

1 SENATE BILL 325

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Benny Shendo, Jr.

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9  
10 AN ACT

11 RELATING TO TRANSPORTATION; PROVIDING FOR THE PROCESS FOR THE  
12 COLLECTION OF DAMAGES BY THE DEPARTMENT OF TRANSPORTATION FOR  
13 DESTRUCTION OF PROPERTY.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 67-7-10 NMSA 1978 (being Laws 1921,  
17 Chapter 94, Section 10) is amended to read:

18 "67-7-10. UNLAWFUL USE OF HIGHWAYS--PENALTIES.--

19 A. The public highways in the state are dedicated  
20 to ~~[the]~~ reasonable use ~~[thereof]~~ by the public.

21 B. It ~~[shall be]~~ is unlawful for any person to  
22 injure or damage any public highway, ~~[or]~~ street, road or any  
23 bridge, culvert, sign, signpost, other traffic control or  
24 safety device or structure upon or used or constructed in  
25 connection with any public highway, ~~[or]~~ street or road for the

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1 protection thereof or for protection or regulation of traffic  
2 thereon by any unusual, improper or unreasonable use thereof or  
3 by the careless driving or use of any vehicle thereon or by  
4 [~~wilful~~] willful mutilation, defacing or destruction thereof.

5 C. It [~~shall be~~] is considered unreasonable use of  
6 any highway, street, road, bridge or structure to operate or  
7 conduct upon or over the same any vehicle, tractor, engine or  
8 load of greater weight than that specified by the state, county  
9 or municipal authorities having control of [~~such~~] the highway,  
10 street, road, bridge or structure in a notice posted at or near  
11 each end of [~~such~~] the highway, street, road, bridge or  
12 structure.

13 D. It [~~shall be~~] is considered unreasonable use of  
14 any improved highway, [~~or~~] street, road, bridge or structure to  
15 operate, drive or haul thereon any truck, tractor or engine in  
16 such manner or at times when the surface thereof is in a soft  
17 or plastic condition from moisture so as to cause excessive  
18 ruts or excessive deterioration or displacement of the  
19 surfacing thereof.

20 E. It [~~shall be~~] is unlawful to operate, haul or  
21 conduct over any public highway, [~~or~~] street, road, bridge or  
22 structure any vehicle, tractor, engine, truck, load, building  
23 or other object, more than eight feet in width, except loads of  
24 hay, straw or other farm products, without a permit from the  
25 state, county or municipal authority in control of such

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1 highway, ~~[or]~~ street, road, bridge or structure, which permit  
2 shall specify the manner of operation thereof so as ~~[not]~~ to  
3 prevent as far as possible inconvenience and danger to the  
4 traveling public and damage to the surface.

5 F. It ~~[shall be]~~ is unlawful to maintain any fence  
6 across any public ~~[road]~~ highway, street, road, bridge or  
7 structure unless the owner or person in control of such fence  
8 ~~[shall construct]~~ constructs and ~~[maintain]~~ maintains in good  
9 condition a gate and a cattle guard passageway for motor  
10 vehicles in accordance with the specifications of the  
11 authorities having control of such ~~[road. And]~~ highway,  
12 street, road, bridge or structure. No fence shall be  
13 maintained across any public ~~[road]~~ highway, street, road,  
14 bridge or structure without a written permit from the  
15 authorities having control of such ~~[road]~~ highway, street,  
16 road, bridge or structure.

17 G. Any person violating any provision of this  
18 section ~~[shall be]~~ is guilty of a misdemeanor and upon  
19 conviction shall be punished by a fine of not less than twenty-  
20 five dollars (\$25.00) nor more than five hundred dollars (\$500)  
21 or by imprisonment in the county jail not less than five days  
22 nor more than thirty days or by both such fine and imprisonment  
23 ~~[and]~~.

24 H. The owner and the operator of ~~[such]~~ a vehicle,  
25 truck, tractor or engine that causes damage to any public

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1 highway, street, road, bridge, culvert, sign, signpost, other  
2 traffic control or safety device or structure in violation of  
3 any provision of this section and Section 67-7-11 NMSA 1978  
4 shall be jointly and severally liable to the state, county or  
5 municipality as the case may be for the actual damage caused by  
6 the operation, conducting or hauling thereof over any public  
7 highway, street, road, bridge, culvert, sign, signpost, other  
8 traffic control or safety device or structure in violation of  
9 any provision of this ~~[Act]~~ section and Section 67-7-11 NMSA  
10 1978, to be collected by suit or settlement brought in the name  
11 of the state, county or municipality having control of such  
12 highway or street, road, bridge, culvert, sign, signpost, other  
13 traffic control or safety device or structure; and such  
14 vehicle, truck, tractor or engine may be attached and held to  
15 satisfy any judgment for ~~[such]~~ damages.

16 I. Damages and associated claims pursuant to this  
17 section may be:

18 (1) settled at the discretion of the  
19 department on behalf of the state, or by the county or  
20 municipality, whichever has control of the subject highway or  
21 street, road, bridge, culvert, sign, signpost, other traffic  
22 control or safety device or structure, with regard to  
23 identified damages, whether or not the damages have been  
24 reduced to judgment; and may include a contract for collection  
25 of such damages due to the state, county or municipality; or

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1                                   (2) collected by suit brought by the  
2 department in the name of the state, or by the county or  
3 municipality, whichever has control of the subject highway or  
4 street, road, bridge, culvert, sign, signpost, other traffic  
5 control or safety device or structure; and such vehicle, truck,  
6 tractor or engine that caused the damage may be attached and  
7 held to satisfy any judgment for such damages.

8                                   J. The proceeds of any such settlement or judgment  
9 shall be paid to the treasurer of the state or of such county  
10 or municipality and placed to the credit of a fund for the  
11 construction and improvement of [~~roads or streets~~] highways,  
12 streets, roads, bridges, traffic control or safety devices or  
13 structures."

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