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SENATE BILL 480

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO MOTOR CARRIERS; AMENDING AND ENACTING SECTIONS OF THE MOTOR CARRIER ACT; PROVIDING REQUIREMENTS AND PROVISIONS FOR MOTOR CARRIERS USING SMALL PASSENGER VEHICLES SIMILAR TO THOSE CONTAINED IN THE TRANSPORTATION NETWORK COMPANY SERVICES ACT TO PROVIDE FOR COMPETITION; SIMPLIFYING AND CLARIFYING ADMINISTRATIVE PROCEDURES; PROVIDING FOR A SIMPLIFIED WARRANT AUTHORITY FOR NON-EMERGENCY MEDICAL TRANSPORT SERVICES.

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

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

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

A. "ability to provide certificated service" means

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1 that an applicant or carrier can provide reasonably continuous
2 and adequate transportation service of the type required by its
3 application or its operating authority in the territory
4 authorized or sought to be authorized;

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

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

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

15 E. "base state" means the registration state for an
16 interstate motor carrier that either is subject to regulation
17 or is transporting commodities exempt from regulation by the
18 federal motor carrier safety administration pursuant to the
19 unified carrier registration system;

20 F. "cancellation of an operating authority" means
21 the voluntary, permanent termination of all or part of an
22 operating authority;

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

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1 H. "certificated service" means one of the
2 following transportation services:

- 3 (1) an ambulance service;
4 (2) a household goods service;
5 (3) a shuttle service;
6 (4) a specialized passenger service; or
7 (5) a taxicab service;

8 I. "change in a certificate or permit" means the
9 voluntary amendment, cancellation, change in form of legal
10 entity of the holder, lease, reinstatement, transfer or
11 voluntary suspension of a certificate or permit;

12 J. "charter service" means the compensated
13 transportation of a group of persons in a motor vehicle who,
14 pursuant to a common purpose, under a single contract, at a
15 fixed charge for the motor vehicle and driver, have acquired
16 the exclusive use of the motor vehicle to travel together under
17 an itinerary either specified in advance or modified after
18 having left the place of origin;

19 K. "commission" means the public regulation
20 commission;

21 L. "commuter service" means the intrastate
22 transportation of passengers in motor vehicles having a
23 capacity of seven to fifteen persons, including the driver,
24 provided to a volunteer-driver commuter group that shares rides
25 to and from the workplace or training site, where participation

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1 is open to the public and incidental to the primary work or
2 training-related purposes of the commuter group, and where the
3 volunteer drivers have no employer-employee relationship with
4 the commuter service;

5 M. "continuous and adequate service" means:

6 (1) for full-service carriers, reasonably
7 continuous availability, offering and provision of
8 transportation services through motor vehicles, equipment and
9 resources satisfying safety and financial responsibility
10 requirements under the Motor Carrier Act and commission rule,
11 [~~which~~] that are reasonably adequate to serve the entire full-
12 service territory authorized in the certificate, with
13 reasonable response to all requests for service for the nature
14 of passenger service authorized, based on the nature of public
15 need, expense and volume of demand for the type of service
16 authorized during seasonal periods, competition and
17 the availability of other transportation and the effects of
18 competition by both competing transportation services and
19 competing transportation network company services on the public
20 need, volume of demand and expense of providing full service in
21 the full-service territory; and

22 (2) for general-service carriers, reasonably
23 continuous availability and offering of transportation services
24 through motor vehicles, equipment and resources satisfying
25 safety and financial responsibility requirements under the

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1 Motor Carrier Act and commission rule for the nature of the
2 transportation service authorized in the certificate;

3 N. "contract driver" means a person who contracts
4 with a motor carrier as an independent contractor, or one
5 leased through an employee leasing contractor, to drive a
6 vehicle pursuant to an operating authority issued to the motor
7 carrier;

8 O. "endorsement" means the specification in a
9 certificate of the territory in which the carrier is authorized
10 to operate, the nature of service to be provided by a
11 certificated passenger service and any additional terms of
12 service that may be reasonably granted or required by the
13 commission for the particular authority granted;

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

16 Q. "financial responsibility" means the ability to
17 respond in damages for liability arising out of the ownership,
18 maintenance or use of a motor vehicle in the provision of
19 transportation services;

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

23 S. "for hire" means that transportation is offered
24 or provided to the public for remuneration, compensation or
25 reward of any kind, paid or promised, either directly or

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1 indirectly;

2 T. "full service" means one of the following
3 certificated passenger services that are endorsed and required
4 to meet specific standards for the provision of service to or
5 throughout a community:

- 6 (1) an ambulance service;
- 7 (2) a scheduled shuttle service; or
- 8 (3) a municipal taxicab service;

9 U. "general service" means one of the following
10 certificated services that provides transportation services of
11 the type authorized, but is not required to provide
12 unprofitable or marginally profitable carriage:

- 13 (1) a general shuttle service;
- 14 (2) a general taxicab service;
- 15 (3) a specialized passenger service; or
- 16 (4) a household goods service;

17 V. "highway" means a way or place generally open to
18 the use of the public as a matter of right for the purpose of
19 vehicular travel, even though it may be temporarily closed or
20 restricted for the purpose of construction, maintenance, repair
21 or reconstruction;

22 W. "holder of an operating authority" means the
23 grantee of the operating authority or a person that currently
24 holds all or part of the right to exercise the authority
25 through a transfer by operation of law;

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1 X. "household goods" means personal effects and
2 property used or to be used in a dwelling when a part of the
3 equipment or supply of the dwelling and other similar property
4 as the federal motor carrier safety administration may provide
5 by regulation, but shall not include property moving to or from
6 a factory or store, other than property the householder has
7 purchased to use in the householder's dwelling that is
8 transported at the request of, and the transportation charges
9 are paid to the carrier by, the householder;

10 Y. "household goods service" means the intrastate
11 transportation, packing and storage of household goods for
12 hire;

13 Z. "interested person" means a motor carrier
14 operating in the territory involved in an application or grant
15 of temporary authority, a person affected by an order of the
16 commission or a rule proposed for adoption by the commission or
17 a person the commission may deem interested in a particular
18 matter;

19 AA. "interstate motor carrier" means a person
20 providing compensated transportation in interstate commerce,
21 whether or not the person is subject to regulation by the
22 federal motor carrier safety administration;

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

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

5 DD. "lease of a certificate or permit" means an
6 agreement by which the holder of a certificate or permit grants
7 to another person the exclusive right to use all or part of the
8 certificate or permit for a specified period of time in
9 exchange for consideration, but does not include an agreement
10 between a motor carrier and its contract driver;

11 EE. "lease of equipment" means an agreement whereby
12 a motor carrier obtains equipment owned by another person for
13 use by the motor carrier in the exercise of its operating
14 authority, but does not include an agreement between a motor
15 carrier and its contract driver;

16 FF. "motor carrier" or "carrier" means a person
17 offering or providing transportation of persons, property or
18 household goods for hire by motor vehicle, whether in
19 intrastate or interstate commerce;

20 GG. "motor carrier organization" means an
21 organization approved by the commission to represent motor
22 carriers and to discuss and propose industry interests and
23 matters other than rates, as well as discussing and proposing
24 rates and other matters pertaining to statewide tariffs;

25 HH. "motor vehicle" or "vehicle" means a vehicle,

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1 machine, tractor, trailer or semitrailer propelled or drawn by
2 mechanical power and used on a highway in the transportation of
3 property, household goods or persons, but does not include a
4 vehicle, locomotive or car operated exclusively on rails;

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

9 JJ. "nonconsensual tow" means the compensated
10 transportation of a motor vehicle by a towing service, if such
11 transportation is performed at the request of a law enforcement
12 officer or without the prior consent or authorization of the
13 owner or operator of the motor vehicle;

14 KK. "non-emergency medical transport service" means
15 a person who has been issued and possesses a current letter of
16 intent by the human services department to perform as a
17 medicaid fee-for-service provider for non-emergency medical
18 transportation of passengers, who provides scheduled medically
19 necessary transportation of passengers not requiring medical
20 monitoring or medical intervention and who is compensated for
21 carriage either wholly through a contract with an authorized
22 medicaid provider or by charging passengers a fare for
23 transportation, but not both;

24 [~~KK.~~] LL. "notice period" means the period of time
25 specified in Section 65-2A-6 NMSA 1978 following publication of

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1 notice during which the commission may not act;

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

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

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

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

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

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

25 ~~[RR.]~~ SS. "predatory rate or practice" means the

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

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

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

14 [~~SS.~~] TT. "process" means, in the context of legal
15 process, an order, subpoena or notice issued by the commission
16 or an order, subpoena, notice, writ or summons issued by a
17 court;

18 [~~TT.~~] UU. "property" means movable articles of
19 value, including cadavers, hazardous matter, farm products,
20 livestock feed, stock salt, manure, wire, posts, dairy
21 products, livestock hauled in lots of twenty-five thousand
22 pounds or more, farm or ranch machinery and the items
23 transported by a towing service, but does not include household
24 goods or unprocessed farm products transported by a farmer from
25 the place of harvesting to market, storage or a processing

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1 plant;

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

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

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

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

23 [WW.] XX. "rate" means a form of compensation
24 charged, whether directly or indirectly, by a person for a
25 transportation service subject to the jurisdiction of the

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1 commission;

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

8 ~~[YY.]~~ ZZ. "registration year" means a calendar
9 year;

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

13 ~~[AAA.]~~ BBB. "shipper" means a person who consigns
14 or receives property or household goods for transportation;

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

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

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1 regardless of the number of passengers carried on any run, if
2 any, and that includes general shuttle service; and

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

8 DDD. "small passenger vehicle" means a passenger
9 vehicle used by a passenger service other than an ambulance
10 service with a carriage capacity of eight or fewer persons,
11 including the driver, that is typically a sedan, sport utility
12 vehicle or minivan; provided that a small passenger vehicle
13 does not include a truck primarily designed to carry property,
14 a stretcher van, a wheelchair van or an ambulance;

15 [~~GGG.~~] EEE. "specialized passenger service" means a
16 limousine service, a tour and sightseeing service or a service
17 providing the intrastate transportation for hire of passengers
18 with special physical needs by specialized types of vehicles
19 [~~or for specialized types of service to the public or~~
20 ~~community~~] as the commission may by rule provide;

21 [~~DDD.~~] FFF. "tariff" means a document filed by a
22 tariffed service carrier that has been approved by the
23 commission and sets forth the transportation services offered
24 by the motor carrier to the general public, including the
25 rates, terms of service and applicable time schedules relating

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1 to those services;

2 [EEE.] GGG. "tariffed service" means one of the
3 following transportation services authorized by the commission
4 for the provision of service on the basis of rates and terms of
5 service contained in a tariff approved by the commission:

- 6 (1) an ambulance service;
- 7 (2) a household goods service;
- 8 (3) a non-emergency medical transport service
9 that charges passengers a fare for transportation;

- 10 [~~(3)~~] (4) a shuttle service;
- 11 [~~(4)~~] (5) a specialized passenger service;
- 12 [~~(5)~~] (6) a taxicab service; or
- 13 [~~(6)~~] (7) a towing service performing
14 nonconsensual tows;

15 [FFF.] HHH. "taxicab association" means an
16 association, cooperative or other legal entity whose members
17 are taxicab drivers, which shall be treated in the same manner
18 as any other applicant with regard to applications for a
19 certificate for general taxicab service or for full-service
20 municipal taxicab service and which shall be subject in the
21 same manner to all other provisions, requirements and
22 limitations of the Motor Carrier Act;

23 [GGG.] III. "taxicab service" means intrastate
24 transportation of passengers for hire in [~~a motor vehicle~~
25 ~~having a capacity of not more than eight persons, including the~~

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1 ~~driver]~~ small passenger vehicles for which the passenger or
2 other person engaging the vehicle is allowed to specify not
3 only the origin and destination points of the trip but also,
4 within reason, the route taken by the vehicle, any intermediate
5 stop, any optional waiting at a stop and any other passengers
6 transported during the trip and that charges a fare for use of
7 the vehicle primarily on the basis of a drop-flag fee,
8 cumulative mileage and cumulative wait time through a taxicab
9 meter used to cumulate and display the fare to the passenger,
10 or, at the passenger's option, carriage to a destination
11 without passenger direction of route or waiting pursuant to a
12 predetermined calculated full fare based on a drop-flag fee and
13 cumulative mileage as provided by tariff, and may use variable
14 pricing as provided by tariff, and includes both municipal
15 taxicab service and general taxicab service, as follows:

16 (1) "municipal taxicab service" means a
17 taxicab service that deploys vehicles [~~at all times of the day~~
18 ~~and year]~~ for at least eighteen hours per day on all days of
19 the year, is centrally dispatched and reasonably responds to
20 all calls for service within its endorsed full-service
21 territory regardless of profitability of the individual trip,
22 in addition to the transportation service provided by a general
23 taxicab service; and

24 (2) "general taxicab service" means a taxicab
25 service that need not be dispatched, that may pick up on-demand

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1 passengers through flagging or at a taxicab stand or queue,
2 that need not deploy vehicles in any particular manner and that
3 may charge for trips to destination points or places outside of
4 the taxicab service's certificated territories on the basis of
5 a set fare;

6 ~~[HHH.]~~ JJJ. "terms of service" means all terms,
7 aspects, practices, limitations, conditions and schedules of
8 service other than specific rate amounts pertaining to a
9 tariffed service;

10 ~~[HH.]~~ KKK. "towing service" means the use of
11 specialized equipment, including repossession services using
12 towing equipment, to transport or store:

13 (1) a damaged, disabled or abandoned motor
14 vehicle and its cargo;

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

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

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

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

23 (6) a motor vehicle repossessed or seized
24 pursuant to lawful authority;

25 ~~[JJJ.]~~ LLL. "transfer of a certificate or permit"

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1 means a permanent conveyance of all or part of a certificate or
2 permit;

3 ~~[KKK.]~~ MMM. "transfer by operation of law" means
4 that all or a part of a grantee's interest in an operating
5 authority passes to a fiduciary or other person by application
6 of established rules of law;

7 ~~[LLL.]~~ NNN. "transportation service" means
8 transportation subject to the jurisdiction of the commission,
9 offered or provided by a motor carrier, that requires the
10 carrier to obtain an operating authority from the commission
11 under the Motor Carrier Act, regardless of whether the motor
12 carrier has obtained appropriate operating authority from the
13 commission;

14 ~~[MMM.]~~ OOO. "verification" means a notarized
15 signature verifying the contents of the document or other
16 filing or a signature verifying the contents of the document or
17 other filing under penalty of perjury, expressly providing that
18 the signatory swears or affirms the contents under penalty of
19 perjury as provided in Subsection A of Section 65-2A-33 NMSA
20 1978;

21 ~~[NNN.]~~ PPP. "voluntary suspension" means the
22 commission-authorized cessation of use of all or part of a
23 certificate or permit at the request of the holder for a
24 specified period of time, not to exceed twelve consecutive
25 months;

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1 ~~[000.]~~ QQQ. "warrant" means the authority issued by
2 the commission to a person that authorizes the person to offer
3 and provide a warranted service as a motor carrier;

4 ~~[PPP.]~~ RRR. "warranted service" means one of the
5 following intrastate transportation services offered or
6 provided for hire:

- 7 (1) a charter service;
- 8 (2) a commuter service;
- 9 (3) a non-emergency medical transport service;
- 10 ~~[+3)]~~ (4) a property transportation service;

11 or

- 12 ~~[+4)]~~ (5) a towing service; and

13 ~~[QQQ.]~~ SSS. "weight-bumping" means the knowing and
14 willful statement of a fraudulent weight on a shipment of
15 household goods."

16 SECTION 2. Section 65-2A-4 NMSA 1978 (being Laws 2003,
17 Chapter 359, Section 4, as amended by Laws 2013, Chapter 73,
18 Section 3 and by Laws 2013, Chapter 77, Section 3) is amended
19 to read:

20 "65-2A-4. POWERS AND DUTIES OF THE COMMISSION.--

21 A. In accordance with the Motor Carrier Act, the
22 commission shall:

- 23 (1) issue operating authorities for a motor
24 carrier operating in New Mexico;
- 25 (2) establish minimum requirements for

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1 financial responsibility for motor carriers; provided that the
2 financial responsibility standards required shall not be
3 inconsistent with applicable federal standards;

4 (3) establish safety requirements for
5 intrastate motor carrier motor vehicles and drivers subject to
6 the jurisdiction of the commission; provided that the safety
7 requirements shall not be inconsistent with or more stringent
8 than applicable federal safety standards;

9 (4) establish reasonable requirements with
10 respect to continuous and adequate service to be provided under
11 an operating authority;

12 (5) regulate the rates of tariffed service
13 carriers to the extent provided in the Motor Carrier Act,
14 including rates and terms of service for storing household
15 goods and motor vehicles;

16 (6) determine matters of public interest and
17 other matters relating to authorities, rates, territories,
18 nature of service and other terms of service of motor carriers;

19 (7) have jurisdiction to determine any matter
20 under the Motor Carrier Act relating to any transportation
21 service carrier that has not obtained an appropriate operating
22 authority from the commission;

23 (8) subpoena witnesses and records, enforce
24 its subpoenas through a court and, through the court, seek a
25 remedy for contempt;

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1 (9) hold a public hearing specific to a
2 protest or a request by the transportation division of the
3 commission that has been filed within the notice period in
4 opposition to or in consideration of an application;

5 (10) create a statewide tariff for household
6 goods service carriers establishing maximum rates that may be
7 charged by carriers; and

8 (11) 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 inspect the
13 records of a motor carrier subject to the Motor Carrier Act and
14 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;

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 and
25 nature of service, territory and terms of service of operating

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1 authorities previously issued, and change or rescind rates
2 previously approved;

3 (4) establish statewide tariffs as needed for
4 voluntary and optional use by tariffed service carriers and
5 rates for the provision of medical services or treatment on
6 scene by an ambulance service when the ambulance service does
7 not provide transportation of the person treated; and

8 (5) adopt rules to implement these powers."

9 SECTION 3. Section 65-2A-6 NMSA 1978 (being Laws 2003,
10 Chapter 359, Section 6, as amended by Laws 2013, Chapter 73,
11 Section 5 and by Laws 2013, Chapter 77, Section 5) is amended
12 to read:

13 "65-2A-6. NOTICE.--

14 A. The commission shall electronically publish
15 notice regarding an application before the commission for a
16 certificate or permit or for a change in a certificate or
17 permit, regarding proposed rulemaking, or regarding other
18 orders of the commission of general application, by posting a
19 copy of the notice or document on the commission's internet web
20 site and sending electronic mail to all motor carriers, public
21 officials or agencies, or other persons or entities who have
22 previously supplied electronic mail addresses to the commission
23 for the purpose of publication, advising such persons of the
24 filing and posting. Such notice shall be sufficient under law,
25 regardless of any notice requirements under the Public

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1 Regulation Commission Act. If the commission in its discretion
2 should also require publication by newspaper, the requirement
3 is met if notice is published once in a newspaper of general
4 circulation in the state. The commission shall not act on an
5 application for a certificate or permit or for an amendment,
6 lease or transfer of a certificate or permit less than twenty
7 days after the date notice was published.

8 B. Whenever the Motor Carrier Act requires
9 publication of notice regarding any other matter, the
10 requirement is met if notice is published once in a newspaper
11 of general circulation in the state. The commission shall not
12 act on a matter less than ten days after the date notice was
13 published."

14 SECTION 4. Section 65-2A-12 NMSA 1978 (being Laws 2003,
15 Chapter 359, Section 12, as amended by Laws 2013, Chapter 73,
16 Section 11 and by Laws 2013, Chapter 77, Section 11) is amended
17 to read:

18 "65-2A-12. WARRANTS.--

19 A. The commission shall issue a warrant that allows
20 a person to provide warranted service as a commuter service,
21 charter service, non-emergency medical transport service,
22 towing service or motor carrier of property if the commission
23 finds that the applicant is in compliance with the financial
24 responsibility and safety requirements of the Motor Carrier Act
25 and the rules of the commission.

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1 B. In order to be eligible for issuance of a
2 non-emergency medical transport service warrant, an applicant
3 shall have been issued and possess a currently valid letter of
4 intent by the human services department to perform as a
5 medicaid fee-for-service provider for non-emergency medical
6 transportation of passengers.

7 C. A warranted non-emergency medical transport
8 service shall be compensated for carriage either wholly through
9 a contract with an authorized medicaid provider or by charging
10 passengers a fare for transportation, but not both. A
11 non-emergency medical transport service that charges passengers
12 a fare for transportation is a tariffed service, shall file a
13 warrant and is subject to tariff rates and terms of service. A
14 warranted non-emergency medical transport service may add or
15 change medicaid fee-for-service contract providers and may have
16 multiple contract providers.

17 D. A warranted non-emergency medical transport
18 service shall only provide scheduled medically or
19 therapeutically necessary transportation of passengers to or
20 from a required medical or therapeutic appointment and shall
21 only provide transportation for passengers not requiring
22 medical monitoring or medical intervention, including medical
23 monitoring or medical intervention to maintain the passenger's
24 level of response, airway, breathing and circulatory status,
25 with the exception of self-administered oxygen. The use of

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1 self-administered oxygen shall not exceed six liters per minute
2 via a nasal cannula, and the oxygen container shall be secured
3 in accordance with state and federal law.

4 ~~[B-]~~ E. A towing service carrier performing
5 nonconsensual tows is subject to tariff rates and terms of
6 service. A towing service carrier performing nonconsensual
7 tows shall not use the same motor vehicles, equipment and
8 facilities used by another warranted towing service carrier
9 performing nonconsensual tows.

10 ~~[G-]~~ F. A warrant shall not be transferred or
11 leased to another person.

12 ~~[D-]~~ G. The commission may without notice or a
13 public hearing cancel a warrant if the owner fails to operate
14 under the warrant for twelve consecutive months or fails to
15 provide proof of financial responsibility as required by the
16 commission for four consecutive months."

17 **SECTION 5.** Section 65-2A-18 NMSA 1978 (being Laws 2003,
18 Chapter 359, Section 18, as amended by Laws 2013, Chapter 73,
19 Section 16 and by Laws 2013, Chapter 77, Section 16) is amended
20 to read:

21 "65-2A-18. FINANCIAL RESPONSIBILITY.--

22 A. Passenger services providing service in small
23 passenger vehicles shall maintain for those vehicles a combined
24 single-limit public liability insurance policy providing for a
25 minimum level of coverage per occurrence for bodily injury,

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1 death and property damage in at least the amount required for
2 transportation network companies as primary automobile
3 liability for death, bodily injury and property damage while a
4 transportation network company driver is engaged in a
5 prearranged ride, as provided in the Transportation Network
6 Company Services Act. The commission shall prescribe minimum
7 requirements for financial responsibility for the use of motor
8 vehicles other than small passenger vehicles by all motor
9 carriers.

10 B. A motor carrier shall not operate on the
11 highways of this state without having filed with the commission
12 proof of financial responsibility in the form and amount as the
13 commission shall by rule prescribe.

14 C. In prescribing minimum requirements for
15 financial responsibility for motor carriers, the commission
16 shall adopt the same minimum liability insurance requirements
17 as those required by the federal motor carrier safety
18 administration for interstate motor carriers for all motor
19 vehicles for carriage of property or household goods and for
20 all passenger motor vehicles with such capacities. The
21 commission shall adopt reasonable minimum liability insurance
22 requirements for the use of passenger motor vehicles with
23 capacities less than those regulated by the federal motor
24 carrier safety administration and in doing so shall consider
25 the number of passengers being transported and the nature of

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1 the transportation services provided by the motor carriers
2 using vehicles of those capacities.

3 D. The commission may authorize a motor carrier to
4 carry its own insurance in lieu of filing a policy of
5 insurance, certificate showing the issuance of a policy of
6 insurance or a surety bond. In approving an application to be
7 self-insured, the commission shall consider:

- 8 (1) the financial stability of the carrier;
- 9 (2) previous loss history of the carrier;
- 10 (3) the safety record of the carrier;
- 11 (4) the size, nature of operations and other
12 operating characteristics of the carrier; and
- 13 (5) other factors necessary for the protection
14 of passengers, shippers and the public.

15 E. Notwithstanding any requirement of the New
16 Mexico Insurance Code to the contrary, the commission may
17 accept proof of public liability insurance from an insurer not
18 authorized in New Mexico if:

- 19 (1) the insurance is for an interstate motor
20 carrier transporting commodities exempt from regulation by the
21 federal motor carrier safety administration participating in
22 the unified carrier registration system for those motor
23 carriers; and
- 24 (2) the insurer is authorized to write public
25 liability insurance in at least one other state.

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1 F. All motor carriers shall carry proof of
2 financial responsibility in each motor vehicle they operate in
3 this state."

4 SECTION 6. Section 65-2A-19 NMSA 1978 (being Laws 2003,
5 Chapter 359, Section 19, as amended by Laws 2013, Chapter 73,
6 Section 17 and by Laws 2013, Chapter 77, Section 17) is amended
7 to read:

8 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND
9 DRIVERS.--

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

13 B. The commission shall prescribe safety
14 requirements for drivers and for motor vehicles weighing
15 twenty-six thousand pounds or less or carrying fifteen or fewer
16 persons, including the driver, used by intrastate motor
17 carriers operating in this state; provided that the commission
18 shall not require safety standards for small passenger vehicles
19 and the drivers of small passenger vehicles greater than those
20 required for transportation network service drivers and driver
21 vehicles pursuant to the Transportation Network Company
22 Services Act. The commission may prescribe additional
23 requirements related to safety for vehicles and drivers other
24 than small passenger vehicles and the drivers of small
25 passenger vehicles, including driver safety training programs,

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1 vehicle preventive maintenance programs, inquiries regarding
2 the safety of the motor vehicles and drivers employed by a
3 motor carrier, and the appropriateness of the motor vehicles
4 and equipment for the transportation services to be provided by
5 the motor carrier.

6 C. A commuter service shall certify that it has a
7 program providing for an initial drug test for a person seeking
8 to be a commuter service driver. The program shall use
9 reasonable collection and analysis procedures to ensure
10 accurate results, require testing only for substances
11 controlled by federal regulation of commercial motor carriers
12 and ensure the confidentiality of the test results and medical
13 information obtained.

14 D. The motor transportation division of the
15 department of public safety may immediately order, without
16 notice or a public hearing, a motor vehicle to be taken out of
17 service for violation of a federal or state law or rule
18 relating to safety if the violation would endanger the public
19 health or safety.

20 E. The commission shall implement rules requiring
21 carriers to obtain criminal background reports for all employed
22 or contract drivers of certificated service carriers and for
23 all other persons employed by certificated household goods
24 service carriers who enter private dwellings in the course of
25 household goods service."

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1 SECTION 7. Section 65-2A-20 NMSA 1978 (being Laws 2003,
2 Chapter 359, Section 20, as amended by Laws 2013, Chapter 73,
3 Section 18 and by Laws 2013, Chapter 77, Section 18) is amended
4 to read:

5 "65-2A-20. TARIFFS.--

6 A. A tariffed service carrier shall not commence
7 operations or perform a new service under its operating
8 authority without having an approved tariff on file with the
9 commission.

10 B. A tariffed service carrier shall file with the
11 commission proposed tariffs showing the rates for
12 transportation and all related activities and containing a
13 description of the type and nature of the service, territory
14 and all terms of service for transportation and related
15 services, and all other information required by the
16 transportation division of the commission. The rates shall be
17 stated in terms of United States currency. [~~Tariffs for~~
18 ~~individual carriers shall also include the carrier's legal~~
19 ~~name, all business trade names used by the carrier, contact~~
20 ~~information, information for service of process, the territory~~
21 ~~authorized for each transportation service listed in the tariff~~
22 ~~and any terms of service contained in the operating authorities~~
23 ~~for that particular carrier.] Each tariffed service carrier
24 operating pursuant to a statewide tariff shall file with the
25 commission a tariff statement referencing the statewide tariff~~

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1 being used [~~and include the carrier's legal name, all business~~
2 ~~trade names used by the carrier, contact information,~~
3 ~~information for service of process, the territory authorized~~
4 ~~for that carrier and any terms of service contained in the~~
5 ~~operating authority for that particular carrier]~~ along with all
6 information required by the transportation division of the
7 commission.

8 C. A tariffed service carrier shall not charge, or
9 permit its agents, employees or contract drivers to charge, a
10 different or additional rate, or to use different or additional
11 practices or terms of service, for transportation or for a
12 service rendered to or for the user of the service other than
13 the rates and terms of service specified in approved tariffs in
14 effect at the time, except:

15 (1) for ambulance and household goods service
16 carriers, in accordance with rates and terms of service
17 established by federal or state law for federal or state
18 governmental programs or operations; and

19 (2) for tariffed passenger service carriers
20 other than ambulance service carriers, in accordance with the
21 rates and terms of service established by governmental programs
22 or operations in which they voluntarily participate.

23 D. A tariffed service carrier shall not pay or
24 refund, directly or indirectly to any person, a portion of the
25 rate specified in its approved tariff, offer to a person

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1 privileges or facilities, perform a service or remit anything
2 of value, except:

3 (1) in accordance with tariffs approved by the
4 commission;

5 (2) for ambulance and household goods service
6 carriers, in accordance with rates and terms of service
7 established by federal and state law for federal and state
8 governmental entities, programs or operations;

9 (3) for tariffed passenger service carriers
10 other than ambulance service carriers, in accordance with the
11 rates and terms of service established by governmental programs
12 or operations in which they voluntarily participate; or

13 (4) in settling or resolving a claim by a
14 customer.

15 E. The commission shall post on its internet web
16 site electronic copies of all currently approved individual and
17 statewide tariffs, and all tariff statements filed by carriers
18 using statewide tariffs, in a manner to facilitate public
19 access, review and comparison of rates and terms of service. A
20 certificated passenger service carrier other than an ambulance
21 service carrier shall post its tariff rates in each vehicle
22 used in the provision of its transportation service.

23 F. A tariffed service carrier shall file an
24 application with the commission for any change in the tariff,
25 accompanied by the proposed tariff, at least [~~twenty~~] ten days

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1 prior to implementation of the amended rates and terms of
2 service contained in the tariff. Except as provided in this
3 section for ambulance services and towing services providing
4 nonconsensual tows, an amended tariff shall be approved and
5 become effective [~~twenty~~] ten days after filing of the
6 application for a change in the tariff, [~~The commission shall~~
7 ~~post notice of each application for a change in a tariff along~~
8 ~~with a copy of the proposed tariff on the commission web site]~~
9 except for specific terms of service as may be disapproved
10 within that period by the transportation division of the
11 commission.

12 G. No changes in terms of service disapproved by
13 the transportation division of the commission as inconsistent
14 with the Motor Carrier Act, rule of the commission, the
15 individual operating authority of the carrier or otherwise in
16 violation of law shall become effective or be part of the
17 approved tariff. The following terms of service contained in a
18 tariff shall not be considered inconsistent with, or predatory
19 or discriminatory in nature under the Motor Carrier Act or
20 commission rule:

21 (1) a carrier may decline or terminate service
22 under circumstances that reasonably appear to present a
23 physical danger to the driver, to another employee of the
24 carrier or to passengers or, for carriers other than ambulance
25 service carriers, a danger to the condition of the motor

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1 vehicle or cargo;

2 (2) a carrier is not responsible for
3 cancellations or delays due to weather or road conditions when
4 reasonably required for safety or when due to road
5 construction, road closures, law enforcement stops or similar
6 matters beyond the control of the carrier;

7 (3) a passenger service carrier may require
8 that all firearms carried by any passenger other than an
9 authorized law enforcement officer be unloaded and placed in a
10 locked area of the vehicle during transport, along with all
11 ammunition and any other weapons; or

12 (4) a passenger service carrier other than an
13 ambulance service carrier may decline or terminate service when
14 the passenger cannot give an adequate description of, or
15 direction to, the destination or cannot transfer into or out of
16 the motor vehicle without requiring physical assistance from
17 the driver.

18 H. An application for amendment of tariff rates by
19 an ambulance service or a towing service providing
20 nonconsensual tows shall be submitted to the transportation
21 division of the commission for review prior to filing and shall
22 include all materials required by the commission. An
23 application by an ambulance service or a towing service
24 providing nonconsensual tows for amendment of tariff rates that
25 increases any tariff rate to a level greater than that

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1 previously approved by the commission [~~for a full-service~~
2 ~~carrier or a towing service providing nonconsensual tows~~] shall
3 not become effective until approved by the commission as
4 reasonable under Section 65-2A-21 NMSA 1978. The commission
5 shall hold a hearing appropriate to the type of transportation
6 service provided by the carrier for any such application, if
7 requested by the applicant or by the transportation division of
8 the commission, or if ordered in the discretion of the
9 commission. The commission may provide for reasonable periodic
10 rate increases [~~for full-service carriers or towing services~~
11 ~~providing nonconsensual tows~~] pursuant to a rate escalator or
12 adjustment clause for any or all rates of a carrier on such
13 basis as the commission finds reasonable.

14 I. A person may make a complaint in writing to the
15 commission that a rate or term of service contained in a
16 tariff, or a rate otherwise charged or practice otherwise
17 effected, is inconsistent with or in violation of the Motor
18 Carrier Act, commission rule or the operating authority or
19 current tariff of the motor carrier. The commission may
20 suspend the operation of a rate, term of service or practice
21 for a period not to exceed sixty days to investigate its
22 reasonableness. If the commission finds that a rate charged by
23 a tariffed carrier, or a term of service or practice effected
24 by a tariffed carrier, is unauthorized, predatory or
25 discriminatory, the commission shall prescribe the rate or the

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1 maximum or minimum rate to be observed or the terms of service
2 to be made effective."

3 SECTION 8. Section 65-2A-24 NMSA 1978 (being Laws 2003,
4 Chapter 359, Section 24, as amended by Laws 2013, Chapter 73,
5 Section 22 and by Laws 2013, Chapter 77, Section 22) is amended
6 to read:

7 "65-2A-24. MOTOR VEHICLE LEASES--DRIVER CONTRACTS.--

8 A. An intrastate motor carrier [~~shall not~~] may
9 lease a motor vehicle or operate a leased motor vehicle in the
10 course of its transportation service [~~except as~~] by providing
11 notice to the transportation division of the commission in such
12 form and manner as may be provided by commission rule [~~The~~
13 ~~commission may approve a motor vehicle lease without notice or~~
14 ~~a public hearing~~] and by paying the fee specified for an
15 equipment lease pursuant to Section 65-2A-36 NMSA 1978. The
16 leased vehicle shall comply with all applicable laws and all
17 safety and financial responsibility requirements under the
18 Motor Carrier Act and commission rule for the nature of the
19 transportation service and vehicle before being placed into
20 service, and the motor carrier leasing the vehicle shall be and
21 remain responsible at all times for insuring that the leased
22 vehicle complies with all applicable laws and all safety and
23 financial responsibility requirements under the Motor Carrier
24 Act and commission rule.

25 B. A motor carrier may use employed or contract

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1 drivers or taxicab association member drivers in the provision
2 of a transportation service. Regardless of the provisions of
3 any written or oral agreement between a motor carrier and a
4 contract driver or taxicab association member driver, motor
5 carriers providing transportation services that use contract
6 drivers or taxicab association member drivers remain fully
7 responsible to the commission for complying with all provisions
8 of the Motor Carrier Act and commission rules applicable to
9 transportation service carriers.

10 C. Motor carriers providing intrastate
11 transportation services that use contract drivers or taxicab
12 association member drivers shall maintain, at their principal
13 places of business within the state, a current written
14 agreement with each such driver. No agreement with any
15 contract driver or taxicab association member driver shall
16 contain any provision contrary to a provision of the Motor
17 Carrier Act or a rule of the commission. Each written
18 agreement shall contain a clause that requires the contract
19 driver or taxicab association member driver to adhere to all
20 provisions of the Motor Carrier Act and to all commission rules
21 applicable to transportation service carriers."

22 SECTION 9. Section 65-2A-35 NMSA 1978 (being Laws 2003,
23 Chapter 359, Section 35) is amended to read:

24 "65-2A-35. APPEAL TO SUPREME COURT.--

25 A. A motor carrier or other interested person

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1 aggrieved by a final order or determination of the commission
2 issued pursuant to the Motor Carrier Act may appeal to the
3 supreme court within thirty days; provided that, if a motion to
4 reopen, reconsider or rehear a final order or determination of
5 the commission is timely filed pursuant to commission rule, the
6 time for appeal shall be extended until thirty days after the
7 commission's disposition of such motion. The appellant shall
8 pay to the commission the costs of preparing and transmitting
9 the record to the court.

10 B. The pendency of an appeal shall not
11 automatically stay the order appealed from. The appellant may
12 petition the commission or the supreme court for a stay of the
13 order. If a motion to reopen, reconsider or rehear a final
14 order or determination of the commission is timely filed
15 pursuant to commission rule, the commission shall retain
16 jurisdiction to rule on any such motion regardless of the
17 filing of an appeal.

18 C. The appeal shall be on the record of the hearing
19 before the commission and shall be governed by the appellate
20 rules applicable to administrative appeals. The supreme court
21 shall affirm the commission's order unless it is:

22 (1) arbitrary, capricious or an abuse of
23 discretion;

24 (2) not supported by substantial evidence in
25 the record; or

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1 (3) otherwise not in accordance with law."

2 SECTION 10. Section 65-2A-39 NMSA 1978 (being Laws 2003,
3 Chapter 359, Section 39) is amended to read:

4 "65-2A-39. EFFECT ON MUNICIPAL POWERS.--

5 A. Nothing contained in the Motor Carrier Act shall
6 be construed:

7 [~~A-~~] (1) to limit or restrict the police
8 jurisdiction or power of a municipality over its streets,
9 highways and public places except as otherwise provided by law;
10 and

11 [~~B-~~] (2) in respect to matters other than
12 rates and service regulations, to repeal a power of a
13 municipality:

14 [~~(1)~~] (a) to adopt and enforce
15 reasonable police regulations and ordinances in the interest of
16 the public safety, morals and convenience; or

17 [~~(2)~~] (b) to protect the public against
18 fraud, imposition or oppression by motor carriers within their
19 respective jurisdiction.

20 B. No municipality or other local entity may impose
21 a tax on or require a license for a transportation service or
22 its driver for the delivery of passenger transportation
23 service, except for generally applicable business licenses or
24 taxes.

25 C. Nothing in this section prohibits an airport

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1 with more than one million annual enplanements, as reported
2 by the federal aviation administration in the previous
3 calendar year, from charging transportation passenger
4 lane access, parking, booth rental or similar set fees or from
5 establishing other requirements to operate at that airport."

6 SECTION 11. A new section of the Motor Carrier Act is
7 enacted to read:

8 "[NEW MATERIAL] TRANSITION.--Certificates and permits for
9 specialized service as a non-emergency medical transport
10 service issued prior to July 1, 2017 shall, on and after that
11 date, become warrants for non-emergency medical transport
12 service. The commission may require holders of such
13 certificates and permits to exchange their certificates for
14 newly issued warrants."

15 SECTION 12. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2017.