

AN ACT

RELATING TO MOTOR CARRIERS; PROVIDING FOR REGULATION OF
COMMUTER VANPOOLS; AMENDING AND ENACTING SECTIONS OF THE
MOTOR CARRIER ACT; DECLARING AN EMERGENCY.

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

Section 1. Section 65-2-82 NMSA 1978 (being Laws 1981,
Chapter 358, Section 3, as amended) is amended to read:

"65-2-82. DEFINITIONS. -- As used in the Motor Carrier
Act:

A. "antitrust laws" means the laws of this state
relating to combinations in restraint of trade;

B. "broker" means a person not included in the
term "motor carrier" and not a bona fide employee or agent of
any motor carrier who, as principal or agent, sells or offers
for sale any transportation subject to the Motor Carrier Act
or negotiates for or holds himself out by solicitation,
advertisement or otherwise as one who sells, provides,
furnishes, contracts or arranges for that transportation;

C. "certificate" means a certificate of public
convenience and necessity issued under authority of the laws
of the state to common motor carriers;

D. "clerk" or "chief clerk" means the chief clerk
of the public regulation commission;

E. "commission" means the public regulation

commission;

F. "common motor carrier" means a person who undertakes, whether directly or indirectly or by lease of equipment or operating rights or any other arrangement, to transport persons or property or any class of property for the general public by motor vehicle for compensation, whether over regular or irregular routes and under scheduled or nonscheduled service, but does not include farm carriers and does not include commuter vanpools;

G. "commuter vanpool" means a volunteer-driver commuter group that operates a vanpool that utilizes a seven- to fifteen-passenger vehicle to share rides to and from the workplace or training site; where participation is open to the public and incidental to the primary work- or training-related purposes of the individuals in the group; and where the volunteer drivers determine the daily vanpool route, have no employer-employee relationship with the vanpool operator and generally begin their vanpool driving duties at their home and end at the individual workplace or training site;

H. "contract motor carrier" means a person not a common motor carrier who, under individual contracts or agreements and whether directly or indirectly or by lease of equipment or operating rights or any other arrangements, transports persons or property by motor vehicle for

compensation, but does not include farm carriers;

I. "farm carrier" means a motor vehicle registered in this state being used in the transportation for hire of a cargo consisting of one or several of the following: farm produce, including grains, cotton, cottonseed, vegetables, hay and other farm products; livestock feed; livestock; stock salt; manure; wire; posts; dairy products; and farm or ranch machinery except tractors weighing more than forty-five thousand pounds;

J. "highway" means the public roads, highways, streets and ways in this state;

K. "household goods" means:

(1) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of the dwelling and other similar property as the commission may provide by rule; except that this paragraph shall not be construed to include property moving from a factory or store, except property as the householder has purchased with intent to use in his dwelling and that is transported at the request of, and the transportation charges paid to the carrier by, the householder;

(2) furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of stores, offices, museums, institutions,

hospitals or other establishments and other similar property as the commission may provide by rule; except that this paragraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to the moving of the establishment, or a portion of it, from one location to another; and

(3) articles, including objects of art, displays and exhibits, that, because of their unusual nature or value, require the specialized handling and equipment usually employed in moving household goods and other similar articles as the commission may provide by rule; except that this paragraph shall not be construed to include any article, whether crated or uncrated, that does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods;

L. "interested parties" shall in all cases include all carriers operating over the routes or any part thereof or in the territory involved in an application for a certificate or permit or an application to file or change a schedule of rates, charges or fares or a rule or practice, and other parties as the commission may deem interested in the particular matter;

M. "irregular route" means a course to be used by a motor carrier that is not restricted to any specific

highway within the area the motor carrier is authorized to serve;

N. "lease" means an arrangement whereby a motor carrier augments his equipment by use of equipment owned by others;

O. "license" means a license issued pursuant to the Motor Carrier Act to a broker;

P. "motor carrier" includes common motor carriers, contract motor carriers and any person performing for-hire transportation service without authority from the commission and farm carriers;

Q. "motor vehicle" means a vehicle, machine, tractor, trailer or semi-trailer propelled or drawn by mechanical power and used upon the highways in the transportation of property or persons, but does not include any vehicle, locomotive or car operated exclusively on rail or rails;

R. "permit" means a permit issued under authority of the laws of this state to contract motor carriers;

S. "person" means an individual, firm, partnership, corporation, company, association or organization and includes any trustee, receiver, assignee or personal representative thereof;

T. "regular route" means a fixed, specific and determined course to be traveled by a motor carrier's

vehicles rendering service to, from or between various points, localities or municipalities in this state;

U. the "services" and "transportation" to which the Motor Carrier Act applies include all vehicles operated by, for or in the interest of any motor carrier irrespective of ownership or of contract, express or implied, together with all facilities and property controlled by any motor carrier and used in the transportation of persons or property or in the performance of any service in connection therewith;

V. "shipper" means a person who consigns or receives goods for transportation;

W. "single-line rate" means a rate, charge or allowance proposed by a single common motor carrier of property that is applicable only over its line and for which the transportation can be provided by that common motor carrier;

X. "state" means New Mexico;

Y. "towing company" means a common motor carrier engaged in transporting for hire disabled or abandoned motor vehicles by means of a tow truck or flatbed vehicle carrier; and

Z. "weight-bumping" means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods that is subject to the jurisdiction of the commission under the Motor Carrier Act. "

Section 2. A new section of the Motor Carrier Act is enacted to read:

"COMMUTER VANPOOLS--REGISTRATION--COMMISSION
JURISDICTION--APPLICABILITY--EXEMPTIONS.--

A. No commuter vanpool shall be operated on any public highway in this state without first obtaining from the commission a certificate of registration.

B. A certificate of registration shall be issued for commuter vanpools as a matter of course, without hearing, upon proper application being made and filed and fees paid. The application shall be in writing, be sworn to and designate the equipment to be used, the area to be served and other information as the commission may require. The application shall be accompanied by a certificate of insurance or some other showing of insurance coverage for public liability and property damage in amounts determined by the commission. The commission shall accept as other showing of insurance coverage a certified statement from the superintendent of insurance that the person has met all requirements to be self-insured, a binder issued by a company authorized to do surety or insurance business or a form determined by the commission showing proof of public insurance or a surety bond. This coverage shall be comparable to that required of other regulated carriers and issued by a company authorized to do business in this state.

The application shall also be accompanied by a vehicle inspection certificate. A vehicle used as a commuter vanpool shall be required to have an annual inspection, and the inspection certificate must be filed with the commission at the end of each calendar year.

C. A fee in the amount provided in Section 65-2-125 NMSA 1978 shall accompany the application for registration, which may be for one or more vehicles. This fee shall be in lieu of mileage taxes and the inspection and supervision fees required under Section 63-7-20 NMSA 1978. However, commuter vanpools shall not be entitled to one-half rates on license plates as common, contract or private carriers.

D. The certificate of registration shall remain in force until canceled by the commission. Cancellation for failure to maintain prescribed insurance coverage or vehicle inspections may be ordered by the commission without hearing.

A commuter vanpool certificate of registration is subject to cancellation if the holder fails to operate under the certificate of registration for twelve consecutive months.

E. The commission shall have the power and authority over commuter vanpools as to all matters of public liability and property damage insurance.

F. The operator of a commuter vanpool shall certify that it has a program providing for an initial drug

test for anyone seeking to be a commuter vanpool driver. The program shall use reasonable collection and analysis procedures to ensure accurate results, require testing only for substances controlled by federal regulation of commercial motor carriers and ensure the confidentiality of the test results and medical information obtained."

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____