

1 SENATE BILL 446

2 **47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

3 INTRODUCED BY

4 Carroll H. Leavell

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7
8 FOR THE LEGISLATIVE FINANCE COMMITTEE

9
10 AN ACT

11 RELATING TO MOTOR VEHICLES; CREATING THE DEPARTMENT OF MOTOR
12 VEHICLES; TRANSFERRING THE MOTOR VEHICLE DIVISION OF THE
13 TAXATION AND REVENUE DEPARTMENT, INCLUDING THE POWERS AND
14 PERSONNEL TO ADMINISTER AND ENFORCE THE MOTOR VEHICLE CODE AND
15 OTHER PROVISIONS OF LAW RELATING TO MOTOR VEHICLES, TO THE
16 DEPARTMENT OF MOTOR VEHICLES; TRANSFERRING THE MOTOR
17 TRANSPORTATION DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY,
18 INCLUDING THE POWERS AND PERSONNEL TO ADMINISTER AND ENFORCE
19 THE MOTOR TRANSPORTATION ACT AND OTHER PROVISIONS OF LAW
20 RELATING TO MOTOR CARRIERS, TO THE DEPARTMENT OF MOTOR
21 VEHICLES; PROVIDING FOR THE DETENTION OF COMMERCIAL MOTOR
22 CARRIER VEHICLES UNTIL PAST DUE TAXES AND FEES ARE PAID;
23 REQUIRING RULEMAKING; RECONCILING MULTIPLE AMENDMENTS TO THE
24 SAME SECTION OF LAW IN LAWS 2003; RECONCILING MULTIPLE
25 AMENDMENTS TO THE SAME SECTIONS OF LAW IN LAWS 2005; AMENDING,

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1 REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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

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

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

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

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

19 Section 4. [NEW MATERIAL] DEPARTMENT CREATED.--The
20 "department of motor vehicles" is created in the executive
21 branch. The department is a cabinet department and consists of
22 one administrative division and two program divisions as
23 follows:

24 A. the motor vehicles division; and

25 B. the motor transportation division.

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

2 A. The administrative head of the department is the
3 "secretary of motor vehicles". The secretary is appointed by
4 the governor with the consent of the senate and serves in the
5 executive cabinet.

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

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

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

21 Section 8. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL
22 POWERS.--

23 A. The secretary is responsible to the governor for
24 the operation of the department. It is the secretary's duty to
25 manage all operations of the department and to administer and

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1 enforce the laws with which the secretary or the department is
2 charged.

3 B. To perform these duties, the secretary has every
4 power expressly enumerated in the laws, whether granted to the
5 secretary or the department or any division of the department,
6 except where authority conferred upon any division is
7 explicitly exempted from the secretary's authority by statute.
8 In accordance with these provisions, the secretary shall:

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

13 (2) delegate authority to subordinates as the
14 secretary deems necessary and appropriate, clearly delineating
15 the limitations of authority;

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

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

24 (5) take administrative action by issuing
25 orders and instructions, consistent with law, to ensure

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1 compliance with the provisions of the Department of Motor
2 Vehicles Act, and enforce those orders and instructions by
3 appropriate administrative action in the courts;

4 (6) conduct research that will improve the
5 operation of the department and the provision of services to
6 the residents of the state;

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

12 (8) prepare an annual budget for the
13 department;

14 (9) cooperate with administratively attached
15 agencies and adjunct agencies to:

16 (a) minimize or eliminate duplication of
17 services and jurisdictional conflicts;

18 (b) coordinate activities and resolve
19 problems of mutual concern; and

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

24 (10) give bond in the penal sum of twenty-five
25 thousand dollars (\$25,000) and require directors to each give

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1 bond in the penal sum of ten thousand dollars (\$10,000)
2 conditioned upon the faithful performance of duties as provided
3 in the Surety Bond Act. The department shall pay the costs of
4 these bonds; and

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

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

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

19 E. The secretary may issue reasonable procedural
20 rules necessary to carry out the duties of the department. No
21 rule promulgated by the director of any division in carrying
22 out the functions and duties of the division shall be effective
23 until approved by the secretary, unless otherwise provided by
24 statute. Unless otherwise provided by statute, no rule
25 affecting any person or agency outside the department shall be

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1 adopted, amended or repealed without a public hearing on the
2 proposed action before the secretary or a hearing officer
3 designated by the secretary. The public hearing shall be held
4 in Santa Fe unless otherwise permitted by statute. Notice of
5 the subject matter of the rule, the action proposed, the time
6 and place of the hearing, the manner in which interested
7 persons may present their views and the method by which copies
8 of the proposed rule, amendment or repeal of an existing rule
9 may be obtained shall be published once at least thirty days
10 prior to the hearing date in a newspaper of general circulation
11 and mailed at least thirty days prior to the hearing date to
12 all persons who have made a written request for advance notice
13 of the hearing. Rules shall be filed in accordance with the
14 State Rules Act.

15 Section 9. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
16 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO
17 INFORMATION.--Those organizational units of the department and
18 the officers of those units specified by law shall have all of
19 the powers and duties enumerated in the specific laws involved.
20 However, the carrying out of those powers and duties shall be
21 subject to the direction and supervision of the secretary, who
22 shall retain the final decision-making authority and
23 responsibility for the administration of any laws as provided
24 in the Department of Motor Vehicles Act. The department shall
25 have access to all records, data and information of other state

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1 departments, agencies and institutions, including its own
2 organizational units, not specifically held confidential by
3 law.

4 Section 10. [NEW MATERIAL] ADVISORY COMMITTEES.--

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

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

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

21 "7-15-2.1. DEFINITIONS.--As used in the Trip Tax Act:

22 A. "combination gross vehicle weight" means the sum
23 total of the gross vehicle weights of all units of a
24 combination;

25 B. "commercial motor carrier vehicle" means any

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1 motor vehicle with a gross weight of twelve thousand pounds or
2 more used or reserved for use in the transportation of persons,
3 property or merchandise for hire, compensation or profit or in
4 the furtherance of a commercial enterprise or any vehicle used
5 or maintained primarily for the transportation of property or
6 merchandise or for drawing other vehicles so used or
7 maintained;

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

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

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

18 F. "registrant" means the person who has registered
19 the vehicle pursuant to the laws of this state or another
20 state;

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

23 H. "vehicle" means every device in, upon or by
24 which any person or property is or may be transported or drawn
25 upon a highway, including any frame, chassis or body of any

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1 vehicle or motor vehicle, except devices moved by human power
2 or used exclusively upon stationary rails or tracks."

3 Section 12. Section 7-15A-12 NMSA 1978 (being Laws 2003
4 (1st S.S.), Chapter 3, Section 6) is amended to read:

5 "7-15A-12. WEIGHT DISTANCE TAX IDENTIFICATION PERMITS--
6 SUSPENSION AND RENEWAL.--

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

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

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

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

25 A. the audit and compliance division;

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- 1 B. the property tax division;
- 2 C. the revenue processing division;
- 3 D. the tax fraud investigations division; [~~and~~
- 4 ~~D. the motor vehicle division;~~]
- 5 E. the administrative services division; and
- 6 F. the information technology division."

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

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

- 15 A. the New Mexico state police division;
- 16 B. the special investigations division;
- 17 C. the training and recruiting division;
- 18 D. the technical and emergency support division;
- 19 E. the administrative services division; and
- 20 [~~F. the motor transportation division; and~~
- 21 ~~G.] F. the information technology division."~~

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

24 "65-1-2. DEFINITIONS.--As used in the Motor
25 Transportation Act:

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1 A. "combination" means ~~any~~ a connected assemblage
2 of a motor vehicle and one or more semitrailers, trailers or
3 semitrailers converted to trailers by means of a converter
4 gear;

5 B. "combination gross vehicle weight" means the sum
6 total of the gross vehicle weights of all units of a
7 combination;

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

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

20 (2) is designed or used to transport more than
21 eight passengers, including the driver, and is used to
22 transport passengers for compensation;

23 (3) is designed or used to transport more than
24 fifteen passengers, including the driver, and is not used to
25 transport passengers for compensation; or

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

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

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

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

23 G. "director" means the secretary;

24 H. "division" means the motor transportation
25 division of the department;

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

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

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

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

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1 M. "motor carrier" means [~~any~~] a person that owns,
2 controls, operates or manages [~~any~~] a motor vehicle with gross
3 vehicle weight of twelve thousand pounds or more that is used
4 to transport persons or property on the public highways of this
5 state;

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

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

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

24 Q. "properly registered" means bearing the lawfully
25 issued and currently valid evidence of registration of this or

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1 another jurisdiction, regardless of the owner's residence,
2 except in those cases where the evidence has been procured by
3 misrepresentation or fraud;

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

9 S. "secretary" means the secretary of [~~public~~
10 ~~safety~~] motor vehicles and, except for the purposes of Section
11 65-1-33 NMSA 1978, also includes [~~the~~] a deputy secretary and
12 any division director delegated by the secretary;

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

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

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

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

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

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

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

25 D. The department shall [~~also~~] assist, as far as

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1 practicable and in accordance with a proper written agreement,
2 in the enforcement of statutory, administrative and judicial
3 provisions of the federal Motor Carrier Act."

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

6 "65-2A-4. POWERS AND DUTIES OF THE COMMISSION.--

7 A. In accordance with the Motor Carrier Act, the
8 commission shall:

9 (1) issue operating authorities for a motor
10 carrier operating in New Mexico;

11 (2) establish minimum requirements for
12 financial responsibility for a motor carrier;

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

18 (4) establish reasonable requirements with
19 respect to continuous and adequate service to be provided under
20 an operating authority;

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

25 (6) determine matters of public convenience

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1 and necessity relating to motor carriers;

2 (7) subpoena witnesses and records, enforce
3 its subpoenas through a court and, through the court, seek a
4 remedy for contempt;

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

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

11 B. The commission may:

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

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

24 (3) [~~from time to time~~] modify the type of
25 service, territory, terms, conditions and limitations of

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1 operating authorities previously issued, and change or rescind
2 rates previously adopted as needed; and

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

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

6 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND
7 DRIVERS USED IN COMPENSATED TRANSPORTATION.--

8 A. A motor carrier shall provide safe and adequate
9 service, equipment and facilities for the rendition of
10 transportation services in this state.

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

22 C. A commuter service shall certify that it has a
23 program providing for an initial drug test for a person seeking
24 to be a commuter service driver. The program shall use
25 reasonable collection and analysis procedures to ensure

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1 accurate results, require testing only for substances
2 controlled by federal regulation of commercial motor carriers
3 and ensure the confidentiality of the test results and medical
4 information obtained.

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

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

13 "65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR
14 AMENDMENT OF OPERATING AUTHORITIES--REINSTATEMENT.--

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

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

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1 safety.

2 C. The commission may, upon complaint or the
3 commission's own initiative and after notice and a public
4 hearing, if required, order involuntary suspension, revocation
5 or amendment, in whole or in part, of an operating authority
6 for failure to:

7 (1) comply with a provision of the Motor
8 Carrier Act;

9 (2) comply with a lawful order or rule of the
10 commission;

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

13 (4) render reasonably continuous and adequate
14 service under a certificate or permit.

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

19 (1) the reasons for the involuntary suspension
20 no longer pertain; and

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

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

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

3 A. The commission shall establish reasonable
4 requirements with respect to reports, records and uniform
5 systems of accounts and preservation of records for motor
6 carriers.

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

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

17 (1) land, buildings, improvements to real
18 property and equipment of motor carriers used in connection
19 with their operations; and

20 (2) records kept by motor carriers.

21 D. The commission may, by order, require a motor
22 carrier subject to the Motor Carrier Act, or its officers or
23 agents, to produce within this state at such reasonable time
24 and place as it may designate, original or certified copies of
25 records regardless of where they are kept by the motor carrier

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1 when their production is pertinent to a matter before the
2 commission, in order that the commission may examine them.

3 E. The motor transportation division of the
4 department of [~~public safety~~] motor vehicles shall furnish to
5 the commission all information needed or required by the
6 commission to carry out its responsibilities when the
7 information is obtainable only through field enforcement."

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

10 "66-1-4. DEFINITIONS.--

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

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

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

25 ~~D. All~~ C. References in the NMSA 1978 to the

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1 "commissioner of motor vehicles" or "commissioner" shall,
2 whenever appropriate, mean the secretary."

3 Section 22. Section 66-1-4.4 NMSA 1978 (being Laws 1990,
4 Chapter 120, Section 5, as amended) is amended to read:

5 "66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle
6 Code:

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

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

14 (1) receivers, trustees, administrators,
15 executors, guardians or other persons appointed by or acting
16 under judgment, decree or order of any court;

17 (2) public officers while performing their
18 duties as such officers;

19 (3) persons making casual sales of their own
20 vehicles;

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

23 (5) licensed brokers under the Manufactured
24 Housing Act who, for a fee, commission or other valuable
25 consideration, engage in brokerage activities related to the

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1 sale, exchange or lease purchase of pre-owned manufactured
2 homes on a site installed for a consumer;

3 C. "declared gross weight" means the maximum gross
4 vehicle weight or combination gross vehicle weight at which a
5 vehicle or combination will be operated during the registration
6 period, as declared by the registrant for registration and fee
7 purposes; the vehicle or combination shall have only one
8 declared gross weight for all operating considerations;

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

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

22 F. "director" means the secretary;

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

25 H. "distinguishing number" means the number

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

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

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

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

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

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

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1 motive power."

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

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

6 A. "essential parts" means all integral and body
7 parts of a vehicle of a type required to be registered by the
8 provisions of the Motor Vehicle Code, the removal, alteration
9 or substitution of which would tend to conceal the identity of
10 the vehicle or substantially alter its appearance, model, type
11 or mode of operation;

12 B. "established place of business", for a dealer or
13 auto recycler, means a place:

14 (1) devoted exclusively to the business for
15 which the dealer or auto recycler is licensed and related
16 business;

17 (2) identified by a prominently displayed sign
18 giving the dealer's or auto recycler's trade name used by the
19 business;

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

23 (4) on which there is located an enclosed
24 building on a permanent foundation, which building meets the
25 building requirements of the community and is large enough to

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1 accommodate the office or offices of the dealer or auto
2 recycler and large enough to provide a safe place to keep the
3 books and records of the dealer or auto recycler;

4 (5) where the principal portion of the
5 business of the dealer or auto recycler is conducted and where
6 the books and records of the business are kept and maintained;
7 and

8 (6) where vehicle sales are of new vehicles
9 only, such as a department store or a franchisee of a
10 department store, as long as the department store or franchisee
11 keeps the books and records of its vehicle business in a
12 general office location at its place of business; as used in
13 this paragraph, "department store" means a business that offers
14 a variety of merchandise other than vehicles, and sales of the
15 merchandise other than vehicles constitute at least eighty
16 percent of the gross sales of the business; [~~and~~]

17 C. "evidence of registration" means documentation
18 issued by the department identifying a motor carrier vehicle as
19 being registered with New Mexico or documentation issued by
20 another state pursuant to the terms of a multistate agreement
21 on registration of vehicles to which this state is a party
22 identifying a motor carrier vehicle as being registered with
23 that state; provided that evidence of payment of the weight
24 distance tax and permits obtained under either the Special
25 Fuels Supplier Tax Act or Trip Tax Act are not "evidence of

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1 registration"; and

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

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

14 "66-1-4.6. DEFINITIONS.--As used in the Motor Vehicle
15 Code:

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

19 B. "financial responsibility" means the ability to
20 respond in damages for liability resulting from traffic
21 accidents arising out of the ownership, maintenance or use of a
22 motor vehicle of a type subject to registration under the laws
23 of New Mexico, in amounts not less than specified in the
24 Mandatory Financial Responsibility Act or having in effect a
25 motor vehicle insurance policy. "Financial responsibility"

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1 includes a motor vehicle insurance policy, a surety bond or
2 evidence of a sufficient cash deposit with the state treasurer;

3 C. "first offender" means a person who for the
4 first time under state or federal law or a municipal ordinance
5 or a tribal law has been adjudicated guilty of the charge of
6 driving a motor vehicle while under the influence of
7 intoxicating liquor or any other drug that renders the person
8 incapable of safely driving a motor vehicle, regardless of
9 whether the person's sentence was suspended or deferred;

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

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

16 [~~E.~~] F. "foreign jurisdiction" means any
17 jurisdiction other than a state of the United States or the
18 District of Columbia;

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

23 [~~G.~~] H. "freight trailer" means any trailer,
24 semitrailer or pole trailer drawn by a truck tractor or road
25 tractor, and any trailer, semitrailer or pole trailer drawn by

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1 a truck that has a gross vehicle weight of more than twenty-six
2 thousand pounds, but "freight trailer" does not include
3 manufactured homes, trailers of less than one-ton carrying
4 capacity used to transport animals or fertilizer trailers of
5 less than three thousand five hundred pounds empty weight."

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

8 "66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle
9 Code:

10 A. "mail" means any item properly addressed with
11 postage prepaid delivered by the United States postal service
12 or any other public or private enterprise primarily engaged in
13 the transport and delivery of letters, packages and other
14 parcels;

15 B. "manufactured home" means a movable or portable
16 housing structure that exceeds either a width of eight feet or
17 a length of forty feet, constructed to be towed on its own
18 chassis and designed to be installed with or without a
19 permanent foundation for human occupancy;

20 C. "manufacturer" means every person engaged in the
21 business of constructing or assembling vehicles of a type
22 required to be registered under the Motor Vehicle Code;

23 D. "manufacturer's certificate of origin" means a
24 certification, on a form supplied by or approved by the
25 department, signed by the manufacturer that the new vehicle

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1 described therein has been transferred to the New Mexico dealer
2 or distributor named therein or to a dealer duly licensed or
3 recognized as such in another state, territory or possession of
4 the United States and that such transfer is the first transfer
5 of the vehicle in ordinary trade and commerce. Every such
6 certificate shall contain space for proper reassignment to a
7 New Mexico dealer or to a dealer duly licensed or recognized as
8 such in another state, territory or possession of the United
9 States, and the certificate shall contain a description of the
10 vehicle, the number of cylinders, type of body, engine number
11 and the serial number or other standard identification number
12 provided by the manufacturer of the vehicle;

13 E. "metal tire" means every tire of which the
14 surface in contact with the highway is wholly or partly of
15 metal or other hard nonresilient material, except that a snow
16 tire with metal studs designed to increase traction on ice or
17 snow is not considered a metal tire;

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

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

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

3 [G.] H. "motorcycle" means every motor vehicle
4 having a seat or saddle for the use of the rider and designed
5 to travel on not more than three wheels in contact with the
6 ground, excluding a tractor;

7 [H.] I. "motor home" means a camping body built on
8 a self-propelled motor vehicle chassis so designed that seating
9 for driver and passengers is within the body itself;

10 [I.] J. "motor vehicle" means every vehicle that is
11 self-propelled and every vehicle that is propelled by electric
12 power obtained from batteries or from overhead trolley wires,
13 but not operated upon rails; but for the purposes of the
14 Mandatory Financial Responsibility Act, "motor vehicle" does
15 not include "special mobile equipment"; and

16 [J.] K. "motor vehicle insurance policy" means a
17 policy of vehicle insurance that covers self-propelled vehicles
18 of a kind required to be registered pursuant to New Mexico law
19 for use on the public streets and highways. A "motor vehicle
20 insurance policy":

- 21 (1) shall include:
- 22 (a) motor vehicle bodily injury and
23 property damage liability coverages in compliance with the
24 Mandatory Financial Responsibility Act; and
- 25 (b) uninsured motorist coverage, subject

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1 to the provisions of Section 66-5-301 NMSA 1978 permitting the
2 insured to reject such coverage; and

3 (2) may include:

4 (a) physical damage coverage;

5 (b) medical payments coverage; and

6 (c) other coverages that the insured and
7 the insurer agree to include within the policy."

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

10 "66-1-4.13. DEFINITIONS.--As used in the Motor Vehicle
11 Code:

12 A. "odometer" means a device for recording the
13 total mileage traveled by a vehicle from the vehicle's
14 manufacture and for so long as the vehicle is operable on the
15 highways;

16 B. "off-highway motor vehicle" means any motor
17 vehicle operated or used exclusively off the highways of this
18 state and that is not legally equipped for operation on the
19 highways of this state;

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

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1 status;

2 D. "official traffic-control devices" means all
3 signs, signals, markings and devices [~~not inconsistent~~]
4 consistent with the Motor Vehicle Code placed or erected, by
5 authority of a public body or official having jurisdiction, for
6 the purpose of regulating, warning or guiding traffic;

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

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

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

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

24 "66-1-4.14. DEFINITIONS.--As used in the Motor Vehicle
25 Code:

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1 A. "park" or "parking" means the standing of a
2 vehicle, whether occupied or not, other than temporarily for
3 the purpose of and while actually engaged in loading and
4 unloading;

5 B. "parking lot" means a parking area provided for
6 the use of patrons of any office of state or local government
7 or of any public accommodation, retail or commercial
8 establishment;

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

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

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

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

24 G. "placard" or "parking placard" means a card-like
25 device that identifies the vehicle as being currently in use to

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1 transport a person with severe mobility impairment and issued
2 pursuant to Section 66-3-16 NMSA 1978 to be displayed inside a
3 motor vehicle so as to be readily visible to an observer
4 outside the vehicle;

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

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

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

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

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

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

10 ~~[L-]~~ N. "property owner" means the owner of a piece
11 of land or the agent of that property owner; and

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

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

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

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

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1 materials when they are cracked and broken;

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

7 C. "salvage vehicle" means a vehicle:

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

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

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1 D. "school bus" means a commercial motor vehicle
2 used to transport preprimary, primary or secondary school
3 students from home to school, from school to home or to and
4 from school-sponsored events, but not including a vehicle:

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

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

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

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

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

22 G. "semitrailer" means a vehicle without motive
23 power, other than a pole trailer, designed for carrying persons
24 or property and for being drawn by a motor vehicle and so
25 constructed that some significant part of its weight and that

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1 of its load rests upon or is carried by another vehicle;

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

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

8 J. "solid tire" means ~~every~~ a tire of rubber or
9 other resilient material that does not depend upon compressed
10 air for the support of the load;

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

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

23 M. "state" means a state, territory or possession
24 of the United States, the District of Columbia or a province of
25 the Dominion of Canada;

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1 N. "state highway" means a public highway that has
2 been designated as a state highway by the legislature, the
3 state transportation commission or the secretary of
4 transportation;

5 O. "stop", when required, means complete cessation
6 from movement;

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

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

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

25 S. "suspension" means that a person's driver's

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1 license and privilege to drive a motor vehicle on the public
2 highways are temporarily withdrawn."

3 Section 29. Section 66-1-4.17 NMSA 1978 (being Laws 1990,
4 Chapter 120, Section 18, as amended by Laws 2003, Chapter 141,
5 Section 1 and by Laws 2003, Chapter 164, Section 3) is amended
6 to read:

7 "66-1-4.17. DEFINITIONS.--As used in the Motor Vehicle
8 Code:

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

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

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

24 D. "title service company" means a person, other
25 than the department, an agent of the department, a licensed

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

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

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

12 G. "traffic safety bureau" means the traffic safety
13 bureau of the [~~state highway and~~] department of transportation
14 [~~department~~];

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

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

24 J. "transporter of manufactured homes" means a
25 commercial motor vehicle operation engaged in the business of

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1 transporting manufactured homes from the manufacturer's
2 location to the first dealer's location. A "transporter of
3 manufactured homes" may or may not be associated with or
4 affiliated with a particular manufacturer or dealer;

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

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

11 [~~H.~~] M. "tribal court" means a court created by a
12 tribe or a court of Indian offense created by the United States
13 secretary of the interior;

14 [~~M.~~] N. "tribe" means an Indian nation, tribe or
15 pueblo located wholly or partially in New Mexico;

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

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

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

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

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

10 [P-] Q. "truck tractor" means ~~[every]~~ a motor
11 vehicle designed and used primarily for drawing other vehicles
12 and not ~~[so]~~ constructed ~~[as]~~ to carry a load other than a part
13 of the weight of the vehicle and load so drawn."

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

18 "66-5-66. APPLICANT RECORD INFORMATION--INFORMATION
19 EXCHANGE.--

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

24 B. The department has the authority to exchange
25 commercial driver's license information as it deems necessary

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1 to carry out the provisions of the New Mexico Commercial
2 Driver's License Act, except that the results of a background
3 check conducted pursuant to federal department of homeland
4 security requirements shall be:

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

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

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

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

23 D. In determining whether a violation of law has
24 occurred for the purpose of issuance, administration or
25 revocation of a commercial driver's license, the department

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

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

7 "66-6-4. REGISTRATION FEES--TRUCKS, TRUCK TRACTORS, ROAD
8 TRACTORS AND BUSES.--

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

| 15 | B. Declared Gross Weight | Fee |
|----|--------------------------|-------|
| 16 | 001 to 4,000 | \$ 40 |
| 17 | 4,001 to 6,000 | 55 |
| 18 | 6,001 to 8,000 | 69 |
| 19 | 8,001 to 10,000 | 84 |
| 20 | 10,001 to 12,000 | 99 |
| 21 | 12,001 to 14,000 | 113 |
| 22 | 14,001 to 16,000 | 128 |
| 23 | 16,001 to 18,000 | 143 |
| 24 | 18,001 to 20,000 | 157 |
| 25 | 20,001 to 22,000 | 172 |

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

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

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

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

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

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1 principal occupation is farming or ranching and which vehicle
2 is used principally in the transportation of farm and ranch
3 products to market and farm and ranch supplies and livestock
4 from the place of purchase to farms and ranches in this state;
5 provided that the vehicle is not used for hire.

6 G. In addition to other registration fees imposed by
7 this section, beginning July 1, 1994, there is imposed at the
8 time of registration an annual tire recycling fee of one dollar
9 fifty cents (\$1.50) on each vehicle subject to a registration
10 fee pursuant to this section, except for vehicles with a
11 declared gross weight of greater than twenty-six thousand
12 pounds upon which registration fees are imposed by [~~Subsection~~
13 ~~B-0f~~] this section.

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

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

24 Section 32. Section 66-7-411 NMSA 1978 (being Laws 1978,
25 Chapter 35, Section 482, as amended) is amended to read:

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1 "66-7-411. AUTHORIZED REPRESENTATIVE MAY WEIGH VEHICLES
2 AND REQUIRE REMOVAL OF EXCESS LOADS--GRADUATED PENALTIES.--

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

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

23 C. [~~Any~~] A driver of a vehicle who fails or refuses
24 to stop and submit the vehicle and load to weighing or who
25 fails or refuses, when directed by a duly authorized police

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

6 D. ~~[Any]~~ A shipper or ~~[any]~~ other person loading
7 ~~[the]~~ a vehicle who intentionally overloads ~~[a]~~ the vehicle
8 ~~[which he]~~ that the shipper or person has reason to believe
9 will travel in that condition upon a public highway is guilty
10 of a misdemeanor and shall be fined in accordance with
11 ~~[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:

| WEIGHT OF EXCESS | |
|------------------|--|
| LOAD IN POUNDS | AMOUNT OF FINE |
| 1 to 3,000 | twenty-five dollars (\$25.00) |
| 3,001 to 4,000 | forty dollars (\$40.00) |
| 4,001 to 5,000 | seventy-five dollars (\$75.00) |
| 5,001 to 6,000 | one hundred twenty-five dollars (\$125) |
| 6,001 to 7,000 | two hundred dollars (\$200) |
| 7,001 to 8,000 | two hundred seventy-five dollars (\$275) |
| 8,001 to 9,000 | three hundred fifty dollars (\$350) |
| 9,001 to 10,000 | four hundred twenty-five dollars (\$425) |
| over 10,000 | five hundred dollars (\$500)." |

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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

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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 charge and
15 collect, when the movement consists of a load of a width of
16 twenty feet or greater for a distance of five miles or more,
17 the sum of three hundred dollars (\$300) a day or fraction
18 thereof to defray the cost of state or local police escort.
19 The permit issued and the fee charged shall be based upon the
20 entire movement at one time requiring police escort and not
21 upon the number of vehicles involved.

22 C. The department ~~[of public safety]~~ shall promulgate
23 rules in accordance with the State Rules Act pertaining to
24 safety practices, liability insurance and equipment for escort
25 vehicles provided by the motor carrier and for escort vehicles

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1 provided by a private business in this state.

2 [~~(1)~~] D. The department [~~of public safety~~] shall
3 provide [~~the~~] escort personnel with a copy of applicable rules
4 and shall inspect [~~the~~] escort vehicles for the safety
5 equipment required by the rules. If [~~the~~] escort vehicles and
6 personnel meet the requirements set forth in the rules, the
7 department [~~of public safety~~] shall issue [~~the~~] a special
8 permit.

9 [~~(2)~~] E. The movement of vehicles upon [~~the~~] highways
10 [~~of this state~~] requiring a special permit and [~~required to~~]
11 use of an escort of the type noted in [~~Paragraph (1) of this~~]
12 Subsection D of this section is subject to department [~~of~~
13 ~~public safety~~] authority and inspection at all times.

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

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1 the municipal governing body, shall include ~~[such portions]~~
2 that portion in its rules.

3 ~~[D.]~~ G. Except for the movement of manufactured
4 homes, special permits may be issued for a single vehicle or
5 combination of vehicles by the department ~~[of public safety]~~
6 for a period not to exceed one year for a fee of two hundred
7 fifty dollars (\$250). The special permits may allow excessive
8 height, length and width for a vehicle or combination of
9 vehicles or load ~~[thereon]~~ on those vehicles and may include a
10 provision for excessive weight if the weight of the vehicle or
11 combination of vehicles is not greater than one hundred forty
12 thousand pounds. Utility service vehicles, operating with
13 special permits pursuant to this subsection, shall be exempt
14 from prohibitions or restrictions relating to hours or days of
15 operation or restrictions on movement because of poor weather
16 conditions.

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

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1 vehicles on ~~[the]~~ highways. ~~[of this state~~

2 ~~F.]~~ I. If a vehicle for which a permit is issued
3 pursuant to this section is a manufactured home, the department
4 ~~[of public safety]~~ or local highway authority issuing the
5 permit shall furnish the following information to the property
6 tax division of the taxation and revenue department, which
7 shall forward the information:

8 (1) to the county assessor of a county from
9 which a manufactured home is being moved, the date the permit
10 was issued, the location being moved from, the location being
11 moved to if within the same county, the name of the owner of
12 the manufactured home and the identification and registration
13 numbers of the manufactured home;

14 (2) to the county assessor of ~~[any]~~ a county in
15 this state to which a manufactured home is being moved, the
16 date the permit was issued, the location being moved from, the
17 location being moved to, the name of the owner of the
18 manufactured home and the registration and identification
19 numbers of the manufactured home; and

20 (3) to the owner of a manufactured home having a
21 destination in this state, notification that the information
22 required in Paragraphs (1) and (2) of this subsection is being
23 given to the respective county assessors and that manufactured
24 homes are subject to property taxation.

25 ~~[G.]~~ J. Except as provided in Subsection ~~[H]~~ K of

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1 this section, if the movement of a manufactured home originates
2 in this state, a permit shall not be issued pursuant to
3 Subsection [~~F~~] I of this section until the owner of the
4 manufactured home or the authorized agent of the owner obtains
5 and presents to the department [~~of public safety~~] proof that a
6 certificate has been issued by the county assessor or treasurer
7 of the county in which the manufactured home movement
8 originates showing that either:

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

13 (2) liability for property taxes on the
14 manufactured home does not exist for the current tax year or a
15 past tax year, except for manufactured homes located on an
16 Indian reservation.

17 [~~H-~~] K. The movement of a manufactured home from the
18 lot or business location of a manufactured home dealer to its
19 destination designated by an owner-purchaser is not subject to
20 the requirements of Subsection [~~G~~] J of this section if the
21 manufactured home movement originates from the lot or business
22 location of the dealer and the manufactured home was part of
23 the dealer's inventory prior to the sale to the owner-
24 purchaser; however, the movement of a manufactured home by a
25 dealer or the dealer's authorized agent as a result of a sale

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1 or trade-in from a nondealer-owner is subject to the
2 requirements of Subsection [~~G~~] J of this section whether the
3 destination is the business location of a dealer or some other
4 destination.

5 [~~F~~] L. A permit shall not be issued pursuant to this
6 section for movement of a manufactured home whose width exceeds
7 eighteen feet with no more than a six-inch roof overhang on the
8 left side or twelve inches on the right side in addition to the
9 eighteen-foot width of the manufactured home. Manufactured
10 homes exceeding the limitations of this section shall only be
11 moved on dollies placed on the front and the rear of the
12 structure.

13 [~~J~~] M. The secretary [~~of public safety~~] may by rule
14 provide for movers of manufactured homes to self-issue permits
15 for certain sizes of manufactured homes over specific routes.
16 The cost of a permit shall not be less than twenty-five dollars
17 (\$25.00).

18 [~~K~~] N. The secretary [~~of public safety~~] may provide
19 by rule for dealers of implements of husbandry to self-issue
20 permits for the movement of certain sizes of implements of
21 husbandry from the lot or business location of the dealer over
22 specific routes with specific escort requirements, if
23 necessary, to a destination designated by an owner-purchaser or
24 for purposes of a working demonstration on the property of a
25 proposed owner-purchaser. The department [~~of public safety~~]

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1 shall charge a fee for each self-issued permit not to exceed
2 fifteen dollars (\$15.00).

3 ~~[L.]~~ O. A private motor carrier requesting an
4 oversize or overweight permit shall provide proof of insurance
5 in at least the following amounts:

6 (1) bodily injury liability, providing:

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

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

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

13 ~~[M.]~~ P. A motor carrier requesting an oversize permit
14 shall produce a copy of a warrant or a single state
15 registration receipt as evidence that the motor carrier
16 maintains the insurance minimums prescribed by the public
17 regulation commission.

18 ~~[N.]~~ Q. The department [~~of public safety~~] may provide
19 by rule the time periods during which a vehicle or load of a
20 size or weight exceeding the maximum specified in Sections
21 66-7-401 through 66-7-416 NMSA 1978 may be operated or moved by
22 a motor carrier on a highway under the jurisdiction of the
23 state transportation commission or local authorities.

24 ~~[O.]~~ R. Revenue from fees for special permits
25 authorizing vehicles and loads of excessive size or weight to

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1 operate or move upon a highway under the jurisdiction of the
2 state transportation commission or local authorities shall be
3 collected for the department of transportation and transferred
4 to the state road fund."

5 Section 35. Section 66-7-413.2 NMSA 1978 (being Laws
6 1989, Chapter 291, Section 1, as amended) is amended to read:

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

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

13 (1) an engineering investigation and review have
14 been conducted to:

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

18 (b) establish whether the move could be made
19 without visible or documented damages to any private facilities
20 along the ~~[road]~~ highways upon which the move is to be made;
21 and

22 (c) estimate the cost for any necessary
23 modifications the move may cause; and

24 (2) when required, the applicant has submitted
25 to the ~~[motor transportation division of the]~~ department ~~[of~~

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1 ~~public safety~~] and [the] local highway authorities all
2 pertinent [~~information~~] data requested of the applicant by the
3 [~~motor transportation division of the~~] department [~~of public~~
4 ~~safety~~]. If the submitted data [~~is~~] are not acceptable to the
5 [~~state highway and transportation~~] department of
6 transportation, the applicant [~~will~~] shall be advised by the
7 [~~motor transportation division of the~~] department of [~~public~~
8 ~~safety~~] motor vehicles that engineering investigations [~~will~~]
9 shall be conducted by the [~~state highway and transportation~~]
10 department of transportation and the cost incurred by the
11 [~~state highway and transportation~~] department [~~will~~] of
12 transportation shall be paid by the applicant as an added cost
13 to [~~his~~] the applicant's permit fee.

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

19 C. The applicant or the applicant's employer shall
20 pay the costs for [~~any~~] modifications to the [~~road~~] highways,
21 bridges or private facilities along the [~~road~~] highways that
22 the [~~motor transportation division of the~~] department [~~of~~
23 ~~public safety~~] has determined are necessary for the issuance of
24 the special permit and the costs for [~~any~~] damages to the
25 [~~road~~] highways or bridges that are the result of the move and

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1 the fault of the mover and not the ~~[motor transportation~~
2 ~~division of the]~~ department ~~[of public safety]~~.

3 D. Any person who violates the provisions of
4 ~~[Subsection A of]~~ this section ~~[shall be]~~ is guilty of a
5 misdemeanor and shall be punished by a fine of not more than
6 one thousand dollars (\$1,000) or imprisonment for a definite
7 term not to exceed six months, or both.

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

12 Section 36. Section 66-7-413.4 NMSA 1978 (being Laws
13 2001, Chapter 20, Section 2, as amended) is amended to read:

14 "66-7-413.4. PERMITS FOR EXCESSIVE WEIGHT.--

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

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1 permit. Revenue from the permit fee shall be used to build,
2 maintain, repair or reconstruct [~~the~~] highways and bridges [~~of~~
3 ~~this state~~]. Revenue from the permit shall be collected for
4 the department of transportation and transferred to the state
5 road fund.

6 B. The special permits authorized by this section
7 shall not be valid for transportation of excessive weights on
8 the interstate system as currently defined in federal law or as
9 that system may be defined in the future. A special permit
10 issued pursuant to this section shall not be valid for gross
11 vehicle weights in excess of eighty-six thousand four hundred
12 pounds or for a combination vehicle.

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

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

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underscored material = new
[bracketed material] = delete

1 "66-7-415. WHEN THE STATE TRANSPORTATION COMMISSION OR
2 LOCAL AUTHORITIES MAY RESTRICT RIGHT TO USE STREETS.--

3 A. Local authorities, with respect to streets under
4 their jurisdiction, may ~~[also]~~, by ordinance or resolution,
5 prohibit the operation of trucks or other commercial vehicles
6 or may impose limitations as to ~~[the]~~ size or weight ~~[thereof]~~,
7 on designated streets in areas that are primarily residential,
8 which prohibitions and limitations shall be designated by
9 appropriate signs placed on ~~[such]~~ the street.

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

20 C. The state transportation commission ~~[shall~~
21 ~~likewise have authority, as granted to local authorities in~~
22 ~~Subsections A and B of this section, to]~~ may determine by
23 resolution ~~[and]~~ to impose restrictions as to the size and
24 weight of vehicles operated upon ~~[any]~~ highways under the
25 jurisdiction of the commission, and ~~[such]~~ those restrictions

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1 shall be effective [~~on and after~~] upon the passage of [~~a~~] the
2 resolution and when signs giving notice [~~thereof~~] are erected
3 upon the highway or portion of [~~any~~] the highway affected by
4 [~~such~~] the resolution. The commission shall deliver a copy of
5 all restrictions adopted by it to [~~the motor transportation~~
6 ~~division of~~] the department [~~of public safety~~]."

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

9 "66-7-505. ADVISORY COMMITTEE--CREATION--MEMBERS--
10 TERMS.--

11 A. There is created a five-member advisory committee
12 to the bureau. The chief is, ex officio, the [~~chairman~~] chair
13 and a voting member of the committee. The governor shall
14 appoint three members, to terms coterminous with [~~his~~] the
15 governor's tenure, who shall have the following qualifications:

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

18 (2) one member who is representative of the
19 school bus transportation function of the [~~state department of~~]
20 public education department; and

21 (3) one member who is representative of the
22 [~~motor transportation division of the taxation and revenue~~]
23 department of motor vehicles.

24 B. Appointees who are public officers or public
25 employees shall be compensated for attendance at meetings

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1 according to the Per Diem and Mileage Act. Appointees who are
2 not public officers or employees shall be compensated for
3 attendance at meetings in commensurate amount."

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

6 "66-12-6. DEALER AND MANUFACTURER NUMBERS--FEE--
7 CERTIFICATES OF ORIGIN--RECORDS.--

8 A. A dealer or manufacturer that demonstrates
9 motorboats on the public waters of this state shall file an
10 application for a dealer or manufacturer number. The number
11 shall be in lieu of a certificate of number for each motorboat
12 intended or offered for sale.

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

22 C. The division shall issue a certificate of a dealer
23 or manufacturer number to an applicant who submits a complete
24 application and full payment of the dealer or manufacturer
25 number fee to the division. The certificate shall be issued

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1 after the applicant obtains a dealer license from the [~~motor~~
2 ~~vehicle division of the taxation and revenue~~] department of of
3 motor vehicles and shall contain the following:

4 (1) a dealer or manufacturer number that
5 contains two state identification letters, followed by four
6 numbers and two additional letters that are unique to dealers
7 or manufacturers;

8 (2) the expiration date of the certificate;

9 (3) the name and business address of the
10 applicant;

11 (4) the address of the principal place of
12 business of the applicant; and

13 (5) a conspicuous statement that the division
14 has certified the applicant as a dealer or manufacturer.

15 D. The dealer or manufacturer number shall be painted
16 on or attached to plates that are firmly attached to each side
17 of the front of a motorboat of the dealer or manufacturer while
18 it is afloat upon the waters of this state.

19 E. A dealer or manufacturer [~~who~~] that operates more
20 than one motorboat for test or demonstration purposes on the
21 waters of this state at the same time shall obtain and display
22 a separate dealer or manufacturer number for each motorboat
23 tested or demonstrated.

24 F. A manufacturer or dealer shall not transfer
25 ownership of a new boat without supplying the transferee with

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[bracketed material] = delete

1 the manufacturer's certificate of origin signed by the
2 manufacturer's authorized agent. The certificate shall contain
3 information the division requires.

4 G. ~~Every~~ A dealer shall maintain for three years a
5 record of any boat ~~he~~ the dealer bought, sold, exchanged or
6 received for sale or exchange. This record shall be open to
7 inspection by division representatives during reasonable
8 business hours."

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

11 "66-12-6.6. DEALER LICENSE.--

12 A. A person shall not engage in business as a dealer
13 or manufacturer without obtaining a valid dealer license from
14 the ~~[motor vehicle division of the taxation and revenue]~~
15 department of motor vehicles, unless the person has a valid
16 motor vehicle dealer license. A dealer or manufacturer shall
17 annually file an application with the ~~[motor vehicle division]~~
18 department of motor vehicles for a dealer license for each
19 established place of business of the dealer or manufacturer.

20 B. A person shall file an application for a dealer
21 license with the ~~[motor vehicle division of the taxation and~~
22 ~~revenue]~~ department of motor vehicles on a form prescribed by
23 the ~~[motor vehicle division]~~ department. The application shall
24 contain the name, address and telephone number of the
25 applicant, the signature of the applicant or the signatures of

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1 all of the officers of a corporate applicant, the address of
2 the established place of business, the federal taxpayer
3 identification number of the applicant and other information
4 that the [~~motor vehicle division~~] department of motor vehicles
5 may require. The application shall state that the applicant
6 will engage in business as a dealer. The statement shall be
7 verified before a state officer authorized to administer an
8 oath. The fee for a dealer license shall be prescribed by the
9 [~~motor vehicle division~~] department of motor vehicles but shall
10 not exceed fifty dollars (\$50.00) annually.

11 C. The [~~motor vehicle division of the taxation and~~
12 ~~revenue~~] department of motor vehicles shall issue a dealer
13 license to an applicant who submits a complete application and
14 full payment of the dealer license fee to the [~~motor vehicle~~
15 ~~division~~] department. The license shall contain the following:

- 16 (1) the license number;
- 17 (2) the expiration date of the license;
- 18 (3) the name and business address of the
19 licensee;
- 20 (4) the address of the location for which the
21 license was issued; and
- 22 (5) a statement requiring that the license be
23 conspicuously displayed at the location for which the license
24 was issued.

25 D. A dealer license shall specify the location of

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1 each place of business in which the licensee engages in
2 business as a dealer. The dealer shall notify the [~~motor~~
3 ~~vehicle division of the taxation and revenue~~] department of of
4 motor vehicles of a change of ownership, location or name of
5 the place of business within ten days of the change.

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

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

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

22 "66-12-6.7. DEALER LICENSE DENIAL, SUSPENSION AND
23 REVOCATION.--The [~~motor vehicle division of the taxation and~~
24 ~~revenue~~] department of motor vehicles may deny, suspend or
25 revoke a dealer license for:

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1 A. a material misrepresentation communicated by a
2 dealer to the [~~motor vehicle division~~] department;

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

5 C. a willful violation of a federal or state law
6 relating to the sale, distribution, financing, registration,
7 taxing or insuring of motorboats."

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

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

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

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