
23 departments, agencies and institutions, including its own
24 organizational units, not specifically held confidential by
25 law.

.174842.1

1 Section 10. ~~[NEW MATERIAL]~~ ADVISORY COMMITTEES.--

2 A. The secretary may create advisory committees.

3 As used in this section, "advisory" means furnishing advice,
4 gathering information, making recommendations and performing
5 other activities as may be instructed or delegated and as may
6 be necessary to fulfill advisory functions or to comply with
7 federal or private funding requirements. Advisory committee
8 duties do not extend to administering a program or function or
9 setting policy unless specified by law. Advisory committees
10 shall be appointed in accordance with the provisions of the
11 Executive Reorganization Act.

12 B. Members of advisory committees appointed under
13 the authority of this section shall be reimbursed for per diem
14 and mileage as provided in the Per Diem and Mileage Act and
15 shall receive no other compensation, perquisite or allowance.

16 Section 11. Section 7-15-2.1 NMSA 1978 (being Laws 1988,
17 Chapter 73, Section 23, as amended) is amended to read:

18 "7-15-2.1. DEFINITIONS.--As used in the Trip Tax Act:

19 A. "combination gross vehicle weight" means the sum
20 total of the gross vehicle weights of all units of a
21 combination;

22 B. "commercial motor carrier vehicle" means any
23 motor vehicle with a gross weight of twelve thousand pounds or
24 more used or reserved for use in the transportation of persons,
25 property or merchandise for hire, compensation or profit or in

.174842.1

underscored material = new
[bracketed material] = delete

1 the furtherance of a commercial enterprise or any vehicle used
2 or maintained primarily for the transportation of property or
3 merchandise or for drawing other vehicles so used or
4 maintained;

5 C. "department" means the department of [~~public~~
6 ~~safety~~] motor vehicles, the secretary of [~~public safety~~] motor
7 vehicles and any employee of that department exercising
8 authority lawfully delegated to that employee by the secretary;

9 D. "gross vehicle weight" means the weight of a
10 vehicle without load, plus the weight of any load [~~thereon~~];

11 E. "motor vehicle" means every vehicle [~~which~~] that
12 is self-propelled and every vehicle [~~which~~] that is propelled
13 by electric power obtained from batteries or from overhead
14 trolley wires, but not operated upon rails;

15 F. "registrant" means the person who has registered
16 the vehicle pursuant to the laws of this state or another
17 state;

18 G. "trip tax" means the use fee imposed under the
19 Trip Tax Act; and

20 H. "vehicle" means every device in, upon or by
21 which any person or property is or may be transported or drawn
22 upon a highway, including any frame, chassis or body of any
23 vehicle or motor vehicle, except devices moved by human power
24 or used exclusively upon stationary rails or tracks."

25 Section 12. Section 7-15A-12 NMSA 1978 (being Laws 2003

.174842.1

underscored material = new
[bracketed material] = delete

1 (1st S.S.), Chapter 3, Section 6) is amended to read:

2 "7-15A-12. WEIGHT DISTANCE TAX IDENTIFICATION PERMITS--
3 SUSPENSION AND RENEWAL.--

4 A. An operator of a motor vehicle registered in
5 this state and subject to the weight distance tax shall display
6 a weight distance tax identification permit issued for that
7 vehicle to an enforcement officer of the department of [~~public~~
8 ~~safety~~] motor vehicles upon demand of that employee and when
9 the vehicle passes through a port of entry.

10 B. The department may suspend or decline to renew a
11 weight distance tax identification permit for a motor vehicle
12 if the owner or operator of the vehicle does not comply with
13 the provisions of the Weight Distance Tax Act."

14 Section 13. Section 9-11-4 NMSA 1978 (being Laws 1977,
15 Chapter 249, Section 4, as amended by Laws 2005, Chapter 108,
16 Section 5 and by Laws 2005, Chapter 110, Section 6) is amended
17 to read:

18 "9-11-4. DEPARTMENT ESTABLISHED.--There is created in the
19 executive branch the "taxation and revenue department". The
20 department shall be a cabinet department and shall consist of,
21 but not be limited to, six divisions as follows:

- 22 A. the audit and compliance division;
- 23 B. the property tax division;
- 24 C. the revenue processing division;
- 25 D. the tax fraud investigations division; [~~and~~

.174842.1

underscored material = new
[bracketed material] = delete

1 ~~D. the motor vehicle division;~~]

2 E. the administrative services division; and

3 F. the information technology division."

4 Section 14. Section 9-19-4 NMSA 1978 (being Laws 1987,
5 Chapter 254, Section 4, as amended) is amended to read:

6 "9-19-4. DEPARTMENT ESTABLISHED.--There is created in the
7 executive branch the "department of public safety". The
8 department shall be a cabinet department and shall consist of,
9 but not be limited to, [~~five~~] four program divisions, an
10 administrative division and an information technology division
11 as follows:

12 A. the New Mexico state police division;

13 B. the special investigations division;

14 C. the training and recruiting division;

15 D. the technical support division;

16 E. the administrative services division; and

17 ~~[F. the motor transportation division; and~~

18 ~~G.]~~ F. the information technology division."

19 Section 15. Section 65-1-2 NMSA 1978 (being Laws 1978,
20 Chapter 19, Section 1, as amended) is amended to read:

21 "65-1-2. DEFINITIONS.--As used in the Motor
22 Transportation Act:

23 A. "combination" means [~~any~~] a connected assemblage
24 of a motor vehicle and one or more semitrailers, trailers or
25 semitrailers converted to trailers by means of a converter

.174842.1

1 gear;

2 B. "combination gross vehicle weight" means the sum
3 total of the gross vehicle weights of all units of a
4 combination;

5 C. "commercial motor carrier vehicle" means a self-
6 propelled or towed vehicle, other than special mobile
7 equipment, used on public highways in commerce to transport
8 passengers or property when the vehicle:

9 (1) is operated interstate and has a gross
10 vehicle weight rating or gross combination weight rating, or
11 gross vehicle weight or gross combination weight, of four
12 thousand five hundred thirty-six kilograms, or ten thousand one
13 pounds or more; or is operated only in intrastate commerce and
14 has a gross vehicle weight rating or gross combination weight
15 rating, or gross vehicle weight or gross combination weight, of
16 twenty-six thousand one or more pounds;

17 (2) is designed or used to transport more than
18 eight passengers, including the driver, and is used to
19 transport passengers for compensation;

20 (3) is designed or used to transport more than
21 fifteen passengers, including the driver, and is not used to
22 transport passengers for compensation; or

23 (4) is used to transport hazardous materials
24 of the type or quantity requiring placarding under rules
25 prescribed by applicable federal or state law;

.174842.1

underscored material = new
[bracketed material] = delete

1 D. "converter gear" means [~~any~~] an assemblage of
2 one or more axles with a mounted fifth wheel [~~mounted thereon~~]
3 designed for use in a combination to support the front end of a
4 semitrailer, but not to be permanently attached [~~thereto~~]. A
5 "converter gear" [~~shall not be considered~~] is not a vehicle as
6 that term is used in Chapter 66 NMSA 1978, but its weight
7 [~~attributable thereto~~] shall be included in declared gross
8 weight;

9 E. "declared gross weight" means maximum gross
10 vehicle weight or combination gross vehicle weight at which a
11 vehicle or combination will be operated during the registration
12 period as declared by the registrant for registration and fee
13 purposes. The vehicle or combination shall have only one
14 "declared gross weight" for all operating considerations;

15 F. "department", without modification, means the
16 department of [~~public safety~~] motor vehicles, the secretary of
17 [~~public safety~~] motor vehicles or any employee of the
18 department exercising authority lawfully delegated to that
19 employee by the secretary;

20 G. "director" means the secretary;

21 H. "division" means the motor transportation
22 division of the department;

23 I. "evidence of registration" means documentation
24 issued by the [~~taxation and revenue~~] department identifying a
25 motor carrier vehicle as being registered with New Mexico or

.174842.1

underscored material = new
[bracketed material] = delete

1 documentation issued by another state pursuant to the terms of
2 a multistate agreement on registration of vehicles to which
3 this state is a party identifying a motor carrier vehicle as
4 being registered with that state; provided that evidence of
5 payment of the weight distance tax and permits obtained under
6 either the Special Fuels Supplier Tax Act or Trip Tax Act are
7 not "evidence of registration";

8 J. "field enforcement" or "in the field" means
9 patrolling of the highway, stopping of commercial motor carrier
10 vehicles or establishing ports of entry and roadblocks for the
11 purpose of checking motor carriers and includes similar
12 activities;

13 K. "freight trailer" means [~~any~~] a trailer,
14 semitrailer or pole trailer drawn by a truck tractor or road
15 tractor and [~~any~~] a trailer, semitrailer or pole trailer drawn
16 by a truck that has a gross vehicle weight of more than twenty-
17 six thousand pounds, but the term does not include house
18 trailers, trailers of less than one-ton carrying capacity used
19 to transport animals or fertilizer trailers of less than three
20 thousand five hundred pounds empty weight;

21 L. "gross vehicle weight" means the weight of a
22 vehicle without load plus the weight of [~~any~~] a load [~~thereon~~];

23 M. "motor carrier" means [~~any~~] a person that owns,
24 controls, operates or manages [~~any~~] a motor vehicle with gross
25 vehicle weight of twelve thousand pounds or more that is used

.174842.1

underscored material = new
[bracketed material] = delete

1 to transport persons or property on the public highways of this
2 state;

3 N. "motor vehicle" means [~~any~~] a vehicle or device
4 that is propelled by an internal combustion engine or electric
5 motor power that is used or may be used on the public highways
6 for the purpose of transporting persons or property and
7 includes any connected trailer or semitrailer;

8 O. "one-way rental fleet" means two or more
9 vehicles each having a gross vehicle weight of under twenty-six
10 thousand one pounds and rented to the public without a driver;

11 P. "person" means [~~any~~] an individual, estate,
12 trust, receiver, cooperative association, club, corporation,
13 company, firm, partnership, joint venture, syndicate or other
14 association; "person" also means, to the extent permitted by
15 law, [~~any~~] a federal, state or other governmental unit or
16 subdivision or an agency, department or instrumentality
17 [~~thereof~~]; "person" also includes an officer or employee of a
18 corporation, a member or employee of a partnership or [~~any~~] an
19 individual who [~~as such~~] is under a duty to perform [~~any~~] an
20 act in respect of which a violation occurs;

21 Q. "properly registered" means bearing the lawfully
22 issued and currently valid evidence of registration of this or
23 another jurisdiction, regardless of the owner's residence,
24 except in those cases where the evidence has been procured by
25 misrepresentation or fraud;

.174842.1

underscored material = new
[bracketed material] = delete

1 R. "public highway" means every way or place
2 generally open to the use of the public as a matter of right
3 for the purpose of vehicular travel, even though it may be
4 temporarily closed or restricted for the purpose of
5 construction, maintenance, repair or reconstruction;

6 S. "secretary" means the secretary of [~~public~~
7 ~~safety~~] motor vehicles and, except for the purposes of Section
8 65-1-33 NMSA 1978, also includes [~~the~~] a deputy secretary and
9 any division director delegated by the secretary;

10 T. "state" or "jurisdiction" means a state,
11 territory or possession of the United States, the District of
12 Columbia, the commonwealth of Puerto Rico, a foreign country or
13 a state or province of a foreign country; and

14 U. "utility trailer" means [~~any~~] a trailer,
15 semitrailer or pole trailer and includes house trailers that
16 exceed neither eight feet in width nor forty feet in length,
17 but does not include freight trailers, trailers of less than
18 one-ton carrying capacity used to transport animals or
19 fertilizer trailers of less than three thousand five hundred
20 pounds empty weight."

21 Section 16. Section 65-1-9 NMSA 1978 (being Laws 1967,
22 Chapter 97, Section 11, as amended) is amended to read:

23 "65-1-9. DEPARTMENT TO ENFORCE LAWS--DETENTION OF
24 VEHICLES.--

25 A. The department shall enforce and collect [~~all~~

.174842.1

underscored material = new
[bracketed material] = delete

1 ~~exercise~~] taxes, license fees and other fees and charges of every
2 nature and perform [~~all~~] inspections and collect [~~all~~]
3 information considered necessary to enforce the laws [~~of all~~
4 ~~departments, commissions and other agencies of state~~
5 ~~government, in addition to those~~] specifically assigned to the
6 department.

7 B. Whenever the department is [~~so~~] requested and
8 agrees [~~and the agreement is~~] in writing, [~~containing all~~
9 ~~reasonable detail concerning the responsibilities of the~~
10 ~~parties to the agreement~~] it may enforce and collect taxes,
11 license fees and other fees and charges assigned to other state
12 agencies.

13 C. Upon inspection of a commercial motor carrier
14 vehicle, if a law enforcement officer of the department
15 determines that taxes, fees or charges attributable to that
16 vehicle are owed to the state and are past due, the vehicle may
17 be detained until the taxes, fees or charges are paid; provided
18 that the department shall first promulgate a rule establishing
19 a process by which amounts owed shall be verified, detention of
20 the vehicle imposed, payment verified and the vehicle under
21 detention released.

22 D. The department shall [~~also~~] assist, as far as
23 practicable and in accordance with a proper written agreement,
24 in the enforcement of statutory, administrative and judicial
25 provisions of the federal Motor Carrier Act."

.174842.1

underscored material = new
[bracketed material] = delete

1 Section 17. Section 65-2A-4 NMSA 1978 (being Laws 2003,
2 Chapter 359, Section 4) is amended to read:

3 "65-2A-4. POWERS AND DUTIES OF THE COMMISSION.--

4 A. In accordance with the Motor Carrier Act, the
5 commission shall:

6 (1) issue operating authorities for a motor
7 carrier operating in New Mexico;

8 (2) establish minimum requirements for
9 financial responsibility for a motor carrier;

10 (3) establish safety requirements for
11 intrastate motor carrier motor vehicles and drivers subject to
12 the jurisdiction of the commission; provided that the safety
13 requirements shall not be inconsistent with or more stringent
14 than applicable federal safety standards;

15 (4) establish reasonable requirements with
16 respect to continuous and adequate service to be provided under
17 an operating authority;

18 (5) regulate the rates of intrastate common
19 motor carriers of persons and household goods and towing
20 services performing nonconsensual tows, including rates for
21 storing household goods and motor vehicles;

22 (6) determine matters of public convenience
23 and necessity relating to motor carriers;

24 (7) subpoena witnesses and records, enforce
25 its subpoenas through a court and, through the court, seek a

.174842.1

underscored material = new
[bracketed material] = delete

1 remedy for contempt;

2 (8) hold a public hearing specific to a
3 protest or request that has been filed timely in opposition to
4 or in consideration of an application; and

5 (9) adopt rules, issue orders and conduct
6 activities necessary to implement and enforce the Motor Carrier
7 Act.

8 B. The commission may:

9 (1) designate inspectors [~~who may~~] to inspect
10 the records of a motor carrier subject to the Motor Carrier Act
11 and who shall have the powers of peace officers in the state's
12 political subdivisions with respect to a law or rule that the
13 commission is empowered to enforce pursuant to Section 65-1-6
14 NMSA 1978, excluding the enforcement authority granted to the
15 motor transportation division of the department of [~~public~~
16 ~~safety~~] motor vehicles;

17 (2) institute civil actions in the district
18 court of Santa Fe county in its own name to enforce the Motor
19 Carrier Act, its orders and rules, and in the name of the state
20 to recover assessments of administrative fines;

21 (3) [~~from time to time~~] modify the type of
22 service, territory, terms, conditions and limitations of
23 operating authorities previously issued, and change or rescind
24 rates previously adopted as needed; and

25 (4) adopt rules to implement these powers."

.174842.1

underscoring material = new
[bracketed material] = delete

1 Section 18. Section 65-2A-19 NMSA 1978 (being Laws 2003,
2 Chapter 359, Section 19) is amended to read:

3 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND
4 DRIVERS USED IN COMPENSATED TRANSPORTATION.--

5 A. A motor carrier shall provide safe and adequate
6 service, equipment and facilities for the rendition of
7 transportation services in this state.

8 B. The commission shall prescribe safety
9 requirements for drivers and for motor vehicles weighing
10 twenty-six thousand pounds or less or carrying fifteen or fewer
11 persons, including the driver, used by intrastate motor
12 carriers operating in this state. The commission may prescribe
13 additional requirements related to safety, including driver
14 safety training programs, vehicle preventive maintenance
15 programs, inquiries regarding the safety of the motor vehicles
16 and drivers employed by a motor carrier, and the
17 appropriateness of the motor vehicles and equipment for the
18 transportation services to be provided by the motor carrier.

19 C. A commuter service shall certify that it has a
20 program providing for an initial drug test for a person seeking
21 to be a commuter service driver. The program shall use
22 reasonable collection and analysis procedures to ensure
23 accurate results, require testing only for substances
24 controlled by federal regulation of commercial motor carriers
25 and ensure the confidentiality of the test results and medical

.174842.1

underscored material = new
[bracketed material] = delete

1 information obtained.

2 D. The motor transportation division of the
3 department of [~~public safety~~] motor vehicles may immediately
4 order, without notice or a public hearing, a motor vehicle to
5 be taken out of service for violation of a federal or state law
6 or rule relating to safety if the violation would endanger the
7 public health or safety."

8 Section 19. Section 65-2A-27 NMSA 1978 (being Laws 2003,
9 Chapter 359, Section 27) is amended to read:

10 "65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR
11 AMENDMENT OF OPERATING AUTHORITIES--REINSTATEMENT.--

12 A. The commission shall immediately suspend,
13 without notice or a public hearing, the operating authority of
14 a motor carrier for failure to continuously maintain the forms
15 and amounts of financial responsibility prescribed by
16 commission rule.

17 B. The commission may immediately suspend, without
18 notice or a public hearing, the operating authority of a motor
19 carrier for violation of a safety requirement of the Motor
20 Carrier Act, the commission's rules or the rules of the motor
21 transportation division of the department of [~~public safety~~]
22 motor vehicles, if the violation endangers the public health or
23 safety.

24 C. The commission may, upon complaint or the
25 commission's own initiative and after notice and a public

.174842.1

1 hearing, if required, order involuntary suspension, revocation
2 or amendment, in whole or in part, of an operating authority
3 for failure to:

4 (1) comply with a provision of the Motor
5 Carrier Act;

6 (2) comply with a lawful order or rule of the
7 commission;

8 (3) comply with a term, condition or
9 limitation of an operating authority; or

10 (4) render reasonably continuous and adequate
11 service under a certificate or permit.

12 D. The commission may approve an application for
13 reinstatement of an operating authority following involuntary
14 suspension if it finds, after notice and public hearing
15 requirements are met, that:

16 (1) the reasons for the involuntary suspension
17 no longer pertain; and

18 (2) the owner of the operating authority is
19 fit, willing and able to provide the authorized transportation
20 services and to comply with the Motor Carrier Act and the rules
21 of the commission."

22 Section 20. Section 65-2A-29 NMSA 1978 (being Laws 2003,
23 Chapter 359, Section 29) is amended to read:

24 "65-2A-29. REPORTS AND RECORDS.--

25 A. The commission shall establish reasonable

underscored material = new
[bracketed material] = delete

1 requirements with respect to reports, records and uniform
2 systems of accounts and preservation of records for motor
3 carriers.

4 B. The commission may require a motor carrier
5 owning operating authority from the commission to prepare and
6 transmit to the commission an annual report of its operations.
7 The report shall be in the form, contain specific information,
8 including financial information, and be due on a date as the
9 commission may by rule require. Financial data filed by motor
10 carriers in annual reports shall not be made available for
11 inspection by the public.

12 C. The commission or its employees or duly
13 authorized agents shall, at all times, have access to:

14 (1) land, buildings, improvements to real
15 property and equipment of motor carriers used in connection
16 with their operations; and

17 (2) records kept by motor carriers.

18 D. The commission may, by order, require a motor
19 carrier subject to the Motor Carrier Act, or its officers or
20 agents, to produce within this state at such reasonable time
21 and place as it may designate, original or certified copies of
22 records regardless of where they are kept by the motor carrier
23 when their production is pertinent to a matter before the
24 commission, in order that the commission may examine them.

25 E. The motor transportation division of the

.174842.1

underscored material = new
[bracketed material] = delete

1 department of [~~public safety~~] motor vehicles shall furnish to
2 the commission all information needed or required by the
3 commission to carry out its responsibilities when the
4 information is obtainable only through field enforcement."

5 Section 21. Section 66-1-4 NMSA 1978 (being Laws 1978,
6 Chapter 35, Section 4, as amended) is amended to read:

7 "66-1-4. DEFINITIONS.--

8 A. Sections 66-1-4.1 through 66-1-4.20 NMSA 1978
9 define terms for general purposes of the Motor Vehicle Code.
10 When in a specific section of the Motor Vehicle Code a
11 different meaning is given for a term defined for general
12 purposes in Sections 66-1-4.1 through 66-1-4.20 NMSA 1978, the
13 specific section's meaning and application of the term shall
14 control.

15 B. [~~All~~] References [~~in the Motor Vehicle Code and~~
16 ~~elsewhere~~] in the NMSA 1978 to Section 66-1-4 NMSA 1978 shall
17 be construed to include Sections 66-1-4.1 through 66-1-4.20
18 NMSA 1978.

19 [~~C. All references in the NMSA 1978 to the~~
20 ~~"department of motor vehicles" or "department" shall, whenever~~
21 ~~appropriate, mean the taxation and revenue department.~~

22 ~~D. All~~ C. References in the NMSA 1978 to the
23 "commissioner of motor vehicles" or "commissioner" shall,
24 whenever appropriate, mean the secretary."

25 Section 22. Section 66-1-4.4 NMSA 1978 (being Laws 1990,

.174842.1

underscoring material = new
[bracketed material] = delete

1 Chapter 120, Section 5, as amended) is amended to read:

2 "66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle
3 Code:

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

6 B. "dealer", except as specifically excluded, means
7 ~~any~~ a person who sells or solicits or advertises the sale of
8 new or used motor vehicles, manufactured homes or trailers
9 subject to registration in this state; "dealer" does not
10 include:

11 (1) receivers, trustees, administrators,
12 executors, guardians or other persons appointed by or acting
13 under judgment, decree or order of any court;

14 (2) public officers while performing their
15 duties as such officers;

16 (3) persons making casual sales of their own
17 vehicles;

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

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

25 C. "declared gross weight" means the maximum gross
.174842.1

underscored material = new
[bracketed material] = delete

1 vehicle weight or gross combination vehicle weight at which a
2 vehicle or combination will be operated during the registration
3 period, as declared by the registrant for registration and fee
4 purposes; the vehicle or combination shall have only one
5 declared gross weight for all operating considerations;

6 D. "department" means the [~~taxation and revenue~~]
7 department of motor vehicles, the secretary of [~~taxation and~~
8 ~~revenue or any~~] motor vehicles or an employee of the department
9 exercising authority lawfully delegated to that employee by the
10 secretary;

11 E. "designated accessible parking space for persons
12 with significant mobility limitation" means [~~any~~] a space,
13 including an access aisle, that is marked and reserved for the
14 parking of a passenger vehicle that carries registration plates
15 or a parking placard with the international symbol of access
16 issued in accordance with Section 66-3-16 NMSA 1978 and that is
17 designated by a conspicuously posted sign bearing the
18 international symbol of access and, if the parking space is
19 paved, by a clearly visible depiction of this symbol painted in
20 blue on the pavement of the space;

21 F. "director" means the secretary;

22 G. "disqualification" means a prohibition against
23 driving a commercial motor vehicle;

24 H. "distinguishing number" means the number
25 assigned by the department to a vehicle whose identifying

.174842.1

underscored material = new
[bracketed material] = delete

1 number has been destroyed or obliterated or the number assigned
2 by the department to a vehicle that has never had an
3 identifying number;

4 I. "distributor" means a person who distributes or
5 sells new or used motor vehicles to dealers and who is not a
6 manufacturer;

7 J. "division", without further specification,
8 "division of motor vehicles" or "motor vehicle division" means
9 the department;

10 K. "driver" means ~~[every]~~ a person who drives or is
11 in actual physical control of a motor vehicle, including a
12 motorcycle, upon a highway, who is exercising control over or
13 steering a vehicle being towed by a motor vehicle or who
14 operates or is in actual physical control of an off-highway
15 motor vehicle;

16 L. "driver's license" means a license or a class of
17 license issued by a state or other jurisdiction to an
18 individual that authorizes the individual to drive a motor
19 vehicle; and

20 M. "driveaway-towaway operation" means an operation
21 in which ~~[any]~~ a motor vehicle, new or used, is the item being
22 transported when one set or more of wheels of ~~[any such]~~ that
23 motor vehicle is on the roadway during the course of
24 transportation, whether or not the motor vehicle furnishes the
25 motive power."

.174842.1

underscoring material = new
[bracketed material] = delete

1 Section 23. Section 66-1-4.5 NMSA 1978 (being Laws 1990,
2 Chapter 120, Section 6, as amended) is amended to read:

3 "66-1-4.5. DEFINITIONS.--As used in the Motor Vehicle
4 Code:

5 A. "electric personal assistive mobility device"
6 means a self-balancing device having two nontandem wheels
7 designed to transport a single person by means of an electric
8 propulsion system with an average power of one horsepower and
9 with a maximum speed on a paved level surface of less than
10 twenty miles per hour when powered solely by its propulsion
11 system and while being ridden by an operator who weighs one
12 hundred seventy pounds;

13 B. "essential parts" means all integral and body
14 parts of a vehicle of a type required to be registered by the
15 provisions of the Motor Vehicle Code, the removal, alteration
16 or substitution of which would tend to conceal the identity of
17 the vehicle or substantially alter its appearance, model, type
18 or mode of operation;

19 C. "established place of business", for a dealer or
20 auto recycler, means a place:

21 (1) devoted exclusively to the business for
22 which the dealer or auto recycler is licensed and related
23 business;

24 (2) identified by a prominently displayed sign
25 giving the dealer's or auto recycler's trade name used by the

.174842.1

underscored material = new
[bracketed material] = delete

1 business;

2 (3) of sufficient size or space to permit the
3 display of one or more vehicles or to permit the parking or
4 storing of vehicles to be dismantled or wrecked for recycling;

5 (4) on which there is located an enclosed
6 building on a permanent foundation, which building meets the
7 building requirements of the community and is large enough to
8 accommodate the office or offices of the dealer or auto
9 recycler and large enough to provide a safe place to keep the
10 books and records of the dealer or auto recycler;

11 (5) where the principal portion of the
12 business of the dealer or auto recycler is conducted and where
13 the books and records of the business are kept and maintained;
14 and

15 (6) where vehicle sales are of new vehicles
16 only, such as a department store or a franchisee of a
17 department store, as long as the department store or franchisee
18 keeps the books and records of its vehicle business in a
19 general office location at its place of business; as used in
20 this paragraph, "department store" means a business that offers
21 a variety of merchandise other than vehicles, and sales of the
22 merchandise other than vehicles constitute at least eighty
23 percent of the gross sales of the business; [~~and~~]

24 D. "evidence of registration" means documentation
25 issued by the department identifying a motor carrier vehicle as

.174842.1

1 being registered with New Mexico or documentation issued by
2 another state pursuant to the terms of a multistate agreement
3 on registration of vehicles to which this state is a party
4 identifying a motor carrier vehicle as being registered with
5 that state; provided that evidence of payment of the weight
6 distance tax and permits obtained under either the Special
7 Fuels Supplier Tax Act or Trip Tax Act are not "evidence of
8 registration"; and

9 ~~[D-]~~ E. "explosives" means any chemical compound or
10 mechanical mixture that is commonly used or intended for the
11 purpose of producing an explosion and that contains any
12 oxidizing and combustive units or other ingredients in such
13 proportions, quantities or packing that an ignition by fire,
14 friction, concussion, percussion or detonator of any part of
15 the compound or mixture may cause such a sudden generation of
16 highly heated gases that the resultant gaseous pressures are
17 capable of producing destructive effects on contiguous objects
18 or of destroying life or limb."

19 Section 24. Section 66-1-4.6 NMSA 1978 (being Laws 1990,
20 Chapter 120, Section 7, as amended) is amended to read:

21 "66-1-4.6. DEFINITIONS.--As used in the Motor Vehicle
22 Code:

23 A. "farm tractor" means every motor vehicle
24 designed and used primarily as a farm implement for drawing
25 plows, mowing machines and other implements of husbandry;

.174842.1

underscored material = new
[bracketed material] = delete

1 B. "financial responsibility" means the ability to
2 respond in damages for liability resulting from traffic
3 accidents arising out of the ownership, maintenance or use of a
4 motor vehicle of a type subject to registration under the laws
5 of New Mexico, in amounts not less than specified in the
6 Mandatory Financial Responsibility Act or having in effect a
7 motor vehicle insurance policy. "Financial responsibility"
8 includes a motor vehicle insurance policy, a surety bond or
9 evidence of a sufficient cash deposit with the state treasurer;

10 C. "first offender" means a person who for the
11 first time under state or federal law or a municipal ordinance
12 or a tribal law has been adjudicated guilty of the charge of
13 driving a motor vehicle while under the influence of
14 intoxicating liquor or any other drug that renders the person
15 incapable of safely driving a motor vehicle, regardless of
16 whether the person's sentence was suspended or deferred;

17 D. "flammable liquid" means any liquid that has a
18 flash point of seventy degrees Fahrenheit or less, as
19 determined by a tagliabue or equivalent closed-cup test device;

20 E. "fleet" means one or more motor carrier
21 vehicles, either commercial or noncommercial but not mixed,
22 that are operated in this and at least one other jurisdiction;

23 [~~E.~~] F. "foreign jurisdiction" means any
24 jurisdiction other than a state of the United States or the
25 District of Columbia;

.174842.1

underscored material = new
[bracketed material] = delete

1 ~~[F-]~~ G. "foreign vehicle" means every vehicle of a
2 type required to be registered under the provisions of the
3 Motor Vehicle Code brought into this state from another state,
4 territory or country; and

5 ~~[G-]~~ H. "freight trailer" means any trailer,
6 semitrailer or pole trailer drawn by a truck tractor or road
7 tractor, and any trailer, semitrailer or pole trailer drawn by
8 a truck that has a gross vehicle weight of more than twenty-six
9 thousand pounds, but "freight trailer" does not include
10 manufactured homes, trailers of less than one-ton carrying
11 capacity used to transport animals or fertilizer trailers of
12 less than three thousand five hundred pounds empty weight."

13 Section 25. Section 66-1-4.11 NMSA 1978 (being Laws 1990,
14 Chapter 120, Section 12, as amended) is amended to read:

15 "66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle
16 Code:

17 A. "mail" means ~~[any]~~ an item properly addressed
18 with postage prepaid delivered by the United States postal
19 service or ~~[any other]~~ another public or private enterprise
20 primarily engaged in the transport and delivery of letters,
21 packages and other parcels;

22 B. "manufactured home" means a movable or portable
23 housing structure that exceeds either a width of eight feet or
24 a length of forty feet, constructed to be towed on its own
25 chassis and designed to be installed with or without a

.174842.1

underscored material = new
[bracketed material] = delete

1 permanent foundation for human occupancy;

2 C. "manufacturer" means [~~every~~] a person engaged in
3 the business of constructing or assembling vehicles of a type
4 required to be registered under the Motor Vehicle Code;

5 D. "manufacturer's certificate of origin" means a
6 certification, on a form supplied by or approved by the
7 department, signed by the manufacturer that the new vehicle or
8 boat described in the certificate has been transferred to the
9 New Mexico dealer or distributor named in the certificate or to
10 a dealer duly licensed or recognized as such in another state,
11 territory or possession of the United States and that [~~such~~]
12 the transfer is the first transfer of the vehicle or boat in
13 ordinary trade and commerce;

14 E. "moped" means a two-wheeled or three-wheeled
15 vehicle with an automatic transmission and a motor having a
16 piston displacement of less than fifty cubic centimeters, that
17 is capable of propelling the vehicle at a maximum speed of not
18 more than thirty miles an hour on level ground, at sea level;

19 F. "motor carrier" means a person or firm that
20 owns, controls, operates or manages a motor vehicle with a
21 gross vehicle weight of twelve thousand pounds or more that is
22 used to transport persons or property on the public highways of
23 this state;

24 [~~F.~~] G. "motorcycle" means [~~every~~] a motor vehicle
25 having a seat or saddle for the use of the rider and designed

.174842.1

underscored material = new
[bracketed material] = delete

1 to travel on not more than three wheels in contact with the
2 ground, excluding a tractor;

3 ~~[G.]~~ H. "motor home" means a camping body built on
4 a self-propelled motor vehicle chassis so designed that seating
5 for driver and passengers is within the body itself;

6 ~~[H.]~~ I. "motor vehicle" means ~~[every]~~ a vehicle
7 that is self-propelled ~~[and every vehicle that is]~~ or propelled
8 by electric power obtained from batteries or from overhead
9 ~~[trolley]~~ wires, but not operated upon rails; but for the
10 purposes of the Mandatory Financial Responsibility Act, "motor
11 vehicle" does not include "special mobile equipment"; and

12 ~~[I.]~~ J. "motor vehicle insurance policy" means a
13 policy of vehicle insurance that covers self-propelled vehicles
14 of a kind required to be registered pursuant to New Mexico law
15 for use on the public streets and highways. A "motor vehicle
16 insurance policy":

17 (1) shall include:

18 (a) motor vehicle bodily injury and
19 property damage liability coverages in compliance with the
20 Mandatory Financial Responsibility Act; and

21 (b) uninsured motorist coverage, subject
22 to the provisions of Section 66-5-301 NMSA 1978 permitting the
23 insured to reject such coverage; and

24 (2) may include:

25 (a) physical damage coverage;

.174842.1

underscored material = new
[bracketed material] = delete

1 (b) medical payments coverage; and
2 (c) other coverages that the insured and
3 the insurer agree to include within the policy."

4 Section 26. Section 66-1-4.13 NMSA 1978 (being Laws 1990,
5 Chapter 120, Section 14) is amended to read:

6 "66-1-4.13. DEFINITIONS.--As used in the Motor Vehicle
7 Code:

8 A. "odometer" means a device for recording the
9 total mileage traveled by a vehicle from the vehicle's
10 manufacture and for so long as the vehicle is operable on the
11 highways;

12 B. "off-highway motor vehicle" means any motor
13 vehicle operated or used exclusively off the highways of this
14 state and that is not legally equipped for operation on the
15 highways of this state;

16 C. "official printout" means any record supplied by
17 the division or a similar agency or government entity that
18 indicates the lienholders of record or owners of record of a
19 vehicle or motor vehicle registered within that government's
20 jurisdiction or indicates information about a driver's license
21 or identification card, including traffic violation history or
22 status;

23 D. "official traffic-control devices" means all
24 signs, signals, markings and devices [~~not inconsistent~~]
25 consistent with the Motor Vehicle Code placed or erected, by

.174842.1

underscored material = new
[bracketed material] = delete

1 authority of a public body or official having jurisdiction, for
2 the purpose of regulating, warning or guiding traffic;

3 E. "one-way rental fleet" means two or more
4 vehicles each having a gross vehicle weight of under twenty-six
5 thousand one pounds and rented to the public without a driver;

6 [~~E.~~] F. "operator" means driver, as defined in
7 Section 66-1-4.4 NMSA 1978; and

8 [~~F.~~] G. "owner" means a person who holds the legal
9 title of a vehicle and may include a conservator, guardian,
10 personal representative, executor or similar fiduciary, or, in
11 the event that a vehicle is the subject of an agreement for
12 conditional sale or lease with the right of purchase upon
13 performance of the conditions stated in the agreement and with
14 an immediate right of possession vested in the conditional
15 vendee or lessee, or, in the event that a mortgagor of a
16 vehicle is entitled to possession, then such conditional vendee
17 or lessee or mortgagor."

18 Section 27. Section 66-1-4.14 NMSA 1978 (being Laws 1990,
19 Chapter 120, Section 15, as amended) is amended to read:

20 "66-1-4.14. DEFINITIONS.--As used in the Motor Vehicle
21 Code:

22 A. "park" or "parking" means the standing of a
23 vehicle, whether occupied or not, other than temporarily for
24 the purpose of and while actually engaged in loading and
25 unloading;

.174842.1

1 B. "parking lot" means a parking area provided for
2 the use of patrons of any office of state or local government
3 or of any public accommodation, retail or commercial
4 establishment;

5 C. "parts car" means a motor vehicle generally in
6 nonoperable condition that is owned by a collector to furnish
7 parts that are usually nonobtainable from normal sources, thus
8 enabling a collector to preserve, restore and maintain a motor
9 vehicle of historic or special interest;

10 D. "pedestrian" means any natural person on foot;

11 E. "person" means every natural person, firm,
12 copartnership, association, corporation or other legal entity;

13 F. "personal information" means information that
14 identifies an individual, including an individual's photograph,
15 social security number, driver identification number, name,
16 address other than zip code, telephone number and medical or
17 disability information, but "personal information" does not
18 include information on vehicles, vehicle ownership, vehicular
19 accidents, driving violations or driver status;

20 G. "placard" or "parking placard" means a card-like
21 device that identifies the vehicle as being currently in use to
22 transport a person with severe mobility impairment and issued
23 pursuant to Section 66-3-16 NMSA 1978 to be displayed inside a
24 motor vehicle so as to be readily visible to an observer
25 outside the vehicle;

underscored material = new
[bracketed material] = delete

1 H. "pneumatic tire" means every tire in which
2 compressed air is designed to support the load;

3 I. "pole trailer" means any vehicle without motive
4 power, designed to be drawn by another vehicle and attached to
5 the towing vehicle by means of a reach or pole or by being
6 boomed or otherwise secured to the towing vehicle and
7 ordinarily used for transporting long or irregularly shaped
8 loads such as poles, structures, pipes and structural members
9 capable, generally, of sustaining themselves as beams between
10 the supporting connections;

11 J. "police or peace officer" means every officer
12 authorized to direct or regulate traffic or to make arrests for
13 violations of the Motor Vehicle Code;

14 K. "preceding year" means a period of twelve
15 consecutive months fixed by the department, which period is
16 within the sixteen months immediately preceding the
17 commencement of the registration or license year for which
18 proportional registration is sought. The department, in fixing
19 that period, shall make it conform to the terms, conditions and
20 requirements of any applicable agreement or arrangement for the
21 proportional registration of vehicles;

22 [~~K.~~] L. "private road or driveway" means every way
23 or place in private ownership used for vehicular travel by the
24 owner and those having express or implied permission from the
25 owner, but not other persons; [~~and~~]

.174842.1

underscored material = new
[bracketed material] = delete

1 M. "properly registered" means bearing the lawfully
2 issued and currently valid evidence of registration of this or
3 another jurisdiction, regardless of the owner's residence,
4 except in those cases where the evidence has been procured by
5 misrepresentation or fraud;

6 ~~[E-]~~ N. "property owner" means the owner of a piece
7 of land or the agent of that property owner; and

8 O. "public highway" means every way or place
9 generally open to the use of the public as a matter of right
10 for the purpose of vehicular travel, even though it may be
11 temporarily closed or restricted for the purpose of
12 construction, maintenance, repair or reconstruction."

13 Section 28. Section 66-1-4.16 NMSA 1978 (being Laws 1990,
14 Chapter 120, Section 17, as amended) is amended to read:

15 "66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle
16 Code:

17 A. "safety glazing materials" means glazing
18 materials constructed, treated or combined with other materials
19 to reduce substantially, in comparison with ordinary sheet
20 glass or plate glass, the likelihood of injury to persons by
21 objects from exterior sources or by these safety glazing
22 materials when they are cracked and broken;

23 B. "safety zone" means the area or space that is
24 officially set apart within a highway for the exclusive use of
25 pedestrians and that is protected or is so marked or indicated

.174842.1

underscoring material = new
[bracketed material] = delete

1 by adequate signs as to be plainly visible at all times while
2 set apart as a safety zone;

3 C. "salvage vehicle" means a vehicle:

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

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

22 D. "school bus" means a commercial motor vehicle
23 used to transport preprimary, primary or secondary school
24 students from home to school, from school to home or to and
25 from school-sponsored events, but not including a vehicle:

.174842.1

underscored material = new
[bracketed material] = delete

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

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

9 (3) operated as a per capita feeder as defined
10 in Section 22-16-6 NMSA 1978;

11 E. "seal" means the official seal of the [~~taxation~~
12 ~~and revenue~~] department as designated by the secretary;

13 F. "secretary" means the secretary of [~~taxation and~~
14 ~~revenue~~] motor vehicles, and, except for the purposes of
15 Sections 66-2-3 and 66-2-12 NMSA 1978, also includes [~~the~~] a
16 deputy secretary and any division director delegated by the
17 secretary;

18 G. "semitrailer" means a vehicle without motive
19 power, other than a pole trailer, designed for carrying persons
20 or property and for being drawn by a motor vehicle and so
21 constructed that some significant part of its weight and that
22 of its load rests upon or is carried by another vehicle;

23 H. "sidewalk" means a portion of street between the
24 curb lines, or the lateral lines of a roadway, and the adjacent
25 property lines, intended for the use of pedestrians;

.174842.1

underscored material = new
[bracketed material] = delete

1 I. "slow-moving vehicle" means a vehicle that is
2 ordinarily moved, operated or driven at a speed less than
3 twenty-five miles per hour;

4 J. "solid tire" means ~~[every]~~ a tire of rubber or
5 other resilient material that does not depend upon compressed
6 air for the support of the load;

7 K. "special mobile equipment" means a vehicle not
8 designed or used primarily for the transportation of persons or
9 property and incidentally operated or moved over the highways,
10 including ~~[but not limited to farm tractors]~~ road construction
11 or maintenance machinery, ditch-digging apparatus, well-boring
12 apparatus and concrete mixers;

13 L. "specially constructed vehicle" means a vehicle
14 of a type required to be registered under the Motor Vehicle
15 Code not originally constructed under a distinctive name, make,
16 model or type by a generally recognized manufacturer of
17 vehicles and not materially altered from its original
18 construction;

19 M. "state" means a state, territory or possession
20 of the United States, the District of Columbia or any state of
21 the Republic of Mexico or the Federal District of Mexico or a
22 province of the Dominion of Canada;

23 N. "state highway" means a public highway that has
24 been designated as a state highway by the legislature, the
25 state transportation commission or the secretary of

.174842.1

1 transportation;

2 O. "stop", when required, means complete cessation
3 from movement;

4 P. "stop, stopping or standing", when prohibited,
5 means any stopping or standing of a vehicle, whether occupied
6 or not, except when necessary to avoid conflict with other
7 traffic or in compliance with the directions of a police
8 officer or traffic-control sign or signal;

9 Q. "street" or "highway" means a way or place
10 generally open to the use of the public as a matter of right
11 for the purpose of vehicular travel, even though it may be
12 temporarily closed or restricted for the purpose of
13 construction, maintenance, repair or reconstruction;

14 R. "subsequent offender" means a person who was
15 previously a first offender and who again, under state law,
16 federal law or a municipal ordinance or a tribal law, has been
17 adjudicated guilty of the charge of driving a motor vehicle
18 while under the influence of intoxicating liquor or any drug
19 that rendered the person incapable of safely driving a motor
20 vehicle, regardless of whether the person's sentence was
21 suspended or deferred; and

22 S. "suspension" means that a person's driver's
23 license and privilege to drive a motor vehicle on the public
24 highways are temporarily withdrawn."

25 Section 29. Section 66-1-4.17 NMSA 1978 (being Laws 1990,

.174842.1

underscored material = new
[bracketed material] = delete

1 Chapter 120, Section 18, as amended) is amended to read:

2 "66-1-4.17. DEFINITIONS.--As used in the Motor Vehicle
3 Code:

4 A. "tank vehicle" means a motor vehicle that is
5 designed to transport any liquid or gaseous material within a
6 tank that is either permanently or temporarily attached to the
7 vehicle or the chassis and that has either a gross vehicle
8 weight rating of twenty-six thousand one or more pounds or is
9 used in the transportation of hazardous materials requiring
10 placarding of the vehicle under applicable law;

11 B. "taxicab" means a motor vehicle used for hire in
12 the transportation of persons, having a normal seating capacity
13 of not more than seven persons;

14 C. "temporary off-site location" means a location
15 other than a dealer's established or additional place of
16 business that is used exclusively for the display of vehicles
17 or vessels for sale or resale and for related business;

18 D. "through highway" means ~~every~~ a highway or
19 portion of a highway at the entrance to which vehicular traffic
20 from intersecting highways is required by law to stop before
21 entering or crossing it when stop signs are erected as provided
22 in the Motor Vehicle Code;

23 E. "title service company" means a person, other
24 than the department, an agent of the department, a licensed
25 dealer or the motor transportation division of the department

.174842.1

underscored material = new
[bracketed material] = delete

1 ~~[of public safety]~~, who for consideration issues temporary
2 registration plates or prepares and submits to the department
3 on behalf of others applications for registration of or title
4 to motor vehicles;

5 F. "traffic" means pedestrians, ridden or herded
6 animals, vehicles and other conveyances either singly or
7 together using ~~[any]~~ a highway for purposes of travel;

8 G. "traffic-control signal" means ~~[any]~~ a device,
9 whether manually, electrically or mechanically operated, by
10 which traffic is alternately directed to stop and to proceed;

11 H. "traffic safety bureau" means the traffic safety
12 bureau of the department of transportation;

13 I. "trailer" means ~~[any]~~ a vehicle without motive
14 power, designed for carrying persons or property and for being
15 drawn by a motor vehicle, and so constructed that no
16 significant part of its weight rests upon the towing vehicle;

17 J. "transaction" means all operations necessary at
18 one time with respect to one identification card, one driver,
19 one vessel or one vehicle;

20 K. "transportation inspector" means an employee of
21 the motor transportation division of the department ~~[of public~~
22 ~~safety]~~ who has been certified by the director of the division
23 to enter upon and perform inspections of motor carriers'
24 vehicles in operation;

25 L. "transporter of manufactured homes" means a

.174842.1

underscored material = new
[bracketed material] = delete

1 commercial motor vehicle operation engaged in the business of
2 transporting manufactured homes from the manufacturer's
3 location to the first dealer's location. A "transporter of
4 manufactured homes" may ~~[or may not]~~ be associated with or
5 affiliated with a particular manufacturer or dealer;

6 M. "travel trailer" means a trailer with a camping
7 body and includes recreational travel trailers and camping
8 trailers;

9 N. "trial court" means the magistrate, municipal or
10 district court that tries the case concerning an alleged
11 violation of a provision of the Motor Vehicle Code;

12 O. "tribal court" means a court created by a tribe
13 or a court of Indian offense created by the United States
14 secretary of the interior;

15 P. "tribe" means an Indian nation, tribe or pueblo
16 located wholly or partially in New Mexico;

17 Q. "truck" means ~~[every]~~ a motor vehicle designed,
18 used or maintained primarily for the transportation of
19 property;

20 R. "truck camper" means a camping body designed to
21 be loaded onto, or affixed to, the bed or chassis of a truck.
22 A camping body, when combined with a truck or truck cab and
23 chassis, even though not attached permanently, becomes a part
24 of the motor vehicle, and together they are a recreational unit
25 to be known as a "truck camper"; there are three general types

.174842.1

underscoring material = new
[bracketed material] = delete

1 of truck campers:

2 (1) "slide-in camper" means a camping body
3 designed to be loaded onto and unloaded from the bed of a
4 pickup truck;

5 (2) "chassis-mount camper" means a camping
6 body designed to be affixed to a truck cab and chassis; and

7 (3) "pickup cover" or "camper shell" means a
8 camping body designed to provide an all-weather protective
9 enclosure over the bed of a pickup truck and to be affixed to
10 the pickup truck; and

11 S. "truck tractor" means ~~every~~ a motor vehicle
12 designed and used primarily for drawing other vehicles and
13 constructed to carry a part of the weight of the vehicle and
14 load drawn."

15 Section 30. Section 66-5-66 NMSA 1978 (being Laws 1989,
16 Chapter 14, Section 15, as amended by Laws 2005, Chapter 310,
17 Section 2 and by Laws 2005, Chapter 312, Section 6) is amended
18 to read:

19 "66-5-66. APPLICANT RECORD INFORMATION--INFORMATION
20 EXCHANGE.--

21 A. Before issuing a commercial driver's license,
22 the department shall obtain pertinent driving record
23 information from each state where the applicant has been
24 licensed, through a multistate database, or from each state.

25 B. The department has the authority to exchange

.174842.1

underscored material = new
[bracketed material] = delete

1 commercial driver's license information as it deems necessary
2 to carry out the provisions of the New Mexico Commercial
3 Driver's License Act, except that the results of a background
4 check conducted pursuant to federal department of homeland
5 security requirements shall be:

6 (1) confidential and not disseminated except
7 to the subject of the background check and the [~~division~~]
8 department;

9 (2) used only for the purpose authorized by
10 this section; and

11 (3) subject to protest, appeal or
12 consideration of mitigating circumstances if used as a basis to
13 disqualify a driver who held a commercial driver's license
14 under rules promulgated by the transportation security
15 administration of the federal department of homeland security.

16 C. The department shall provide to the commercial
17 driver's license information system information on a
18 conviction, disqualification, change in applicant status,
19 change in the state of record or any other information
20 concerning a holder of a commercial driver's license within ten
21 days of receipt of that information. The secretary may adopt
22 [~~regulations~~] rules to administer the requirement set forth
23 pursuant to this subsection.

24 D. In determining whether a violation of law has
25 occurred for the purpose of issuance, administration or

.174842.1

1 revocation of a commercial driver's license, the department
2 shall use information received from the commercial driver's
3 license information system in the same manner as information
4 received from the state or any of its agencies,
5 instrumentalities or political subdivisions."

6 Section 31. Section 66-6-4 NMSA 1978 (being Laws 1978,
7 Chapter 35, Section 339, as amended) is amended to read:

8 "66-6-4. REGISTRATION FEES--TRUCKS, TRUCK TRACTORS, ROAD
9 TRACTORS AND BUSES.--

10 A. [~~Within their respective jurisdictions, the~~
11 ~~motor vehicle division and the motor transportation division~~
12 ~~of]~~ The department [~~of public safety]~~ shall charge registration
13 fees for trucks, truck tractors, road tractors and buses,
14 except as otherwise provided by law, according to the schedule
15 of Subsection B of this section.

16	B. Declared Gross Weight	Fee
17	001 to 4,000	\$40
18	4,001 to 6,000	55
19	6,001 to 8,000	69
20	8,001 to 10,000	84
21	10,001 to 12,000	99
22	12,001 to 14,000	113
23	14,001 to 16,000	128
24	16,001 to 18,000	143
25	18,001 to 20,000	157

.174842.1

underscored material = new
[bracketed material] = delete

1	20,001 to 22,000	172
2	22,001 to 24,000	187
3	24,001 to 26,000	201
4	26,001 to 48,000	118
5	48,001 and over	172.

6 C. ~~[All]~~ Trucks whose declared gross weight or
7 whose gross vehicle weight is less than twenty-six thousand
8 pounds, after five years of registration, calculated from the
9 date when the vehicle was first registered in this or another
10 state, shall be charged registration fees at eighty percent of
11 the rate set out in Subsection B of this section.

12 D. ~~[All]~~ Trucks with a gross vehicle weight of more
13 than twenty-six thousand pounds and ~~[all]~~ truck tractors and
14 road tractors used to tow freight trailers shall be registered
15 on the basis of gross combination vehicle weight.

16 E. ~~[All]~~ Trucks with a gross vehicle weight of
17 twenty-six thousand pounds or less shall be registered on the
18 basis of gross vehicle weight. A trailer, semitrailer or pole
19 trailer towed by a truck of such gross vehicle weight shall be
20 classified as a utility trailer for registration purposes
21 unless otherwise provided by law.

22 F. ~~[All]~~ Farm vehicles having a declared gross
23 weight of more than six thousand pounds shall be charged
24 registration fees of two-thirds of the rate of the respective
25 fees provided in this section and shall be issued distinctive

underscored material = new
[bracketed material] = delete

1 registration plates. "Farm vehicle" means a vehicle owned by a
2 person whose principal occupation is farming or ranching and
3 which vehicle is used principally in the transportation of farm
4 and ranch products to market and farm and ranch supplies and
5 livestock from the place of purchase to farms and ranches in
6 this state; provided that the vehicle is not used for hire.

7 G. In addition to other registration fees imposed
8 by this section, beginning July 1, 1994, an annual tire
9 recycling fee of one dollar fifty cents (\$1.50) is imposed at
10 the time of registration on each vehicle subject to a
11 registration fee pursuant to this section, except for vehicles
12 with a declared gross weight of greater than twenty-six
13 thousand pounds upon which registration fees are imposed by
14 Subsection B of this section.

15 H. Three percent of registration fees of trucks
16 having from twenty-six thousand one pounds to forty-eight
17 thousand pounds declared gross vehicle weight is to be
18 transferred to the recycling and illegal dumping fund pursuant
19 to the provisions of Section 66-6-23 NMSA 1978.

20 I. Three and seventy-five hundredths percent of
21 registration fees of trucks in excess of forty-eight thousand
22 pounds declared gross vehicle weight is to be transferred to
23 the recycling and illegal dumping fund pursuant to the
24 provisions of Section 66-6-23 NMSA 1978."

25 Section 32. Section 66-7-411 NMSA 1978 (being Laws 1978,

.174842.1

underscored material = new
[bracketed material] = delete

1 Chapter 35, Section 482, as amended) is amended to read:

2 "66-7-411. AUTHORIZED REPRESENTATIVE MAY WEIGH VEHICLES
3 AND REQUIRE REMOVAL OF EXCESS LOADS--GRADUATED PENALTIES.--

4 A. A police officer with the [~~motor transportation~~
5 ~~division~~] department or the New Mexico state police division of
6 the department of public safety, having reason to believe that
7 the weight of a vehicle and load is unlawful, may require the
8 driver to stop and submit to weighing of the vehicle and load
9 by means of either portable or stationary scales and may
10 require the vehicle to be driven to the nearest scales approved
11 by the department of [~~public safety~~] motor vehicles if the
12 scales are within five miles.

13 B. When a police officer with the [~~motor~~
14 ~~transportation division~~] department or the New Mexico state
15 police division of the department of public safety or a
16 transportation inspector, upon weighing a vehicle or
17 combination, determines that the gross vehicle weight or
18 combination gross vehicle weight exceeds the maximum authorized
19 by Sections 66-7-409 and 66-7-410 NMSA 1978, the officer or
20 inspector shall require the driver or owner of the vehicle or
21 combination to unload that portion of the load necessary to
22 decrease the gross vehicle weight or combination gross vehicle
23 weight to the authorized maximum.

24 C. A driver of a vehicle who fails or refuses to
25 stop and submit the vehicle and load to weighing or who fails

.174842.1

underscored material = new
[bracketed material] = delete

1 or refuses, when directed by a duly authorized police officer
2 with the [~~motor transportation division~~] department or the New
3 Mexico state police division of the department of public safety
4 or a transportation inspector, upon a weighing of the vehicle,
5 to unload the vehicle and otherwise comply with the provisions
6 of this section is guilty of a misdemeanor.

7 D. A shipper or a person loading the vehicle who
8 intentionally overloads a vehicle that the shipper or person
9 has reason to believe will travel in that condition upon a
10 public highway is guilty of a misdemeanor and shall be fined in
11 accordance with Subsection E of this section.

12 E. In [~~all~~] cases of violations of weight
13 limitations, the penalties shall be assessed and imposed in
14 accordance with the following schedule:

15	WEIGHT OF EXCESS	
16	LOAD IN POUNDS	AMOUNT OF FINE
17	1 to 3,000	fifty dollars (\$50.00)
18	3,001 to 4,000	eighty dollars (\$80.00)
19	4,001 to 5,000	one hundred dollars (\$100)
20	5,001 to 6,000	one hundred fifty dollars (\$150)
21	6,001 to 7,000	two hundred fifty dollars (\$250)
22	7,001 to 8,000	three hundred fifty dollars (\$350)
23	8,001 to 9,000	four hundred dollars (\$400)
24	9,001 to 10,000	five hundred dollars (\$500)
25	over 10,000	seven hundred dollars (\$700)."

.174842.1

underscored material = new
[bracketed material] = delete

1 Section 33. Section 66-7-412 NMSA 1978 (being Laws 1959,
2 Chapter 247, Section 1, as amended) is amended to read:

3 "66-7-412. SPECIAL FARM PERMITS.--The [~~motor~~
4 ~~transportation division of the~~] department [~~of public safety~~
5 ~~shall have the authority to~~] may issue special permits at all
6 ports of entry where registration stations or places where
7 inspection and registration services are maintained by the
8 [~~motor transportation division~~] department to all implements of
9 husbandry using the highways, including farm tractors, and to
10 the instrumentalities or vehicles that may be carrying the
11 implements of husbandry, including farm tractors, when the
12 securing of these permits is required by law."

13 Section 34. Section 66-7-413 NMSA 1978 (being Laws 1978,
14 Chapter 35, Section 484, as amended) is amended to read:

15 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL
16 NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

17 A. The department [~~of public safety~~] and local
18 highway authorities may, in their discretion, upon application
19 in writing and good cause being shown, issue a special permit
20 in writing authorizing the applicant to operate or move a
21 vehicle or load of a size or weight exceeding the maximum
22 specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on a
23 highway under the jurisdiction of the state transportation
24 commission or local authorities. Except for the movement of
25 manufactured homes, a permit may be granted, in cases of

.174842.1

underscored material = new
[bracketed material] = delete

1 emergency, for the transportation of loads on a certain unit or
2 combination of equipment for a specified period of time not to
3 exceed one year, and the permit shall contain the route to be
4 traversed, the type of load to be transported and ~~[any]~~ other
5 restrictions or conditions deemed necessary by the body
6 granting the permit. In ~~[every]~~ other ~~[case]~~ cases, the permit
7 shall be issued for a single trip and may designate the route
8 to be traversed and contain ~~[any]~~ other restrictions or
9 conditions deemed necessary by the body granting the permit.
10 ~~[Every]~~ A permit shall be carried in the vehicle to which it
11 refers and shall be opened for inspection to ~~[any]~~ a peace
12 officer. It is a misdemeanor for a person to violate a
13 condition or term of the special permit.

14 B. The department ~~[of public safety]~~ shall
15 promulgate rules in accordance with the State Rules Act
16 pertaining to safety practices, liability insurance and
17 equipment for escort vehicles provided by the motor carrier and
18 for escort vehicles provided by a private business in this
19 state.

20 ~~[(1)]~~ C. The department ~~[of public safety]~~ shall
21 provide ~~[the]~~ escort personnel with a copy of applicable rules
22 and shall inspect ~~[the]~~ escort vehicles for the safety
23 equipment required by the rules. If ~~[the]~~ escort vehicles and
24 personnel meet the requirements set forth in the rules, the
25 department ~~[of public safety]~~ shall issue ~~[the]~~ a special

.174842.1

underscored material = new
[bracketed material] = delete

1 permit.

2 [~~(2)~~] D. The movement of vehicles upon [~~the~~]
3 highways [~~of this state~~] requiring a special permit and
4 [~~required to~~] use of an escort of the type noted in [~~Paragraph~~
5 ~~(1) of this~~] Subsection C of this section is subject to
6 department [~~of public safety~~] authority and inspection at all
7 times.

8 [~~(3)~~] E. The department of transportation shall
9 conduct engineering investigations and engineering inspections
10 to determine which four-lane highways are safe for the
11 operation or movement of manufactured homes without an escort.
12 After making that determination, the department of
13 transportation shall hold public hearings in the area of the
14 state affected by the determination, after which it may adopt
15 rules designating those four-lane highways as being safe for
16 the operation or movement of manufactured homes without an
17 escort. If a portion of [~~such a~~] those four-lane [~~highway~~]
18 highways lies within the boundaries of a municipality, the
19 department of transportation, after obtaining the approval of
20 the municipal governing body, shall include [~~such portions~~]
21 that portion in its rules.

22 [~~(6)~~] F. Except for the movement of manufactured
23 homes, special permits may be issued for a single vehicle or
24 combination of vehicles by the department [~~of public safety~~]
25 for a period not to exceed one year for a fee of two hundred

.174842.1

underscored material = new
[bracketed material] = delete

1 fifty dollars (\$250). The special permits may allow excessive
2 height, length and width for a vehicle or combination of
3 vehicles or load ~~[thereon]~~ on those vehicles and may include a
4 provision for excessive weight if the weight of the vehicle or
5 combination of vehicles is not greater than one hundred forty
6 thousand pounds. Utility service vehicles, operating with
7 special permits pursuant to this subsection, shall be exempt
8 from prohibitions or restrictions relating to hours or days of
9 operation or restrictions on movement because of poor weather
10 conditions.

11 ~~[D.]~~ G. Special permits for a single trip for a
12 vehicle or combination of vehicles or load ~~[thereon]~~ on those
13 vehicles of excessive weight, width, length and height may be
14 issued by the department ~~[of public safety]~~ for a single
15 vehicle for a fee of twenty-five dollars (\$25.00) plus the
16 product of two and one-half cents (\$.025) for each two thousand
17 pounds in excess of eighty-six thousand four hundred pounds or
18 major fraction ~~[thereof]~~ of that weight multiplied by the
19 number of miles to be traveled by the vehicle or combination of
20 vehicles on the highways of this state.

21 ~~[E.]~~ H. If a vehicle for which a permit is issued
22 pursuant to this section is a manufactured home, the department
23 ~~[of public safety]~~ or local highway authority issuing the
24 permit shall furnish the following information to the property
25 tax division of the taxation and revenue department, which

.174842.1

underscoring material = new
[bracketed material] = delete

1 shall forward the information:

2 (1) to the county assessor of a county from
3 which a manufactured home is being moved, the date the permit
4 was issued, the location being moved from, the location being
5 moved to if within the same county, the name of the owner of
6 the manufactured home and the identification and registration
7 numbers of the manufactured home;

8 (2) to the county assessor of [~~any~~] a county
9 in this state to which a manufactured home is being moved, the
10 date the permit was issued, the location being moved from, the
11 location being moved to, the name of the owner of the
12 manufactured home and the registration and identification
13 numbers of the manufactured home; and

14 (3) to the owner of a manufactured home having
15 a destination in this state, notification that the information
16 required in Paragraphs (1) and (2) of this subsection is being
17 given to the respective county assessors and that manufactured
18 homes are subject to property taxation.

19 [~~F.~~] I. Except as provided in Subsection [~~G~~] J of
20 this section, if the movement of a manufactured home originates
21 in this state, a permit shall not be issued pursuant to
22 Subsection [~~E~~] H of this section until the owner of the
23 manufactured home or the authorized agent of the owner obtains
24 and presents to the department [~~of public safety~~] proof that a
25 certificate has been issued by the county assessor or treasurer

.174842.1

underscored material = new
[bracketed material] = delete

1 of the county in which the manufactured home movement
2 originates showing that either:

3 (1) [~~all~~] property taxes due or to become due
4 on the manufactured home for the current tax year or any past
5 tax years have been paid, except for manufactured homes located
6 on an Indian reservation; or

7 (2) liability for property taxes on the
8 manufactured home does not exist for the current tax year or a
9 past tax year, except for manufactured homes located on an
10 Indian reservation.

11 [~~G.~~] J. The movement of a manufactured home from
12 the lot or business location of a manufactured home dealer to
13 its destination designated by an owner-purchaser is not subject
14 to the requirements of Subsection [~~F~~] I of this section if the
15 manufactured home movement originates from the lot or business
16 location of the dealer and the manufactured home was part of
17 the dealer's inventory prior to the sale to the owner-
18 purchaser; however, the movement of a manufactured home by a
19 dealer or the dealer's authorized agent as a result of a sale
20 or trade-in from a nondealer-owner is subject to the
21 requirements of Subsection [~~F~~] I of this section whether the
22 destination is the business location of a dealer or some other
23 destination.

24 [~~H.~~] K. A permit shall not be issued pursuant to
25 this section for movement of a manufactured home whose width

.174842.1

underscored material = new
[bracketed material] = delete

1 exceeds eighteen feet with no more than a six-inch roof
2 overhang on the left side or twelve inches on the right side in
3 addition to the eighteen-foot width of the manufactured home.
4 Manufactured homes exceeding the limitations of this section
5 shall only be moved on dollies placed on the front and the rear
6 of the structure.

7 ~~[I.]~~ L. The secretary ~~[of public safety]~~ may by
8 rule provide for movers of manufactured homes to self-issue
9 permits for certain sizes of manufactured homes over specific
10 routes. The cost of a permit shall not be less than twenty-
11 five dollars (\$25.00).

12 ~~[J.]~~ M. The secretary ~~[of public safety]~~ may
13 provide by rule for dealers of implements of husbandry to self-
14 issue permits for the movement of certain sizes of implements
15 of husbandry from the lot or business location of the dealer
16 over specific routes with specific escort requirements, if
17 necessary, to a destination designated by an owner-purchaser or
18 for purposes of a working demonstration on the property of a
19 proposed owner-purchaser. The department ~~[of public safety]~~
20 shall charge a fee for each self-issued permit not to exceed
21 fifteen dollars (\$15.00).

22 ~~[K.]~~ N. A private motor carrier requesting an
23 oversize or overweight permit shall provide proof of insurance
24 in at least the following amounts:

25 (1) bodily injury liability, providing:

.174842.1

underscoring material = new
[bracketed material] = delete

1 (a) fifty thousand dollars (\$50,000) for
2 each person; and

3 (b) one hundred thousand dollars
4 (\$100,000) for each accident; and

5 (2) property damage liability, providing
6 twenty-five thousand dollars (\$25,000) for each accident.

7 ~~[E.]~~ O. A motor carrier requesting an oversize
8 permit shall produce a copy of a warrant or a single state
9 registration receipt as evidence that the motor carrier
10 maintains the insurance minimums prescribed by the public
11 regulation commission.

12 ~~[M.]~~ P. The department ~~[of public safety]~~ may
13 provide by rule the time periods during which a vehicle or load
14 of a size or weight exceeding the maximum specified in Sections
15 66-7-401 through 66-7-416 NMSA 1978 may be operated or moved by
16 a motor carrier on a highway under the jurisdiction of the
17 state transportation commission or local authorities.

18 ~~[N.]~~ Q. Revenue from fees for special permits
19 authorizing vehicles and loads of excessive size or weight to
20 operate or move upon a highway under the jurisdiction of the
21 state transportation commission or local authorities shall be
22 collected for the department of transportation and transferred
23 to the state road fund."

24 Section 35. Section 66-7-413.2 NMSA 1978 (being Laws
25 1989, Chapter 291, Section 1, as amended) is amended to read:

.174842.1

underscored material = new
[bracketed material] = delete

1 "66-7-413.2. ENGINEERING INVESTIGATIONS FOR VEHICLES IN
2 EXCESS OF ONE HUNDRED SEVENTY THOUSAND POUNDS.--

3 A. ~~[All vehicles]~~ A vehicle with a gross vehicle
4 weight in excess of one hundred seventy thousand pounds shall
5 require a special permit as provided for in Section 66-7-413
6 NMSA 1978 and no such permit shall be issued unless:

7 (1) an engineering investigation and review
8 have been conducted to:

9 (a) establish whether the move could be
10 made without visible or documented damages to the ~~[portion of~~
11 ~~road]~~ highways or bridges upon which the move is to be made;

12 (b) establish whether the move could be
13 made without visible or documented damages to any private
14 facilities along the ~~[road]~~ highways upon which the move is to
15 be made; and

16 (c) estimate the cost for any necessary
17 modifications the move may cause; and

18 (2) when required, the applicant has submitted
19 to the ~~[motor transportation division of the]~~ department ~~[of~~
20 ~~public safety]~~ and ~~[the]~~ local highway authorities all
21 pertinent ~~[information]~~ data requested of the applicant by the
22 ~~[motor transportation division of the]~~ department ~~[of public~~
23 ~~safety]~~. If the submitted data ~~[is]~~ are not acceptable to the
24 ~~[state highway and transportation]~~ department of
25 transportation, the applicant ~~[will]~~ shall be advised by the

.174842.1

underscored material = new
[bracketed material] = delete

1 ~~[motor transportation division of the]~~ department of ~~[public~~
2 ~~safety]~~ motor vehicles that engineering investigations ~~[will]~~
3 shall be conducted by the ~~[state highway and transportation]~~
4 department of transportation and the cost incurred by the
5 ~~[state highway and transportation]~~ department ~~[will]~~ of
6 transportation shall be paid by the applicant as an added cost
7 to ~~[his]~~ the applicant's permit fee.

8 B. The ~~[motor transportation division of the]~~
9 department ~~[of public safety]~~ shall adopt ~~[the]~~ necessary rules
10 ~~[and regulations]~~ for the development of data for an
11 investigation to determine whether to issue any special permit
12 pursuant to Section 66-7-413 NMSA 1978.

13 C. The applicant or the applicant's employer shall
14 pay the costs for ~~[any]~~ modifications to the ~~[road]~~ highways,
15 bridges or private facilities along the ~~[road]~~ highways that
16 the ~~[motor transportation division of the]~~ department ~~[of~~
17 ~~public safety]~~ has determined are necessary for the issuance of
18 the special permit and the costs for ~~[any]~~ damages to the
19 ~~[road]~~ highways or bridges that are the result of the move and
20 the fault of the mover and not the ~~[motor transportation~~
21 ~~division of the]~~ department ~~[of public safety]~~.

22 D. Any person who violates the provisions of
23 ~~[Subsection A of]~~ this section ~~[shall be]~~ is guilty of a
24 misdemeanor and shall be punished by a fine of not more than
25 one thousand dollars (\$1,000) or imprisonment for a definite

.174842.1

underscored material = new
[bracketed material] = delete

1 term not to exceed six months, or both.

2 E. Nothing contained in this section shall limit in
3 any manner the authority of the state, a county, a municipality
4 or a political subdivision [~~thereof~~] to collect damages for any
5 unlawful use of highways as provided by law."

6 Section 36. Section 66-7-413.4 NMSA 1978 (being Laws
7 2001, Chapter 20, Section 2, as amended) is amended to read:

8 "66-7-413.4. PERMITS FOR EXCESSIVE WEIGHT.--

9 A. In addition to the authority granted in Section
10 66-7-413 NMSA 1978, the [~~motor transportation division of the~~]
11 department [~~of public safety~~] may issue special permits
12 authorizing an increase of up to twenty-five percent in axle
13 weight for liquid hauling tank vehicles whenever the liquid
14 hauling tank vehicles would have to haul less than a full tank
15 under the maximum weights authorized in Section 66-7-409 and
16 66-7-410 NMSA 1978. A special permit [~~under~~] pursuant to this
17 section may be issued for a single trip or for a year. The fee
18 [~~for the permits~~] shall be thirty-five dollars (\$35.00) for a
19 single-trip permit and one hundred twenty dollars (\$120) for an
20 annual permit. Revenue from the permit fee shall be used to
21 build, maintain, repair or reconstruct [~~the~~] highways and
22 bridges [~~of this state~~]. Revenue from the permit shall be
23 collected for the department of transportation and transferred
24 to the state road fund.

25 B. The special permits authorized by this section

.174842.1

underscored material = new
[bracketed material] = delete

1 shall not be valid for transportation of excessive weights on
2 the interstate system as currently defined in federal law or as
3 that system may be defined in the future. A special permit
4 issued pursuant to this section shall not be valid for gross
5 vehicle weights in excess of eighty-six thousand four hundred
6 pounds or for a combination vehicle.

7 C. If the federal highway administration of the
8 United States department of transportation gives official
9 notice that money will be withheld or that this section
10 violates the grandfather provision of 23 USCA 127, the
11 secretary may withdraw all special permits and discontinue
12 issuance of all special permits authorized in this section
13 until such time that final determination is made. If the final
14 determination allows the state to issue the special permits
15 without sanction of funds or weight tables, the secretary shall
16 reissue the special permits previously withdrawn and make the
17 special permits available pursuant to this section."

18 Section 37. Section 66-7-415 NMSA 1978 (being Laws 1955,
19 Chapter 37, Section 12, as amended) is amended to read:

20 "66-7-415. WHEN THE STATE TRANSPORTATION COMMISSION OR
21 LOCAL AUTHORITIES MAY RESTRICT RIGHT TO USE STREETS.--

22 A. Local authorities, with respect to streets under
23 their jurisdiction, may ~~also~~, by ordinance or resolution,
24 prohibit the operation of trucks or other commercial vehicles
25 or may impose limitations as to ~~the~~ size or weight ~~thereof~~,

.174842.1

underscored material = new
[bracketed material] = delete

1 on designated streets in areas that are primarily residential,
2 which prohibitions and limitations shall be designated by
3 appropriate signs placed on ~~[such]~~ the street.

4 B. ~~[The]~~ A local authority enacting an ordinance or
5 resolution pursuant to this section shall erect or cause to be
6 erected and maintained signs designating the provisions of the
7 ordinance or resolution at each end of that portion of ~~[any]~~
8 the street affected, and the ordinance or resolution shall not
9 be effective ~~[unless and]~~ until ~~[such]~~ signs are erected and
10 maintained and notice ~~[thereof]~~ given in writing to the nearest
11 officer or employee of ~~[the motor transportation division of]~~
12 the department ~~[of public safety]~~ authorized to issue special
13 permits.

14 C. The state transportation commission ~~[shall~~
15 ~~likewise have authority, as granted to local authorities in~~
16 ~~Subsections A and B of this section, to]~~ may determine by
17 resolution ~~[and]~~ to impose restrictions as to the size and
18 weight of vehicles operated upon ~~[any]~~ highways under the
19 jurisdiction of the commission, and ~~[such]~~ those restrictions
20 shall be effective ~~[on and after]~~ upon the passage of ~~[a]~~ the
21 resolution and when signs giving notice ~~[thereof]~~ are erected
22 upon the highway or portion of ~~[any]~~ the highway affected by
23 ~~[such]~~ the resolution. The commission shall deliver a copy of
24 all restrictions adopted by it to ~~[the motor transportation~~
25 ~~division of]~~ the department ~~[of public safety]."~~

.174842.1

underscored material = new
[bracketed material] = delete

1 Section 38. Section 66-7-505 NMSA 1978 (being Laws 1978,
2 Chapter 35, Section 492, as amended) is amended to read:

3 "66-7-505. ADVISORY COMMITTEE--CREATION--MEMBERS--
4 TERMS.--

5 A. There is created a five-member advisory
6 committee to the bureau. The chief is, ex officio, the chair
7 and a voting member of the committee. The governor shall
8 appoint three members, to terms coterminous with the governor's
9 tenure, who shall have the following qualifications:

10 (1) one member who is representative of the
11 law enforcement agencies of this state;

12 (2) one member who is representative of the
13 school bus transportation function of the public education
14 department; and

15 (3) one member who is representative of the
16 [~~motor transportation division of the~~] department of [~~public~~
17 ~~safety~~] motor vehicles.

18 B. Appointees who are public officers or public
19 employees shall be compensated for attendance at meetings
20 according to the Per Diem and Mileage Act. Appointees who are
21 not public officers or employees shall be compensated for
22 attendance at meetings in commensurate amount."

23 Section 39. Section 66-12-6 NMSA 1978 (being Laws 1965,
24 Chapter 48, Section 1, as amended) is amended to read:

25 "66-12-6. DEALER AND MANUFACTURER NUMBERS--FEE--

.174842.1

underscored material = new
[bracketed material] = delete

1 CERTIFICATES OF ORIGIN--RECORDS.--

2 A. A dealer or manufacturer that demonstrates
3 motorboats on the public waters of this state shall file an
4 application for a dealer or manufacturer number. The number
5 shall be in lieu of a certificate of number for each motorboat
6 intended or offered for sale.

7 B. Application for a dealer or manufacturer number
8 shall be in the form prescribed by the division. The
9 application shall state that the applicant is a motorboat
10 dealer or manufacturer and that the applicant will operate a
11 motorboat upon the waters of this state only for test or
12 demonstration purposes. The statement shall be verified before
13 a state officer who is authorized to administer an oath. The
14 fee for a dealer or manufacturer number is ten dollars (\$10.00)
15 annually as prescribed by the division.

16 C. The division shall issue a certificate of a
17 dealer or manufacturer number to an applicant who submits a
18 complete application and full payment of the dealer or
19 manufacturer number fee to the division. The certificate shall
20 be issued after the applicant obtains a dealer license from the
21 ~~[motor vehicle division of the taxation and revenue]~~ department
22 of motor vehicles and shall contain the following:

23 (1) a dealer or manufacturer number that
24 contains two state identification letters, followed by four
25 numbers and two additional letters that are unique to dealers

.174842.1

underscored material = new
[bracketed material] = delete

- 1 or manufacturers;
- 2 (2) the expiration date of the certificate;
- 3 (3) the name and business address of the
- 4 applicant;
- 5 (4) the address of the principal place of
- 6 business of the applicant; and
- 7 (5) a conspicuous statement that the division
- 8 has certified the applicant as a dealer or manufacturer.

9 D. The dealer or manufacturer number shall be

10 painted on or attached to plates that are firmly attached to

11 each side of the front of a motorboat of the dealer or

12 manufacturer while it is afloat upon the waters of this state.

13 E. A dealer or manufacturer [~~who~~] that operates

14 more than one motorboat for test or demonstration purposes on

15 the waters of this state at the same time shall obtain and

16 display a separate dealer or manufacturer number for each

17 motorboat tested or demonstrated.

18 F. A manufacturer or dealer shall not transfer

19 ownership of a new boat without supplying the transferee with

20 the manufacturer's certificate of origin signed by the

21 manufacturer's authorized agent. The certificate shall contain

22 information the division requires.

23 G. [~~Every~~] A dealer shall maintain for three years

24 a record of any boat [~~he~~] the dealer bought, sold, exchanged or

25 received for sale or exchange. This record shall be open to

.174842.1

underscored material = new
[bracketed material] = delete

1 inspection by division representatives during reasonable
2 business hours."

3 Section 40. Section 66-12-6.6 NMSA 1978 (being Laws 2003,
4 Chapter 410, Section 5) is amended to read:

5 "66-12-6.6. DEALER LICENSE.--

6 A. A person shall not engage in business as a
7 dealer or manufacturer without obtaining a valid dealer license
8 from the [~~motor vehicle division of the taxation and revenue~~]
9 department of motor vehicles, unless the person has a valid
10 motor vehicle dealer license. A dealer or manufacturer shall
11 annually file an application with the [~~motor vehicle division~~]
12 department of motor vehicles for a dealer license for each
13 established place of business of the dealer or manufacturer.

14 B. A person shall file an application for a dealer
15 license with the [~~motor vehicle division of the taxation and~~
16 ~~revenue~~] department of motor vehicles on a form prescribed by
17 [~~the motor vehicle division~~] that department. The application
18 shall contain the name, address and telephone number of the
19 applicant, the signature of the applicant or the signatures of
20 all of the officers of a corporate applicant, the address of
21 the established place of business, the federal taxpayer
22 identification number of the applicant and other information
23 that the [~~motor vehicle division~~] department of motor vehicles
24 may require. The application shall state that the applicant
25 will engage in business as a dealer. The statement shall be

.174842.1

underscored material = new
[bracketed material] = delete

1 verified before a state officer authorized to administer an
2 oath. The fee for a dealer license shall be prescribed by the
3 [~~motor vehicle division~~] department of motor vehicles but shall
4 not exceed fifty dollars (\$50.00) annually.

5 C. The [~~motor vehicle division of the taxation and~~
6 ~~revenue~~] department of motor vehicles shall issue a dealer
7 license to an applicant who submits a complete application and
8 full payment of the dealer license fee to [~~the motor vehicle~~
9 ~~division~~] that department. The license shall contain the
10 following:

- 11 (1) the license number;
- 12 (2) the expiration date of the license;
- 13 (3) the name and business address of the
14 licensee;
- 15 (4) the address of the location for which the
16 license was issued; and
- 17 (5) a statement requiring that the license be
18 conspicuously displayed at the location for which the license
19 was issued.

20 D. A dealer license shall specify the location of
21 each place of business in which the licensee engages in
22 business as a dealer. The dealer shall notify the [~~motor~~
23 ~~vehicle division of the taxation and revenue~~] department of
24 motor vehicles of a change of ownership, location or name of
25 the place of business within ten days of the change.

.174842.1

underscored material = new
[bracketed material] = delete

1 E. A dealer license shall authorize the licensed
2 activity at only one business establishment. A dealer shall
3 obtain a supplemental license from the [~~motor vehicle division~~
4 ~~of the taxation and revenue~~] department of motor vehicles for
5 each additional establishment owned or operated by the dealer.
6 The application for a supplemental license shall be in a form
7 prescribed by the [~~motor vehicle division~~] department. The
8 [~~motor vehicle division~~] department shall issue a supplemental
9 license to an applicant who possesses a valid dealer license,
10 submits a complete application and meets all other requirements
11 of the [~~motor vehicle division~~] department.

12 F. A dealer license or supplemental license shall
13 be conspicuously displayed at the location of the established
14 place of business for which it was issued."

15 Section 41. Section 66-12-6.7 NMSA 1978 (being Laws 2003,
16 Chapter 410, Section 6) is amended to read:

17 "66-12-6.7. DEALER LICENSE DENIAL, SUSPENSION AND
18 REVOCATION.--The [~~motor vehicle division of the taxation and~~
19 ~~revenue~~] department of motor vehicles may deny, suspend or
20 revoke a dealer license for:

21 A. a material misrepresentation communicated by a
22 dealer to [~~the motor vehicle division~~] that department;

23 B. a lack of fitness as proscribed by rule of [~~the~~
24 ~~motor vehicle division~~] that department; or

25 C. a willful violation of a federal or state law

.174842.1

underscored material = new
[bracketed material] = delete

1 relating to the sale, distribution, financing, registration,
2 taxing or insuring of motorboats."

3 Section 42. Section 66-12-6.8 NMSA 1978 (being Laws 2003,
4 Chapter 410, Section 7) is amended to read:

5 "66-12-6.8. DEALER BONDS--REQUIRED INSURANCE.--A person
6 licensed as a dealer pursuant to the Boat Act shall file with
7 the [~~state parks~~] division a bond in the amount of fifty
8 thousand dollars (\$50,000) unless there is a bond on file with
9 the [~~motor vehicle division of the taxation and revenue~~]
10 department of motor vehicles for a motor vehicle dealer's
11 license and such proof is submitted to the [~~state parks~~]
12 division. The bond shall be issued by a corporate surety
13 licensed to conduct business within the state. The bond shall
14 be issued under the condition that the applicant shall not
15 practice fraud or violate any provision of the Boat Act. A
16 person who has obtained a dealer license shall furnish evidence
17 that the person has liability insurance for the established
18 place of business for which the license was obtained."

19 Section 43. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
20 PROPERTY AND CONTRACTS.--On the effective date of this act:

21 A. all personnel of the motor vehicle division of
22 the taxation and revenue department and all personnel of the
23 motor transportation division of the department of public
24 safety are transferred to the department of motor vehicles;

25 B. all appropriations, money, records, property,

.174842.1

underscoring material = new
[bracketed material] = delete

1 equipment and supplies of the motor vehicle division of the
2 taxation and revenue department and all appropriations, money,
3 records, property, equipment and supplies of the motor
4 transportation division of the department of public safety are
5 transferred to the department of motor vehicles; and

6 C. all contracts, grants and agreements of the
7 taxation and revenue department relating to the motor vehicle
8 division and all contracts, grants and agreements of the
9 department of public safety relating to the motor
10 transportation division are transferred to the department of
11 motor vehicles.

12 Section 44. REPEAL.--Section 66-1-4.21 NMSA 1978 (being
13 Laws 1998 (1st S.S.), Chapter 10, Section 9) is repealed.

14 Section 45. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2009.

17
18
19
20
21
22
23
24
25