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FISCAL IMPACT REPORT

ORIGINAL DATE

SPONSOR Torraco **LAST UPDATED** 02/18/13 **HB** _____

SHORT TITLE Motor Transportation Act Changes **SB** 486

ANALYST Weber

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|-------------------------------------|------|---------------------------------|------------------|
| FY13 | FY14 | FY15 | | |
| | See Fiscal Implication Narrative | | | |

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

Administrative Office of the District Attornies (AODA)

Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

This bill addresses incompatibilities between DPS and PRC statutes and Federal regulations. The Bill amends definitions in the Motor Transportation Act, the Motor Carrier Safety Act, the Motor Vehicle Code, and the Commercial Driver’s License Act; reorganizes certain penalty assessment provisions under the Motor Transportation Act; provides for rule-making authority to establish minimum levels of financial responsibility under the Motor Carrier Safety Act; mandates the offering of an alternative penalty assessment for certain misdemeanors under the Motor Carrier Safety Act; allows other commissioned state enforcement officers to make warrantless arrests under the Motor Vehicle Act; and increases the allowable size of motor vehicles on public streets or highways from eight feet to eight feet six inches before the Unlawful Use of Highways Act is breached.

Another change is that an officer may enforce in the field the provisions of the Motor Transportation Act and the Motor Carrier Act and perform inspections as provided in this section whenever the officer stops a commercial motor carrier. This eliminates the need to observe that the vehicle is in or is being operated in violation of the ACT

FISCAL IMPLICATIONS

DPS reports that Highway Safety Funds are used to support state and community programs to reduce deaths and injuries on the highways. To receive support states must be in compliance with federal statutes and codes. New Mexico currently has a number of statutes and codes which are not in compliance with guiding federal statutes and codes. With the described incompatibilities and inconsistencies between DPS and PRC statutes and Federal regulations, DPS could potentially lose federal funding for motor carrier safety enforcement which would eliminate our Motor Carrier Safety Assistance Program (MSCAP), Border and New Entrant funding sources and associated federally funded FTE which equals approximately \$4,000,000 for FY13 appropriations.

SIGNIFICANT ISSUES

DPS notes the importance of aligning with New Mexico rules and statute with the federal counter-parts relating to motor carrier requirements:

This bill will provide uniformity to existing definitions contained in the Motor Carrier Act, Motor Carrier Safety Act, and Motor Vehicle Code.

The bill will also clarify and place into statute (Chapter 65) the financial responsibility requirements for motor carriers of passengers (buses) which were included in the state's original adoption into NMAC by reference Part 387 of Federal Motor Carrier Safety Regulations which sets minimum levels of coverage. Page 18 L 12-19. This bill will provide both agencies uniform legal authority from which to require and enforce minimum levels of financial responsibility.

Under the Motor Transportation Act, PRC sets the minimum amount of financial responsibility for passenger carriers deemed "incidental carriers" at \$250,000. In 65-2A-3, PRC defines an "incidental carrier" as "a motor carrier of persons that transports passengers using vehicles designed to transport sixteen or more passengers, including the driver, and for which the customer pays either directly or indirectly."

This is in conflict with 18.2.3.10, NMAC which adopts the financial responsibility requirements of the Federal Motor Carrier Safety Regulations which prescribe the minimum level of financial responsibility to be \$5,000,000 for passenger carriers using vehicles with a seating capacity of sixteen passengers or more. Furthermore, there is not a provision for a lower amount of financial responsibility or a definition for incidental carriers in either the Federal Motor Carrier Safety Regulations or the NM Motor Carrier Safety Act. All passenger carriers operating vehicles with prescribed seating capacities must maintain prescribed minimum levels of financial responsibility.

DPS is required to enforce the federal regulations resulting in an inconsistent adoption of enforcement levels between federal and PRC mandates for certain passenger carriers.

PRC echoes these concerns and concludes:

Although the Motor Transportation Division is currently required to enforce PRC rules, if SB 486 became law presumably the Motor Transportation Division would adopt a rule that mirrors the federal requirements on financial responsibility and would enforce their own requirements if

there was a conflict between the Motor Transportation Division's limits and those of the PRC.

TECHNICAL ISSUES

PRC adds that as long as NMSA 1978, § 66-8-116.2 A is being amended, the penalty assessment category for "Failure to carry single state registration receipt issued by a base state" is no longer applicable as the Single State Registration Program was replaced by the Unified Carrier Registration Act of 2005 and a penalty assessment misdemeanor is currently provided for a violation of the Unified Carrier Registration Act of 2005 under NMSA 1978, § 66-8-116.2 A.

POSSIBLE QUESTIONS

Has any federal agency contacted DPS regarding the failure to change statutes or rules and threaten to reduce or eliminated funding for not doing so?

MW/blm