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AN ACT
RELATING TO MOTOR CARRIER SERVICES; REMOVING APPLICABILITY OF
THE MOTOR CARRIER ACT TO COMMUTER SERVICES.

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

SECTION 1. Section 65-2A-3 NMSA 1978 (being Laws 2003,
Chapter 359, Section 3, as amended by Laws 2013, Chapter 73,
Section 2 and by Laws 2013, Chapter 77, Section 2) is amended
to read:

"65-2A-3. DEFINITIONS.--As used in the Motor Carrier
Act:

A. "ability to provide certificated service" means
that an applicant or carrier can provide reasonably
continuous and adequate transportation service of the type
required by its application or its operating authority in the
territory authorized or sought to be authorized;

B. "ambulance service" means the intrastate
transportation of sick or injured persons in an ambulance
meeting the standards established by the commission under the
Ambulance Standards Act;

C. "amendment of a certificate or permit" means a
permanent change in the type or nature of service, territory
or terms of service authorized by an existing certificate or
permit;

D. "antitrust laws" means the laws of this state

1 relating to combinations in restraint of trade;

2 E. "base state" means the registration state for
3 an interstate motor carrier that either is subject to
4 regulation or is transporting commodities exempt from
5 regulation by the federal motor carrier safety administration
6 pursuant to the unified carrier registration system;

7 F. "cancellation of an operating authority" means
8 the voluntary, permanent termination of all or part of an
9 operating authority;

10 G. "certificate" means the authority issued by the
11 commission to a person that authorizes the person to offer
12 and provide a certificated service as a motor carrier;

13 H. "certificated service" means one of the
14 following transportation services:

15 (1) an ambulance service;

16 (2) a household goods service;

17 (3) a shuttle service;

18 (4) a specialized passenger service; or

19 (5) a taxicab service;

20 I. "change in a certificate or permit" means the
21 voluntary amendment, cancellation, change in form of legal
22 entity of the holder, lease, reinstatement, transfer or
23 voluntary suspension of a certificate or permit;

24 J. "charter service" means the compensated
25 transportation of a group of persons in a motor vehicle who,

1 pursuant to a common purpose, under a single contract, at a
2 fixed charge for the motor vehicle and driver, have acquired
3 the exclusive use of the motor vehicle to travel together
4 under an itinerary either specified in advance or modified
5 after having left the place of origin;

6 K. "commission" means the public regulation
7 commission;

8 L. "commuter service" means the intrastate
9 transportation of passengers in motor vehicles having a
10 capacity of seven to fifteen persons, including the driver,
11 provided to a volunteer-driver commuter group that shares
12 rides to and from the workplace or training site, where
13 participation is incidental to the primary work or training-
14 related purposes of the commuter group, and where the fees
15 paid by the participants do not exceed the costs for
16 transportation, including gas and other trip-related
17 expenses;

18 M. "continuous and adequate service" means:

19 (1) for full-service carriers, reasonably
20 continuous availability, offering and provision of
21 transportation services through motor vehicles, equipment and
22 resources satisfying safety and financial responsibility
23 requirements under the Motor Carrier Act and commission rule,
24 that are reasonably adequate to serve the entire full-service
25 territory authorized in the certificate, with reasonable

1 response to all requests for service for the nature of
2 passenger service authorized, based on the nature of public
3 need, expense and volume of demand for the type of service
4 authorized during seasonal periods; and

5 (2) for general-service carriers, reasonably
6 continuous availability and offering of transportation
7 services through motor vehicles, equipment and resources
8 satisfying safety and financial responsibility requirements
9 under the Motor Carrier Act and commission rule for the
10 nature of the transportation service authorized in the
11 certificate;

12 N. "contract driver" means a person who contracts
13 with a motor carrier as an independent contractor to drive a
14 vehicle pursuant to an operating authority issued to the
15 motor carrier;

16 O. "endorsement" means the specification in a
17 certificate of the territory in which the carrier is
18 authorized to operate, the nature of service to be provided
19 by a certificated passenger service and any additional terms
20 of service that may be reasonably granted or required by the
21 commission for the particular authority granted;

22 P. "fare" means the full compensation charged for
23 transportation by a tariffed passenger service;

24 Q. "financial responsibility" means the ability to
25 respond in damages for liability arising out of the

1 ownership, maintenance or use of a motor vehicle in the
2 provision of transportation services;

3 R. "fitness to provide a transportation service"
4 means that an applicant or carrier complies with state law as
5 provided in the Motor Carrier Act or by rule of the
6 commission;

7 S. "for hire" means that transportation is offered
8 or provided to the public for remuneration, compensation or
9 reward of any kind, paid or promised, either directly or
10 indirectly;

11 T. "full service" means one of the following
12 certificated passenger services that are endorsed and
13 required to meet specific standards for the provision of
14 service to or throughout a community:

15 (1) an ambulance service;

16 (2) a scheduled shuttle service; or

17 (3) a municipal taxicab service;

18 U. "general service" means one of the following
19 certificated services that provides transportation services
20 of the type authorized, but is not required to provide
21 unprofitable or marginally profitable carriage:

22 (1) a general shuttle service;

23 (2) a general taxicab service;

24 (3) a specialized passenger service; or

25 (4) a household goods service;

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

6 W. "holder of an operating authority" means the
7 grantee of the operating authority or a person that currently
8 holds all or part of the right to exercise the authority
9 through a transfer by operation of law;

10 X. "household goods" means personal effects and
11 property used or to be used in a dwelling when a part of the
12 equipment or supply of the dwelling and other similar
13 property as the federal motor carrier safety administration
14 may provide by regulation, but shall not include property
15 moving to or from a factory or store, other than property the
16 householder has purchased to use in the householder's
17 dwelling that is transported at the request of, and the
18 transportation charges are paid to the carrier by, the
19 householder;

20 Y. "household goods service" means the intrastate
21 transportation, packing and storage of household goods for
22 hire;

23 Z. "interested person" means a motor carrier
24 operating in the territory involved in an application or
25 grant of temporary authority, a person affected by an order

1 of the commission or a rule proposed for adoption by the
2 commission or a person the commission may deem interested in
3 a particular matter;

4 AA. "interstate motor carrier" means a person
5 providing compensated transportation in interstate commerce,
6 whether or not the person is subject to regulation by the
7 federal motor carrier safety administration;

8 BB. "intrastate motor carrier" means a motor
9 carrier offering or providing transportation for hire by
10 motor vehicle between points and places in the state;

11 CC. "involuntary suspension" means the temporary
12 cessation of use of all or part of an operating authority
13 ordered by the commission for cause for a stated period of
14 time or pending compliance with certain conditions;

15 DD. "lease of a certificate or permit" means an
16 agreement by which the holder of a certificate or permit
17 grants to another person the exclusive right to use all or
18 part of the certificate or permit for a specified period of
19 time in exchange for consideration, but does not include an
20 agreement between a motor carrier and its contract driver;

21 EE. "lease of equipment" means an agreement
22 whereby a motor carrier obtains equipment owned by another
23 person for use by the motor carrier in the exercise of its
24 operating authority, but does not include an agreement
25 between a motor carrier and its contract driver;

1 FF. "motor carrier" or "carrier" means a person
2 offering or providing transportation of persons, property or
3 household goods for hire by motor vehicle, whether in
4 intrastate or interstate commerce;

5 GG. "motor carrier organization" means an
6 organization approved by the commission to represent motor
7 carriers and to discuss and propose industry interests and
8 matters other than rates, as well as discussing and proposing
9 rates and other matters pertaining to statewide tariffs;

10 HH. "motor vehicle" or "vehicle" means a vehicle,
11 machine, tractor, trailer or semitrailer propelled or drawn
12 by mechanical power and used on a highway in the
13 transportation of property, household goods or persons, but
14 does not include a vehicle, locomotive or car operated
15 exclusively on rails;

16 II. "nature of service" means the type of
17 transportation service to be provided by a certificated
18 passenger service as set forth in Subsection A of Section
19 65-2A-8 NMSA 1978;

20 JJ. "nonconsensual tow" means the compensated
21 transportation of a motor vehicle by a towing service, if
22 such transportation is performed at the request of a law
23 enforcement officer or without the prior consent or
24 authorization of the owner or operator of the motor vehicle;

25 KK. "notice period" means the period of time

1 specified in Section 65-2A-6 NMSA 1978 following publication
2 of notice during which the commission may not act;

3 LL. "objection" means a document filed with the
4 commission by an interested person or a member of the public
5 during the notice period for an application for a certificate
6 or a permit, or for amendment, lease or transfer of a
7 certificate or permit, that expresses an objection to, or
8 provides information concerning, the matter before the
9 commission;

10 MM. "operating authority" means a certificate,
11 permit, warrant, unified carrier registration or temporary
12 authority issued by the commission to a motor carrier;

13 NN. "passenger" means a person other than the
14 driver of a motor vehicle transported in a motor vehicle;

15 OO. "passenger service" means a transportation
16 service offered or provided for the transportation of
17 passengers by motor vehicle;

18 PP. "permit" means the authority issued by the
19 commission to a person that authorizes the person to offer
20 and provide a permitted service as a motor carrier;

21 QQ. "permitted service" means the intrastate
22 transportation of passengers or household goods for hire
23 pursuant to a contract between the motor carrier and another
24 person;

25 RR. "predatory rate or practice" means the knowing HB 345
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1 and willful requirement by a carrier that a passenger or
2 shipper pay a rate, fare or other charge in excess of the
3 rates and charges or in a manner other than in accordance
4 with terms of service as provided by law, as provided in a
5 tariff governing the carrier or as provided in a preexisting
6 written contract regarding the carriage, when such charge is
7 made:

8 (1) by a passenger carrier as a prior
9 condition for the provision of transportation or continued
10 transportation of a passenger; or

11 (2) as a prior condition by a towing service
12 carrier performing nonconsensual tows or a household goods
13 service carrier for delivery of, release of or access to
14 vehicles or household goods by the shipper or registered
15 owner;

16 SS. "process" means, in the context of legal
17 process, an order, subpoena or notice issued by the
18 commission or an order, subpoena, notice, writ or summons
19 issued by a court;

20 TT. "property" means movable articles of value,
21 including cadavers, hazardous matter, farm products,
22 livestock feed, stock salt, manure, wire, posts, dairy
23 products, livestock hauled in lots of twenty-five thousand
24 pounds or more, farm or ranch machinery and the items
25 transported by a towing service, but does not include

1 household goods or unprocessed farm products transported by a
2 farmer from the place of harvesting to market, storage or a
3 processing plant;

4 UU. "protest" means a document in the form of a
5 pleading filed with the commission by a full-service carrier
6 that expresses an objection to an application before the
7 commission for a certificate for passenger service or for a
8 permit for ambulance service or for passenger service
9 pursuant to a public-charge contract or for amendment, lease
10 or transfer of such a certificate or permit:

11 (1) when the territory involved in the
12 application includes all or a portion of the full-service
13 territory of the protesting carrier; and

14 (2) for a carrier other than an ambulance
15 service carrier, when the grant of the application will, or
16 presents a reasonable potential to, impair, diminish or
17 otherwise adversely affect its existing provision of full-
18 service passenger service to the public within its full-
19 service territory;

20 VV. "public-charge contract" means a contract or
21 contractual arrangement between a motor carrier and a third
22 party for passenger service that requires or allows the motor
23 carrier to charge passengers a fare for the transportation
24 service to be provided pursuant to the contract;

25 WW. "rate" means a form of compensation charged,

1 whether directly or indirectly, by a person for a
2 transportation service subject to the jurisdiction of the
3 commission;

4 XX. "record of a motor carrier" means an account,
5 correspondence, memorandum, tape, disc, paper, book or
6 transcribed information, or electronic data information,
7 including the electronic hardware or software necessary to
8 access the electronic data information in its document form,
9 regarding the operation of a motor carrier;

10 YY. "registration year" means a calendar year;

11 ZZ. "revocation" means the involuntary, permanent
12 termination of all or part of an operating authority ordered
13 by the commission for cause;

14 AAA. "shipper" means a person who consigns or
15 receives property or household goods for transportation;

16 BBB. "shuttle service" means the intrastate
17 transportation of passengers for hire pursuant to a set fare
18 for each passenger between two or more specified terminal
19 points or areas and includes both scheduled shuttle service
20 and general shuttle service as follows:

21 (1) "scheduled shuttle service" means a
22 shuttle service that transports passengers to and from an
23 airport both through prior arrangement and through
24 presentment at terminal locations, on the basis of a daily
25 time schedule filed with the commission, that must be met in

1 a timely fashion with a vehicle present at the terminal
2 location regardless of the number of passengers carried on
3 any run, if any, and that includes general shuttle service;
4 and

5 (2) "general shuttle service" means a
6 shuttle service that is not required to operate on a set
7 schedule, that may optionally use a grid map to specify
8 distant or adjacent terminal areas and that is not required
9 to accept passengers other than pre-arranged passengers;

10 CCC. "specialized passenger service" means the
11 intrastate transportation for hire of passengers with special
12 physical needs by specialized types of vehicles, or for
13 specialized types of service to the public or community, as
14 the commission may by rule provide;

15 DDD. "tariff" means a document filed by a tariffed
16 service carrier that has been approved by the commission and
17 sets forth the transportation services offered by the motor
18 carrier to the general public, including the rates, terms of
19 service and applicable time schedules relating to those
20 services;

21 EEE. "tariffed service" means one of the following
22 transportation services authorized by the commission for the
23 provision of service on the basis of rates and terms of
24 service contained in a tariff approved by the commission:

25 (1) an ambulance service;

- 1 (2) a household goods service;
- 2 (3) a shuttle service;
- 3 (4) a specialized passenger service;
- 4 (5) a taxicab service; or
- 5 (6) a towing service performing
- 6 nonconsensual tows;

7 FFF. "taxicab association" means an association,
8 cooperative or other legal entity whose members are taxicab
9 drivers, which shall be treated in the same manner as any
10 other applicant with regard to applications for a certificate
11 for general taxicab service or for full-service municipal
12 taxicab service and which shall be subject in the same manner
13 to all other provisions, requirements and limitations of the
14 Motor Carrier Act;

15 GGG. "taxicab service" means intrastate
16 transportation of passengers for hire in a motor vehicle
17 having a capacity of not more than eight persons, including
18 the driver, for which the passenger or other person engaging
19 the vehicle is allowed to specify not only the origin and
20 destination points of the trip but also, within reason, the
21 route taken by the vehicle, any intermediate stop, any
22 optional waiting at a stop and any other passengers
23 transported during the trip and that charges a fare for use
24 of the vehicle primarily on the basis of a drop-flag fee,
25 cumulative mileage and cumulative wait time through a taxicab

1 meter used to cumulate and display the fare to the passenger
2 and includes both municipal taxicab service and general
3 taxicab service, as follows:

4 (1) "municipal taxicab service" means a
5 taxicab service that deploys vehicles at all times of the day
6 and year, is centrally dispatched and reasonably responds to
7 all calls for service within its endorsed full-service
8 territory regardless of profitability of the individual trip,
9 in addition to the transportation service provided by a
10 general taxicab service; and

11 (2) "general taxicab service" means a
12 taxicab service that need not be dispatched, that may pick up
13 on-demand passengers through flagging or at a taxicab stand
14 or queue, that need not deploy vehicles in any particular
15 manner and that may charge for trips to destination points or
16 places outside of the taxicab service's certificated
17 territories on the basis of a set fare;

18 HHH. "terms of service" means all terms, aspects,
19 practices, limitations, conditions and schedules of service
20 other than specific rate amounts pertaining to a tariffed
21 service;

22 III. "towing service" means the use of specialized
23 equipment, including repossession services using towing
24 equipment, to transport or store:

25 (1) a damaged, disabled or abandoned motor

1 vehicle and its cargo;

2 (2) a motor vehicle to replace a damaged,
3 disabled or abandoned motor vehicle;

4 (3) parts and equipment to repair a damaged,
5 disabled or abandoned motor vehicle;

6 (4) a motor vehicle whose driver has been
7 declared unable to drive by a law enforcement officer;

8 (5) a motor vehicle whose driver has been
9 removed from the scene or is unable to drive; or

10 (6) a motor vehicle repossessed or seized
11 pursuant to lawful authority;

12 JJJ. "transfer of a certificate or permit" means a
13 permanent conveyance of all or part of a certificate or
14 permit;

15 KKK. "transfer by operation of law" means that all
16 or a part of a grantee's interest in an operating authority
17 passes to a fiduciary or other person by application of
18 established rules of law;

19 LLL. "transportation service" means transportation
20 subject to the jurisdiction of the commission, offered or
21 provided by a motor carrier, that requires the carrier to
22 obtain an operating authority from the commission under the
23 Motor Carrier Act, regardless of whether the motor carrier
24 has obtained appropriate operating authority from the
25 commission;

1 MMM. "verification" means a notarized signature
2 verifying the contents of the document or other filing or a
3 signature verifying the contents of the document or other
4 filing under penalty of perjury, expressly providing that the
5 signatory swears or affirms the contents under penalty of
6 perjury as provided in Subsection A of Section 65-2A-33 NMSA
7 1978;

8 NNN. "voluntary suspension" means the commission-
9 authorized cessation of use of all or part of a certificate
10 or permit at the request of the holder for a specified period
11 of time, not to exceed twelve consecutive months;

12 OOO. "warrant" means the authority issued by the
13 commission to a person that authorizes the person to offer
14 and provide a warranted service as a motor carrier;

15 PPP. "warranted service" means one of the
16 following intrastate transportation services offered or
17 provided for hire:

- 18 (1) a charter service;
- 19 (2) a property transportation service; or
- 20 (3) a towing service; and

21 QQQ. "weight-bumping" means the knowing and
22 willful statement of a fraudulent weight on a shipment of
23 household goods."

24 SECTION 2. Section 65-2A-12 NMSA 1978 (being Laws 2003,
25 Chapter 359, Section 12, as amended by Laws 2013, Chapter 73,

1 Section 11 and by Laws 2013, Chapter 77, Section 11) is
2 amended to read:

3 "65-2A-12. WARRANTS.--

4 A. The commission shall issue a warrant that
5 allows a person to provide warranted service as a charter
6 service, towing service or motor carrier of property if the
7 commission finds that the applicant is in compliance with the
8 financial responsibility and safety requirements of the Motor
9 Carrier Act and the rules of the commission.

10 B. A towing service carrier performing
11 nonconsensual tows is subject to tariff rates and terms of
12 service. A towing service carrier performing nonconsensual
13 tows shall not use the same motor vehicles, equipment and
14 facilities used by another warranted towing service carrier
15 performing nonconsensual tows.

16 C. A warrant shall not be transferred or leased to
17 another person.

18 D. The commission may without notice or a public
19 hearing cancel a warrant if the owner fails to operate under
20 the warrant for twelve consecutive months or fails to provide
21 proof of financial responsibility as required by the
22 commission for four consecutive months."

23 **SECTION 3.** Section 65-2A-19 NMSA 1978 (being Laws 2003,
24 Chapter 359, Section 19, as amended by Laws 2013, Chapter 73,
25 Section 17 and by Laws 2013, Chapter 77, Section 17) is

1 amended to read:

2 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND
3 DRIVERS.--

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

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

19 C. The New Mexico state police division of the
20 department of public safety may immediately order, without
21 notice or a public hearing, a motor vehicle to be taken out
22 of service for violation of a federal or state law or rule
23 relating to safety if the violation would endanger the public
24 health or safety.

25 D. The commission shall implement rules requiring

1 carriers to obtain criminal background reports for all
2 employed or contract drivers of certificated service carriers
3 and for all other persons employed by certificated household
4 goods service carriers who enter private dwellings in the
5 course of household goods service."

6 SECTION 4. Section 65-2A-38 NMSA 1978 (being Laws 2003,
7 Chapter 359, Section 38, as amended by Laws 2013, Chapter 73,
8 Section 32 and by Laws 2013, Chapter 77, Section 32) is
9 amended to read:

10 "65-2A-38. EXEMPTIONS.--The Motor Carrier Act shall not
11 apply to:

12 A. school buses, provided that school buses shall
13 be subject to applicable school bus safety provisions
14 established by the state transportation director;

15 B. United States mail carriers, unless they are
16 engaged in other business as motor carriers of persons or
17 household goods;

18 C. hearses, funeral coaches or other motor
19 vehicles belonging to or operated in connection with the
20 business of a funeral service practitioner licensed by the
21 state;

22 D. a county or municipal public bus transportation
23 system;

24 E. private carriers; or

25 F. commuter services."

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SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2017.

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