

SENATE BILL 160

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Steven P. Neville and Peter Wirth

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC SERVICE COMPANY REGULATION; TRANSFERRING RESPONSIBILITY FOR TRANSPORTATION REGULATION FROM THE PUBLIC REGULATION COMMISSION TO THE DEPARTMENT OF TRANSPORTATION, INCLUDING MOTOR CARRIER REGULATION AND ENFORCEMENT, RAILROAD SAFETY ENFORCEMENT AND AMBULANCE STANDARDS; TRANSFERRING PERSONNEL, FUNCTIONS, MONEY, APPROPRIATIONS, OTHER PROPERTY AND CONTRACTUAL OBLIGATIONS; CHANGING REFERENCES IN LAW; ELIMINATING FROM THE MOTOR CARRIER ACT REDUNDANT PERMITS FOR

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TRANSPORTATION OF PASSENGERS OR HOUSEHOLD GOODS PURSUANT TO A CONTRACT; REMOVING OUTDATED REFERENCES IN THE AVIATION ACT AND THE RURAL AIR SERVICE ENHANCEMENT ACT; REPEALING PROVISIONS RELATING TO AVIATION COMMON CARRIERS AND AIR TRAFFIC RULES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. [NEW MATERIAL] DEPARTMENT OF TRANSPORTATION-- POWERS AND DUTIES--COMMON CARRIERS.--

A. With respect to common carriers, the department of transportation shall:

(1) fix, determine, supervise, regulate and control all charges and rates of railway, express, sleeping car and other transportation companies and common carriers within the state;

(2) determine any matters of public convenience and necessity with respect to matters subject to its regulatory authority as provided by law;

(3) require railway companies and other common carriers to provide and maintain adequate equipment, depots, stock pens, station buildings, agents and facilities for the accommodation of shippers and passengers and for receiving and delivering freight and express and to provide and maintain necessary crossings, culverts, sidings and other facilities for convenience and safety whenever in the department's judgment

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the public interest demands;

(4) require railway companies, transportation companies and common carriers to provide such reasonable safety appliances and use such reasonable safety practices as may be necessary and proper for the safety of employees and the public as required by federal or state laws and rules;

(5) change, amend and rescind rates;

(6) enforce its rules through administrative sanctions and in the courts; and

(7) carry out all other duties and have all other powers provided by law.

B. The department of transportation may subpoena witnesses and documents, enforce its subpoenas through any court and, through the court, punish for contempt.

C. The department of transportation has the power, after notice and hearing of record, to determine and decide any question and to issue orders relating to its powers and duties.

D. An interested party may appeal from a final order of the department of transportation by filing a notice of appeal with the supreme court asking for review of the order within thirty days of the final order. The appellant shall pay to the department any costs of preparing and transmitting the record to the court.

E. The pendency of an appeal shall not automatically stay the order appealed from. The appellant may

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seek to obtain a stay from the department of transportation or the supreme court.

F. The appeal shall be on the record of the hearing before the department of transportation and shall be governed by the appellate rules applicable to administrative appeals. The supreme court shall affirm the department's order unless it is:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record; or
- (3) otherwise not in accordance with law.

G. In the case of a failure or refusal of a person to comply with an order of the department of transportation within the time prescribed in the order or within thirty days after the order is entered, whichever is later, unless a stay has been granted, the department shall seek enforcement of the order in the district court. The enforcement hearing shall be held on an expedited basis. At the hearing, the sole question shall be whether the person has failed to comply with or violated the order.

SECTION 2. [NEW MATERIAL] DEPARTMENT OF TRANSPORTATION MAY INSPECT BOOKS AND RECORDS.--The department of transportation or person authorized by the department in writing under its seal to make an examination shall have the

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right at all times to inspect the books, papers and records of all such companies and common carriers doing business in this state relating to any matter pending before or being investigated by the department. Any officer, agent or employee of any such company or corporation or any person in charge of such books, papers and records who refuses to permit examination or who conceals, destroys or mutilates or attempts to conceal, destroy or mutilate any such books, papers or records or remove the same beyond the limits of the state for the purpose of preventing examination shall be deemed guilty of a misdemeanor and upon conviction may be fined not to exceed five hundred dollars (\$500) or imprisoned in the county jail not more than six months.

SECTION 3. [NEW MATERIAL] CARRIER INSPECTION--FEE.--

A. Each carrier doing business in this state that is subject to the control and jurisdiction of the department of transportation with respect to its rates and service shall pay annually to the department a fee in performance of its duties as now provided by law. The fee for carriers shall not exceed two hundred fifty-six thousandths percent of its gross receipts from business transacted in New Mexico for the preceding calendar year. This sum shall be payable annually on or before April 1 in each year. No similar fee shall be imposed upon the carrier. In the case of carriers engaged in interstate business, the fees shall be measured by the gross receipts of

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the carriers from intrastate business only for the preceding calendar year and not in any respect upon receipts derived wholly or in part from interstate business.

B. When a fee is not paid on the date it is due, interest shall be paid to the state on the amount due. The interest on the amount due shall start to accrue on the day following the due date and shall continue to accrue until the total amount due is paid. The rate of interest on a late fee payment shall be fifteen percent per year, computed at the rate of one and one-fourth percent per month.

C. In addition to any interest due on a late fee payment, a penalty shall be paid to the state for failure to pay the fee when it is due. The penalty imposed shall be two percent of the amount of the fee due.

D. The attorney general, in the name of the state, shall bring suit to collect fees, interest and penalties that remain unpaid.

SECTION 4. [NEW MATERIAL] DISPOSITION OF FEES.--All money collected under the provisions of Section 3 of this 2023 act shall be deposited with the state treasurer who shall credit it to the general fund.

SECTION 5. [NEW MATERIAL] EXEMPTIONS.--The provisions of Section 3 of this 2023 act shall not apply to common or contract motor carriers or aircraft carriers transporting passengers or property for hire.

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SECTION 6. Section 5-1-1 NMSA 1978 (being Laws 1967, Chapter 167, Section 1, as amended) is amended to read:

"5-1-1. POLITICAL SUBDIVISIONS--AMBULANCE SERVICE.--

A. A municipality or county may:

[A-] (1) provide ambulance service to transport sick or injured persons to a place of treatment in the absence of an established ambulance service only as authorized by the [~~state corporation commission~~] department of transportation;

[B-] (2) contract with other political subdivisions or with private ambulance services for the operation of its ambulance service;

[C-] (3) lease ambulances and other equipment necessary to the operation of its ambulance service;

[D-] (4) in the course of its operation of an ambulance service, proceed to the scene of a disaster beyond its subdivision boundaries when requested, providing no local established ambulance service is available or, if one exists, such local ambulance service deems [~~their~~] its capacity inadequate or insufficient for emergency transportation of the disaster victims; and

[E-] (5) transport sick or injured persons from the subdivision boundaries to any place of treatment [~~and~~].

[F-] B. No personal action shall be maintained in

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any court of this state against any member or officer of a political subdivision for any tort or act done, or attempted to be done, when done by the authority of the political subdivision or in execution of its orders under this section. In all such cases, political subdivisions shall be responsible. Any member or officer of the political subdivision may plead the provisions of this section in bar of such action whether it is now pending or hereafter commenced."

SECTION 7. Section 7-24A-4 NMSA 1978 (being Laws 1978, Chapter 182, Section 4) is amended to read:

"7-24A-4. LIMITATIONS ON POWER.--

A. All contracts for work, material or labor in connection with such transportation shall be let in the manner provided by law for the letting of other contracts by the county or municipality.

B. Transit service may not be extended to points outside the county in which a city is located or outside the boundaries of the county unless prior approval is obtained from the [~~state corporation commission~~] department of transportation and other regulatory bodies having jurisdiction in the matter."

SECTION 8. Section 22-17-1 NMSA 1978 (being Laws 1974, Chapter 38, Section 1) is amended to read:

"22-17-1. SHORT TITLE.-- [~~Sections 1 through 4 of this act~~] Chapter 22, Article 17 NMSA 1978 may be cited as the "Emergency Transportation Act"."

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SECTION 9. Section 22-17-2 NMSA 1978 (being Laws 1974, Chapter 38, Section 2, as amended) is amended to read:

"22-17-2. [~~PUBLIC REGULATION COMMISSION~~] DEPARTMENT OF TRANSPORTATION PERMITS.--

A. Subject to the Emergency Transportation Act, the [~~public regulation commission~~] department of transportation may approve a permit application of a school district operating its own school buses or of an independent school bus operator who operates school buses under contract with a school district for the operation of such buses for general public transportation if the [~~commission~~] department of transportation determines that:

- (1) the school district operating its own school buses or the independent school bus operator has complied with laws, regulations and other requirements governing transportation of the general public;
- (2) existing public or private transportation systems will not be adversely affected by the use of school buses for general public transportation; and
- (3) a public transportation emergency exists within the proposed area of operation necessitating the use of school buses for general public transportation.

B. Notice of approval or denial of the permit application shall be submitted to the state transportation director and to the applicant within ten days of final

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determination by the [~~public regulation commission~~] department of transportation.

C. As used in the Emergency Transportation Act, "public transportation emergency" includes an event:

- (1) that is open to the public;
- (2) that, if in a class A county, is expected to attract over fifty thousand visitors and residents;
- (3) that has such insurance or surety as is necessary to insure against all losses and damages proximately caused by or resulting from the negligent operation, maintenance or use of school buses or for loss of or damage to property of others; and
- (4) for which school buses are needed to transport the public to the event because:
 - (a) existing public transportation systems cannot adequately and timely transport the public to the event;
 - (b) private transportation systems are unavailable or prohibitively expensive; or
 - (c) the event and the surrounding area are likely to suffer economic hardship if school buses are not utilized pursuant to the Emergency Transportation Act."

SECTION 10. Section 22-17-3 NMSA 1978 (being Laws 1974, Chapter 38, Section 3) is amended to read:

"22-17-3. STATE TRANSPORTATION DIRECTOR--APPROVAL.--

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A. Upon the receipt of approval of the permit application from the [~~state corporation commission~~] department of transportation, the state transportation director may grant a permit to operate school buses for general public transportation to a school district that operates its own school buses or to the independent school bus operator who operates school buses under contract with a school district if [~~he~~] the director determines that:

(1) [~~that~~] school bus service to students will not be adversely affected by [~~issuing~~] issuance of the permit;

(2) [~~that~~] the operation of [~~such~~] school buses for general public transportation service by the school district or the independent operator will not provide unnecessary duplication of a general public transportation service by school buses of another school district or independent school bus operator contracting with another school district; and

(3) [~~that~~] there has been compliance with the rules and regulations of the state transportation director issued pursuant to the Emergency Transportation Act.

B. The state transportation director subject to the approval of the [~~state superintendent of public instruction~~] secretary shall by regulation provide for application fees, forms and permit procedures pursuant to the Emergency Transportation Act.

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C. A permit issued under this section shall be valid for one year and shall be annually renewed upon payment of a reasonable application fee to the state transportation division and certification by the [~~state corporation commission~~] department of transportation of the permittee's compliance with all applicable laws. Notice of renewal of the permit shall be delivered by the state transportation division to the [~~state corporation commission~~] department of transportation and the local school board concerned."

SECTION 11. Section 22-17-4 NMSA 1978 (being Laws 1974, Chapter 38, Section 4) is amended to read:

"22-17-4. TERMINATION OF PERMIT.--A permit issued pursuant to the Emergency Transportation Act shall be terminated by the state transportation director upon thirty days' written notice to the holder of the permit if the state transportation director receives written notice from:

A. the [~~state corporation commission~~] department of transportation that it has determined that a public transportation emergency in the area in which the permittee provides general public transportation no longer exists or that public or private transportation systems are being adversely affected in [~~such~~] the area; or

B. the local school board that [~~such~~] the local school board has determined that school bus service to students is being adversely affected by providing general public

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transportation under the permit."

SECTION 12. Section 24-10B-4 NMSA 1978 (being Laws 1983, Chapter 190, Section 4, as amended) is amended to read:

"24-10B-4. BUREAU--DUTIES.--The bureau is designated as the lead agency for the emergency medical services system, including injury prevention, and shall establish and maintain a program for regional planning and development, improvement, expansion and direction of emergency medical services throughout the state, including:

A. design, development, implementation and coordination of emergency medical services communications systems to join the personnel, facilities and equipment of a given region or system that will allow for medical direction;

B. provision of technical assistance to the [~~public regulation commission~~] department of transportation for further development and implementation of standards for certification of ambulance services, vehicles and equipment;

C. development of requirements for the collection of data and statistics to evaluate the availability, operation and quality of providers in the state;

D. adoption of rules for emergency medical services medical direction upon the recommendation of the medical direction committee;

E. approval of continuing education programs for emergency medical services personnel;

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F. adoption of rules pertaining to the training and licensure of emergency medical dispatchers and their instructors;

G. adoption of rules based upon the recommendations of a trauma advisory committee, for implementation and monitoring of a statewide, comprehensive trauma care system, including:

(1) minimum standards for designation or retention of designation as a trauma center or a participating trauma facility;

(2) pre-hospital care management guidelines for the triage and transportation of traumatized persons;

(3) establishment for interfacility transfer criteria and transfer agreements;

(4) standards for collection of data relating to trauma system operation, patient outcome and trauma prevention; and

(5) creation of a state trauma care plan;

H. adoption of rules, based upon the recommendations of the air transport advisory committee, for the certification of air ambulance services;

I. adoption of rules pertaining to authorization of providers to honor advance directives, such as emergency medical services do not resuscitate forms, to withhold or terminate care in certain pre-hospital or interfacility

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circumstances, as guided by local medical protocols;

J. operation of a critical incident stress management program for emergency providers utilizing specifically trained volunteers who shall be considered public employees for the purposes of the Tort Claims Act when called upon to perform their duties;

K. adoption of rules to establish a cardiac arrest targeted response program pursuant to the Cardiac Arrest Response Act, including registration of automated external defibrillator programs, maintenance of equipment, data collection, approval of automated external defibrillator training programs and a schedule of automated external defibrillator program registration fees;

L. adoption of rules for the administration of an emergency medical services certification program for certified emergency medical services; and

M. promoting, developing, implementing, coordinating and evaluating risk reduction and injury prevention systems."

SECTION 13. Section 24-15-4 NMSA 1978 (being Laws 1969, Chapter 218, Section 4, as amended) is amended to read:

"24-15-4. INSURANCE.--

A. Every ski area operator shall file with the [~~state corporation commission~~] department of transportation and keep on file [~~therewith~~] with the department proof of financial

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responsibility in the form of a current insurance policy in a form approved by the ~~[commission]~~ department, issued by an insurance company authorized to do business in the state and conditioned to pay, within the limits of liability ~~[herein]~~ prescribed in this section, all final judgments for personal injury or property damage proximately caused by or resulting from negligence of the ski area operator covered ~~[thereby]~~ by the policy, as such negligence is defined and limited by the Ski Safety Act. The minimum limits of liability insurance to be provided by ski area operators shall be as follows:

SKI SAFETY ACT

LIABILITY INSURANCE

LIMITS OF LIABILITY

REQUIRED MINIMUM COVERAGES

FOR INJURIES, DEATH OR DAMAGES

LIMITS FOR BODILY

INJURY TO OR DEATH

LIMITS FOR BODILY OF ALL PERSONS

KIND AND NUMBER OF LIFTS OPERATED	INJURY TO OR DEATH OF ONE PERSON	INJURED OR KILLED IN ANY ONE ACCIDENT	PROPERTY DAMAGE
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Not more than

three surface lifts	\$ 100,000	\$ 300,000	\$ 5,000
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Not more than

three ski lifts,
including one or more

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chair lifts	250,000	500,000	25,000
More than three			
ski lifts or one			
or more tramways	500,000	1,000,000	50,000.

B. No ski lift or tramway shall be operated in this state after the effective date of the Ski Safety Act unless a current insurance policy as required ~~[herein]~~ by this section is in effect and properly filed with the ~~[state corporation commission]~~ department of transportation. Each policy shall contain a provision that it cannot be canceled prior to its expiration date without thirty days' written notice of intent to cancel served by registered mail on the insured and on the ~~[commission]~~ department."

SECTION 14. Section 24-15-8 NMSA 1978 (being Laws 1979, Chapter 279, Section 5) is amended to read:

"24-15-8. DUTIES OF SKI AREA OPERATORS WITH RESPECT TO SKI LIFTS.--Every ski area operator ~~[shall have]~~ has the duty to operate, repair and maintain all ski lifts in safe condition. The ski area operator, prior to December 1 of each year, shall certify to the ~~[state corporation commission]~~ department of transportation the policy number and name of the company providing liability insurance for the ski area, ~~[and]~~ the date of the ski lift inspections and the name of the person making ~~[such]~~ those inspections."

SECTION 15. Section 27-5-4 NMSA 1978 (being Laws 1965,

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Chapter 234, Section 4, as amended) is amended to read:

"27-5-4. DEFINITIONS.--As used in the Indigent Hospital and County Health Care Act:

A. "ambulance provider" or "ambulance service" means a specialized carrier based within the state authorized under provisions and subject to limitations as provided in individual carrier certificates issued by the [~~public regulation commission~~] department of transportation to transport persons alive, dead or dying en route by means of ambulance service. The rates and charges established by [~~public regulation commission~~] department of transportation tariff shall govern as to allowable cost. Also included are air ambulance services approved by the county. The air ambulance service charges shall be filed and approved pursuant to Subsection D of Section 27-5-6 NMSA 1978 and Section 27-5-11 NMSA 1978;

B. "cost" means all allowable costs of providing health care services, to the extent determined by resolution of a county, for an indigent patient. Allowable costs shall be based on medicaid fee-for-service reimbursement rates for hospitals, licensed medical doctors and osteopathic physicians;

C. "county" means a county except a class A county with a county hospital operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution

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of New Mexico;

D. "department" means the human services department;

E. "fund" means a county health care assistance fund;

F. "health care services" means treatment and services designed to promote improved health in the county indigent population, including primary care, prenatal care, dental care, behavioral health care, alcohol or drug detoxification and rehabilitation, hospital care, provision of prescription drugs, preventive care or health outreach services, to the extent determined by resolution of the county;

G. "indigent patient" means a person to whom an ambulance service, a hospital or a health care provider has provided medical care, ambulance transportation or health care services and who can normally support the person's self and the person's dependents on present income and liquid assets available to the person but, taking into consideration the person's income, assets and requirements for other necessities of life for the person and the person's dependents, is unable to pay the cost of the ambulance transportation or medical care administered or both; provided that if a definition of "indigent patient" is adopted by a county in a resolution, the definition shall not include any person whose annual income together with that person's spouse's annual income totals an

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amount that is fifty percent greater than the per capita personal income for New Mexico as shown for the most recent year available in the survey of current business published by the United States department of commerce. "Indigent patient" includes a minor who has received ambulance transportation or medical care or both and whose parent or the person having custody of that minor would qualify as an indigent patient if transported by ambulance, admitted to a hospital for care or treated by a health care provider;

H. "medicaid eligible" means a person who is eligible for medical assistance from the department;

I. "planning" means the development of a countywide or multicounty health plan to improve and fund health services in the county based on the county's needs assessment and inventory of existing services and resources and that demonstrates coordination between the county and state and local health planning efforts;

J. "public entity" means a state, local or tribal government or other political subdivision or agency of that government; and

K. "qualifying hospital" means an acute care general hospital licensed by the department of health that is qualified to receive payments from the safety net care pool pursuant to an agreement with the federal centers for medicare and medicaid services."

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SECTION 16. Section 48-11-7 NMSA 1978 (being Laws 1987, Chapter 314, Section 7, as amended) is amended to read:

"48-11-7. ENFORCEMENT OF LIEN.--

A. An owner's lien, as provided under the Self-Service Storage Lien Act, for a claim that has become due may be satisfied as follows:

(1) after the occupant has been in default continuously for a period of five days, the owner may deny the occupant access to the occupant's space for storage;

(2) after the occupant has been in default continuously for a period of thirty days, the owner may enter the space and may remove the personal property within it to a safe place; provided that the owner has sent a notice of intent to enforce a lien, pursuant to Subsection B of this section, to the occupant at the occupant's last known address within five days of entering the space. The owner shall also give notice to all lienholders listed in the disclosure provision in the rental agreement; and

(3) no action to sell any property as provided in the Self-Service Storage Lien Act shall be taken by an owner until the occupant has been in default continuously for a period of ninety days.

B. The notice of intent to enforce a lien shall include:

(1) an itemized statement of the owner's claim

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showing the sum due at the time of the notice and the date when the sum became due;

(2) a brief and general statement of the personal property subject to the lien. That description shall be reasonably adequate to permit the person notified to identify the property, except that any container, including a trunk, valise or box that is locked, fastened, sealed or tied in a manner [~~which~~] that deters immediate access to its contents, may be so described without describing its contents;

(3) a notification of denial of access to the personal property. That notification shall provide the name, street address and telephone number of the owner or the owner's designated agent whom the occupant may contact to respond to that notification;

(4) a demand for payment within a specified time, not less than fifteen days after the delivery of the notice; and

(5) a conspicuous statement that unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of to satisfy the owner's lien.

C. All notices made pursuant to this section shall be by verified mail or electronic mail pursuant to the occupant's option at the time of entering into the current

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rental agreement.

D. An owner shall provide written notice by verified mail to the occupant's last known address or by electronic mail to the occupant's last known electronic address. If an owner sends a notice by electronic mail and does not receive a response, return receipt or delivery confirmation from the electronic address to which the notice was sent within three business days after the day on which the notice was sent, the owner shall deliver a one-time notice by verified mail to the occupant's last known address.

E. After the expiration of the time given in the notice of intent to enforce a lien, the owner shall publish an advertisement of the sale or other disposition of the property once a week for two consecutive weeks in a newspaper of general circulation in the county where the self-service storage facility is located. The advertisement shall include:

(1) a brief and general description of the personal property reasonably adequate to permit its identification as provided in Paragraph (2) of Subsection B of this section, the address of the self-service storage facility where the personal property is located and the name and last known address of the occupant; and

(2) the time, place and manner of the sale or other disposition. The sale or disposition shall take place not sooner than fifteen days after the first publication.

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If there is no newspaper of general circulation in the county where the self-service storage facility is located, the owner shall post the advertisement at least ten days prior to the sale or other disposition in at least six conspicuous places in the neighborhood where the self-service storage facility is located.

F. Any sale or other disposition of the personal property shall conform to the terms of the notification as provided for in this section.

G. Any sale or other disposition of the personal property shall be held at the self-service storage facility or at the nearest suitable place within the county to where the personal property is held or stored or may be conducted on a publicly accessible online [~~web site~~] website.

H. Before any sale or other disposition of personal property pursuant to this section is made, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the property. Upon receipt of the payment, the owner shall return the personal property and thereafter the owner shall have no liability to any person with regard to that personal property.

I. A good faith purchaser takes the property free of any rights of an unsecured lienholder and free of any rights of a secured lienholder who has received notice by owner as provided in this section.

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J. In the event of a sale under this section, the owner may satisfy the owner's lien from the proceeds of the sale, subject to the rights of any prior lienholder who has not received notice. The lien rights of such prior lienholder are automatically transferred to the proceeds of the sale. If the sale was made in good faith and conducted in a reasonable manner, the owner shall not be subject to any surcharge for a deficiency in the amount of a prior secured lien, but shall hold the balance, if any, for delivery to the occupant, lienholder or other person in interest. If the occupant, lienholder or other person in interest does not claim the balance of the proceeds within two years of the date of sale, it shall become the property of the owner without further recourse by the occupant, lienholder or other person in interest.

K. Nothing in this section affects the rights and liabilities of the owner, occupant or any other person if there is a willful violation of any of the provisions of the Self-Service Storage Lien Act. If the property subject to a lien described in this section is a vehicle, watercraft or trailer, the occupant is in default for a continuous sixty-day period and the owner chose not to sell the vehicle, the owner may have the vehicle towed from the self-storage facility by an independent towing carrier that is licensed by the ~~[public regulation commission]~~ department of transportation pursuant to

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the Motor Carrier Act. Within one day after the day on which a vehicle is towed, the owner shall send verified notice to the occupant's last known address or electronic address that states:

- (1) the date the vehicle was towed; and
- (2) the address and telephone number of the person that towed the vehicle."

SECTION 17. Section 62-19-5 NMSA 1978 (being Laws 2013, Chapter 64, Section 1, as amended) is amended to read:

"62-19-5. QUALIFICATIONS OF COMMISSIONERS.--

A. Commissioners shall be persons who are independent of the industries regulated by the commission and shall possess demonstrated competence.

B. In order to be appointed as a commissioner, a person must be qualified for office by:

(1) having a baccalaureate degree from an institution of higher education that has been accredited by a regional or national accrediting body and at least ten years of professional experience in an area regulated by the commission or in the energy sector and involving a scope of work that includes accounting, public or business administration, economics, finance, statistics, policy, engineering or law; or

(2) having higher education resulting in at least a professional license or a post-graduate degree from an institution of higher education that has been accredited by a

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regional or national accrediting body in a field related to an area regulated by the commission, including accounting, public or business administration, economics, finance, statistics, policy, engineering or law, and at least ten years of professional experience within the person's field.

C. A commissioner shall not have a financial interest in a public utility in this state or elsewhere and shall not have been employed by a commission-regulated entity at any time during the two years prior to appointment to the commission.

D. Commissioners shall give their entire time to the business of the commission and shall not pursue any other business or vocation or hold any other office for profit.

E. As used in this section, "professional experience" means employment in which the prospective appointee for commissioner regularly made decisions requiring discretion and independent judgment and:

(1) engaged in policy analysis, research, consumer advocacy or implementation in an area regulated by the commission or in the energy sector;

(2) managed, as the head, deputy head or division director, a federal, state, tribal or local government department or division responsible for utilities, energy policy [~~transportation~~] or construction; or

(3) managed a business or organization

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regulated by the commission or in the energy sector that had five or more employees during the time it was managed by the prospective appointee."

SECTION 18. Section 62-19-12 NMSA 1978 (being Laws 1998, Chapter 108, Section 6, as amended) is amended to read:

"62-19-12. COMMISSION--~~[DIVISIONS]~~ ORGANIZATIONAL UNITS.--The commission includes the following organizational units:

- A. the administrative services division;
- B. the consumer relations division;
- C. the legal division;
- ~~[D. the transportation division; and~~
- ~~E.]~~ D. the utility division; and
- E. the pipeline safety bureau."

SECTION 19. Section 62-19-16 NMSA 1978 (being Laws 1998, Chapter 108, Section 11) is repealed and a new Section 62-19-16 NMSA 1978 is enacted to read:

"62-19-16. [NEW MATERIAL] PIPELINE SAFETY BUREAU.--The pipeline safety bureau shall serve as staff to the commission for the regulation of pipelines and pipeline safety, as provided by law."

SECTION 20. Section 63-1-41 NMSA 1978 (being Laws 1878, Chapter 1, Section 8-22, as amended) is amended to read:

"63-1-41. ANNUAL REPORT.--~~[SEC. 43.]~~ Every railroad corporation [~~must~~] shall make an annual report to the [~~state~~

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~~corporation commission]~~ department of transportation of the operations of the year ending on ~~[the thirty-first day of]~~ December 31. ~~[which report shall be verified by]~~ The president or general superintendent and the secretary and treasurer of the corporation shall verify the report. ~~[Such report must be filed in the office of said commission]~~ A railroad corporation shall file the report with the department of transportation on or before [the first day of] March 1 next ensuing and shall state:

~~[First]~~ A. the capital stock and the amount thereof actually paid in;

~~[Second]~~ B. the amount paid for the purchase of lands for the construction of the road, for buildings, engines and cars, respectively;

~~[Third]~~ C. the amount and nature of the indebtedness of the corporation and the amount due to it;

~~[Fourth]~~ D. the amount received for the transportation of passengers, property, mails, express matter, respectively, and the amount received from any other sources;

~~[Fifth]~~ E. the amount of freight transported, specifying the quantity in tons;

~~[Sixth]~~ F. the amount paid for the repair of engines, cars, buildings and other expenses, in gross, showing the current expense of running its road;

~~[Seventh]~~ G. the number and amount of dividends and

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when paid; and

[~~Eighth~~] H. the number of engine houses and shops, of engines and cars and their character."

SECTION 21. Section 63-7-1.1 NMSA 1978 (being Laws 1998, Chapter 108, Section 52) is amended to read:

"63-7-1.1. COMMISSION POWERS AND DUTIES--~~[TRANSPORTATION AND] TRANSMISSION COMPANIES [AND COMMON CARRIERS]~~--TELEPHONE AND TELEGRAPH COMPANIES.--

A. With respect to ~~[transportation and]~~ transmission companies ~~[and common carriers]~~, the commission shall:

(1) fix, determine, supervise, regulate and control all charges and rates of ~~[railway, express]~~ telegraph, telephone ~~[sleeping car and other transportation]~~ and other transmission companies ~~[and common carriers]~~ within the state;

(2) determine any matters of public convenience and necessity with respect to matters subject to its regulatory authority as provided by law;

~~[(3) require railway companies and other common carriers to provide and maintain adequate equipment, depots, stockpens, station buildings, agents and facilities for the accommodation of shippers and passengers and for receiving and delivering freight and express and to provide and maintain necessary crossings, culverts, sidings and other facilities for convenience and safety whenever in the commission's judgment~~

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~~the public interest demands;~~

~~(4) require railway companies, transportation companies and common carriers to provide such reasonable safety appliances and use such reasonable safety practices as may be necessary and proper for the safety of employees and the public as required by federal or state laws and rules;~~

~~(5)] (3) change, amend and rescind rates;~~

~~[(6)] (4) enforce its rules through administrative sanctions and in the courts; and~~

~~[(7)] (5) carry out all other duties and have all other powers provided by law.~~

B. In fixing rates of telephone and telegraph companies, due consideration shall be given to the earnings, investments and expenditures as a whole within the state. The commission shall include in that consideration the earnings, investments and expenditures derived from or related to the sale of directory advertising and other directory listing services.

C. The commission may subpoena witnesses and documents, enforce its subpoenas through any court and, through the court, punish for contempt.

D. The commission has the power, after notice and hearing of record, to determine and decide any question and to issue orders relating to its powers and duties.

E. An interested party may appeal from a final

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order of the commission by filing a notice of appeal with the supreme court asking for review of the order within thirty days of the final order. The appellant shall pay to the commission any costs of preparing and transmitting the record to the court.

F. The pendency of an appeal shall not automatically stay the order appealed from. The appellant may seek to obtain a stay from the commission or the supreme court.

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

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record; or
- (3) otherwise not in accordance with law.

H. In the case of a failure or refusal of any person to comply with an order of the commission within the time prescribed in the order or within thirty days after the order is entered, whichever is later, unless a stay has been granted, the commission shall seek enforcement of the order in the district court. The enforcement hearing shall be held on an expedited basis. At the hearing, the sole question shall be whether the person has failed to comply with or violated the

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order."

SECTION 22. Section 63-7-20 NMSA 1978 (being Laws 1951, Chapter 194, Section 1, as amended) is amended to read:

"63-7-20. UTILITY [~~AND CARRIER~~] INSPECTION--FEE.--

A. Each utility [~~and carrier~~] doing business in this state [~~which~~] that is subject to the control and jurisdiction of the commission by virtue of the provisions of Article 11 of the constitution of New Mexico with respect to its rates and service shall pay annually to the commission a fee in performance of its duties as now provided by law. [~~The fee for carriers shall not exceed two hundred fifty-six thousandths percent of its gross receipts from business transacted in New Mexico for the preceding calendar year.~~] The fee for utilities shall not exceed five hundred eleven thousandths percent of its gross receipts from business transacted in New Mexico for the preceding calendar year. This sum shall be payable annually on or before April 1 in each year. No similar fee shall be imposed upon the utility [~~or carrier~~]. In the case of utilities [~~or carriers~~] engaged in interstate business, the fees shall be measured by the gross receipts of the utilities [~~or carriers~~] from intrastate business only for the preceding calendar year and not in any respect upon receipts derived wholly or in part from interstate business. As used in this section, "utility" includes telephone companies and transmission companies but does not

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include public utilities subject to the Public Utility Act.

B. When a fee is not paid on the date it is due, interest shall be paid to the state on the amount due. The interest on the amount due shall start to accrue on the day following the due date and shall continue to accrue until the total amount due is paid. The rate of interest on a late fee payment shall be fifteen percent per year, computed at the rate of one and one-fourth percent per month.

C. In addition to any interest due on a late fee payment, a penalty shall be paid to the state for failure to pay the fee when it is due. The penalty imposed shall be two percent of the amount of the fee due.

D. The attorney general, in the name of the state, shall bring suit to collect fees, interest and penalties that remain unpaid."

SECTION 23. Section 63-7-22 NMSA 1978 (being Laws 1951, Chapter 194, Section 3) is amended to read:

"63-7-22. EXEMPTIONS.--The provisions of [~~this act~~] Sections 63-7-20 through 63-7-22 NMSA 1978 shall not apply to pipelines [~~which~~] that are used for the transportation of oil, natural gas or the products thereof [~~neither shall the provisions of this act apply to common or contract motor carriers or aircraft carriers transporting passengers or property for hire~~]."

SECTION 24. Section 64-1-12 NMSA 1978 (being Laws 1963,

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Chapter 314, Section 2, as amended) is amended to read:

"64-1-12. DEFINITIONS.--As used in the Aviation Act:

- A. "aircraft" means airplane and helicopter;
- B. "pilot" means any person participating in the operation of an aircraft while it is in flight;
- C. "passenger" means any person riding in an aircraft except a pilot;
- D. "department" means the [~~state highway and~~ department of transportation [~~department~~];
- E. "division" means the aviation division of the department;
- F. "director" means the [~~executive head~~] director of the division; and
- G. "secretary" means the [~~executive head of the department~~] secretary of transportation."

SECTION 25. Section 64-1-13 NMSA 1978 (being Laws 1963, Chapter 314, Section 5, as amended) is amended to read:

"64-1-13. AVIATION DIVISION--POWERS AND DUTIES.--The division shall:

- A. cooperate with all public and private agencies and organizations, state, local and federal, to encourage and advance aviation in this state;
- B. assemble and distribute to the public information relating to aviation, landing fields, beacons and other matters pertaining to aviation and may accept federal

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money made available for the advancement of aviation;

C. authorize expenditures of money from the state aviation fund for construction, development and maintenance of public-use airport facilities, except airports serving regularly scheduled interstate airlines using aircraft with a maximum passenger capacity of more than one hundred seats or a maximum payload capacity of more than twenty-five thousand pounds, including rural landing fields and airstrips. Expenditures shall be made according to the need for airport facilities as determined by the division;

D. operate under a director, appointed by the secretary, with the approval of the governor, who shall have an aviation background and meet other qualifications prescribed by the secretary;

E. establish policies for operation of the division;

F. promulgate rules for proper enforcement of aviation laws [~~except for those relating to common carriers~~];

G. provide for a surety bond, paid from the state aviation fund, issued by a corporate surety company licensed to do business in New Mexico, in an amount set by the state board of finance, on a form approved by the attorney general, conditioned upon the faithful performance of the duties of the personnel of the division who expend or authorize the expenditure of state funds;

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H. have the following powers with respect to state airports:

(1) the division may, on behalf of and in the name of the state, out of appropriations and other money made available for such purposes, plan, construct, enlarge, improve, maintain, equip and operate airports and air navigation facilities, including the construction, equipment, maintenance and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers. For such purposes, the division may, in the name of the state, by purchase, gift, devise, lease or otherwise, acquire property, real or personal, or any interest in property, including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the airports or air navigation facilities. The division may enter into any contracts necessary to the execution of the powers granted it by this paragraph; and

(2) the division may accept, receive, receipt for, disburse and expend federal money and other money, public or private, made available to accomplish, in whole or in part, any of the purposes of this subsection. All federal money accepted under this subsection shall be accepted and expended by the division upon such terms and conditions as are prescribed by the United States. The division, on behalf of

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the state, may enter into contracts with the United States or with any person that may be required in connection with a grant or loan of federal money for airport or air navigation facility purposes. All money received by the division pursuant to this subsection is appropriated for the purpose for which the money was made available, to be disbursed or expended in accordance with the terms and conditions upon which the money was made available; provided that nothing contained in this section shall affect the power of a local government to contract with the United States or any person in connection with a grant or loan of money for airports or air navigation facilities in accordance with the terms and conditions upon which the funds were made available; and

I. have the power to engage in planning for the development of a system of public airports within the state."

SECTION 26. Section 64-1-14 NMSA 1978 (being Laws 1963, Chapter 314, Section 6, as amended) is amended to read:

"64-1-14. DIRECTOR--POWERS AND DUTIES.--The director shall:

- A. be the executive officer of the division;
- B. with the consent of the secretary, employ necessary personnel; and
- C. administer the aviation laws of this state [~~except those relating to common carriers~~] and enforce the policies, rules and regulations of the division."

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SECTION 27. Section 64-6-3 NMSA 1978 (being Laws 2021, Chapter 47, Section 3, as amended) is amended to read:

"64-6-3. RURAL AIR SERVICE ENHANCEMENT GRANT PROGRAM.--

A. The "rural air service enhancement grant program" is created in the division to be administered by the director.

B. The director shall:

- (1) establish and publish deadlines and guidelines for the submission of grant applications;
- (2) develop procedures for receipt, review and approval of grant applications;
- (3) receive, review and approve grant applications;
- (4) monitor municipalities' and counties' use of grant money by reviewing annual reports submitted to the director to ensure that grants are used consistently with the terms of the grant awards;
- (5) establish grant reporting requirements that meet the general purpose of the Rural Air Service Enhancement Act; and
- (6) perform other duties as necessary to carry out the provisions of the Rural Air Service Enhancement Act.

C. Each fiscal year, competitive grants for minimum revenue guarantees shall be awarded to applicants for the sole purpose of funding rural air service enhancement grants.

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D. The director shall award grants to applicants through a competitive process and based upon the following criteria:

(1) the demand for service on the proposed new air routes or expanded air routes;

(2) the economic impact on the municipality or county of the proposed new air routes or expanded air routes; and

(3) the feasibility of a common carrier [~~licensed by the state~~] servicing proposed new air routes or expanded air routes.

E. Applicants shall meet the following minimum criteria to be eligible for a grant:

(1) municipalities or counties shall have a minimum population of twenty thousand persons residing within a fifty-mile radius of the airport unless the municipality or county has existing air routes;

(2) aircraft to be used to service proposed new air routes or expanded air routes served by the rural air service enhancement grant program shall have a passenger capacity of not more than thirty persons; and

(3) minimum matching funds from a municipality or county shall be:

(a) ten percent if the municipality or county has no existing scheduled air routes at the time of

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application; and

(b) twenty percent if the municipality or county has existing scheduled air routes at the time of application.

F. Individual grants awarded through the rural air service enhancement grant program shall not:

(1) exceed two million two hundred fifty thousand dollars (\$2,250,000) per year for municipalities or counties with existing scheduled air routes;

(2) exceed two million seven hundred fifty thousand dollars (\$2,750,000) per year for municipalities or counties not served by existing scheduled air routes; or

(3) be used for infrastructure improvement.

G. Individual grants awarded through the rural air service enhancement grant program shall cover a time frame of at least two years. If funds are available in the rural air service enhancement fund, the director may extend the term of an existing grant up to three additional years.

H. No more than ten percent of the balance of the rural air service enhancement fund on July 1 of any year may be used by the division for infrastructure improvements associated with individual grants awarded through the rural air service enhancement grant program.

I. Funds received through individual grants awarded through the rural air service enhancement grant program shall

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be expended by the grantee municipality or county only to airlines that have been selected through a competitive process pursuant to the Procurement Code."

SECTION 28. Section 65-1-6 NMSA 1978 (being Laws 1967, Chapter 97, Section 8, as amended) is amended to read:

"65-1-6. FIELD ENFORCEMENT OF MOTOR TRANSPORTATION ACT AND MOTOR CARRIER ACT AND RULES.--The department shall:

A. enforce in the field the provisions of the Motor Transportation Act and the Motor Carrier Act and the rules promulgated by the [~~public regulation commission~~] department of transportation pursuant to the Motor Carrier Act; and

B. maintain sufficient personnel in the field to enforce the provisions of the Motor Transportation Act and the Motor Carrier Act and the rules promulgated by the [~~public regulation commission~~] department of transportation pursuant to the Motor Carrier Act."

SECTION 29. Section 65-1-27 NMSA 1978 (being Laws 1967, Chapter 97, Section 17, as amended) is amended to read:

"65-1-27. HEARINGS--ATTENDANCE.--The secretary or the secretary's representative may attend all hearings held by the [~~state corporation commission~~] department of transportation concerning motor transportation. The [~~state corporation commission~~] department of transportation shall notify the secretary of all such hearings, and the department is declared to be an interested party and as such may present [~~any~~]

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evidence pertaining to matters under consideration by the [commission] department of transportation. The [state corporation-commission] department of transportation shall send copies of all orders entered by the [commission] department of transportation in motor transportation matters to the department."

SECTION 30. Section 65-2A-1 NMSA 1978 (being Laws 2003, Chapter 359, Section 1) is amended to read:

"65-2A-1. SHORT TITLE.--[Sections 1 through 40 of this act] Chapter 65, Article 2A NMSA 1978 may be cited as the "Motor Carrier Act"."

SECTION 31. Section 65-2A-3 NMSA 1978 (being Laws 2003, Chapter 359, Section 3, as amended) is amended to read:

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

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

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

C. "amendment of a certificate [~~or permit~~]" means a permanent change in the type or nature of service, territory or

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terms of service authorized by an existing certificate [~~or permit~~];

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

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

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

G. "certificate" means the authority issued by the [~~commission~~] department to a person that authorizes the person to offer and provide a certificated service as a motor carrier;

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

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

I. "change in a certificate [~~or permit~~]" means the voluntary amendment, cancellation, change in form of legal entity of the holder, lease, reinstatement, transfer or

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voluntary suspension of a certificate [~~or permit~~];

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

[K. "~~commission~~" means the public regulation ~~commission~~;

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

[M.] L. "continuous and adequate service" means:

(1) for full-service carriers, reasonably continuous availability, offering and provision of transportation services through motor vehicles, equipment and resources satisfying safety and financial responsibility requirements under the Motor Carrier Act and [~~commission~~]

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department rule, that are reasonably adequate to serve the entire full-service territory authorized in the certificate, with reasonable response to all requests for service for the nature of passenger service authorized, based on the nature of public need, expense and volume of demand for the type of service authorized during seasonal periods; and

(2) for general-service carriers, reasonably continuous availability and offering of transportation services through motor vehicles, equipment and resources satisfying safety and financial responsibility requirements under the Motor Carrier Act and ~~[commission]~~ department rule for the nature of the transportation service authorized in the certificate;

~~[N.]~~ M. "contract driver" means a person who contracts with a motor carrier as an independent contractor to drive a vehicle pursuant to an operating authority issued to the motor carrier;

N. "department" means the department of transportation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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Z. "interested person" means a motor carrier operating in the territory involved in an application or grant of temporary authority, a person affected by an order of the [~~commission~~] department or a rule proposed for adoption by the [~~commission~~] department or a person the [~~commission~~] department may deem interested in a particular matter;

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

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

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

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

EE. "lease of equipment" means an agreement whereby a motor carrier obtains equipment owned by another person for

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use by the motor carrier in the exercise of its operating authority, but does not include an agreement between a motor carrier and its contract driver;

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

GG. "motor carrier organization" means an organization approved by the [~~commission~~] department to represent motor carriers and to discuss and propose industry interests and matters other than rates, as well as discussing and proposing rates and other matters pertaining to statewide tariffs;

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

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

JJ. "nonconsensual tow" means the compensated transportation of a motor vehicle by a towing service, if such transportation is performed at the request of a law enforcement

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officer or without the prior consent or authorization of the owner or operator of the motor vehicle;

KK. "notice period" means the period of time specified in Section 65-2A-6 NMSA 1978 following publication of notice during which the [~~commission~~] department may not act;

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

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

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

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

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

~~QQ. "permitted service" means the intrastate~~

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~~transportation of passengers or household goods for hire pursuant to a contract between the motor carrier and another person;~~

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

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

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

~~SS.]~~ QQ. "process" means, in the context of legal process, an order, subpoena or notice issued by the ~~commission~~ department or an order, subpoena, notice, writ or summons issued by a court;

~~TT.]~~ RR. "property" means movable articles of value, including cadavers, hazardous matter, farm products, livestock feed, stock salt, manure, wire, posts, dairy products, livestock hauled in lots of twenty-five thousand

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pounds or more, farm or ranch machinery and the items transported by a towing service, but does not include household goods or unprocessed farm products transported by a farmer from the place of harvesting to market, storage or a processing plant;

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

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

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

[VV.] TT. "public-charge contract" means a contract or contractual arrangement between a motor carrier and a third party for passenger service that requires or allows the motor

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carrier to charge passengers a fare for the transportation service to be provided pursuant to the contract;

[~~WW.~~] UU. "rate" means a form of compensation charged, whether directly or indirectly, by a person for a transportation service subject to the jurisdiction of the [~~commission~~] department;

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

[~~YY.~~] WW. "registration year" means a calendar year;

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

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

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

- (1) "scheduled shuttle service" means a

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shuttle service that transports passengers to and from an airport both through prior arrangement and through presentment at terminal locations, on the basis of a daily time schedule filed with the [~~commission~~] department, that must be met in a timely fashion with a vehicle present at the terminal location regardless of the number of passengers carried on any run, if any, and that includes general shuttle service; and

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

[~~CCC.~~] AAA. "specialized passenger service" means the intrastate transportation for hire of passengers with special physical needs by specialized types of vehicles, or for specialized types of service to the public or community, as the [~~commission~~] department may by rule provide;

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

[~~EEE.~~] CCC. "tariffed service" means one of the following transportation services authorized by the

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[~~commission~~] department for the provision of service on the basis of rates and terms of service contained in a tariff approved by the [~~commission~~] department:

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

tows;

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

[~~GGG.~~] EEE. "taxicab service" means intrastate transportation of passengers for hire in a motor vehicle having a capacity of not more than eight persons, including the driver, for which the passenger or other person engaging the vehicle is allowed to specify not only the origin and destination points of the trip but also, within reason, the route taken by the vehicle, any intermediate stop, any optional

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waiting at a stop and any other passengers transported during the trip and that charges a fare for use of the vehicle primarily on the basis of a drop-flag fee, cumulative mileage and cumulative wait time through a taxicab meter used to cumulate and display the fare to the passenger and includes both municipal taxicab service and general taxicab service, as follows:

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

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

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

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[~~HHI.~~] GGG. "towing service" means the use of specialized equipment, including repossession services using towing equipment, to transport or store:

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

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

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

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

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

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

[~~JJJ.~~] HHH. "transfer of a certificate [~~or permit~~]" means a permanent conveyance of all or part of a certificate [~~or permit~~];

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

[~~LLL.~~] JJJ. "transportation service" means transportation subject to the jurisdiction of the [~~commission~~] department, offered or provided by a motor carrier, that

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requires the carrier to obtain an operating authority from the
[~~commission~~] department under the Motor Carrier Act, regardless
of whether the motor carrier has obtained appropriate operating
authority from the [~~commission~~] department;

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

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

[~~OOO.~~] MMM. "warrant" means the authority issued by
the [~~commission~~] department to a person that authorizes the
person to offer and provide a warranted service as a motor
carrier;

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

- (1) a charter service;
- (2) a property transportation service; or

(3) a towing service; and

~~[[000-]~~ 000. "weight-bumping" means the knowing and willful statement of a fraudulent weight on a shipment of household goods."

SECTION 32. Section 65-2A-4 NMSA 1978 (being Laws 2003, Chapter 359, Section 4, as amended by Laws 2013, Chapter 73, Section 3 and by Laws 2013, Chapter 77, Section 3) is amended to read:

"65-2A-4. POWERS AND DUTIES OF THE ~~[COMMISSION]~~
DEPARTMENT.--

A. In accordance with the Motor Carrier Act, the ~~[commission]~~ department shall:

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

(2) establish minimum requirements for financial responsibility for motor carriers; provided that the financial responsibility standards required shall not be inconsistent with applicable federal standards;

(3) establish safety requirements for intrastate motor carrier motor vehicles and drivers subject to the jurisdiction of the ~~[commission]~~ department; provided that the safety requirements shall not be inconsistent with or more stringent than applicable federal safety standards;

(4) establish reasonable requirements with respect to continuous and adequate service to be provided under

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an operating authority;

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

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

(7) have jurisdiction to determine any matter under the Motor Carrier Act relating to any transportation service carrier that has not obtained an appropriate operating authority from the [~~commission~~] department;

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

(9) hold a public hearing specific to a protest or a request by the [~~transportation division~~] traffic safety bureau of the [~~commission~~] department that has been filed within the notice period in opposition to or in consideration of an application;

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

(11) adopt rules, issue orders and conduct activities necessary to implement and enforce the Motor Carrier

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Act.

B. The [~~commission~~] department may:

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

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

(3) from time to time, modify the type and nature of service, territory and terms of service of operating authorities previously issued, and change or rescind rates previously approved;

(4) establish statewide tariffs as needed for voluntary and optional use by tariffed service carriers; and

(5) adopt rules to implement these powers."

SECTION 33. Section 65-2A-5 NMSA 1978 (being Laws 2003, Chapter 359, Section 5, as amended by Laws 2013, Chapter 73, Section 4 and by Laws 2013, Chapter 77, Section 4) is amended to read:

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"65-2A-5. APPLICATIONS IN GENERAL--MINISTERIAL GRANTS OF
AUTHORITY--WHEN PUBLIC HEARINGS REQUIRED.--

A. A person shall file an application for any
matter for which [~~commission~~] department approval is required.
An application shall be made in writing, verified and in a form
that contains information and is accompanied by proof of
service upon interested persons as required by the [~~commission~~]
department.

B. The [~~commission~~] department shall simplify to
the extent possible the process for approving applications.
The [~~commission~~] department may hold a public hearing on its
own initiative or specific to an objection that has been filed
within the notice period in opposition to or in consideration
of an application.

C. The [~~commission~~] department shall hold a public
hearing on an application whenever a protest is filed
concerning the application during the notice period or the
[~~transportation division~~] traffic safety bureau of the
[~~commission~~] department requests a hearing during the notice
period.

D. The [~~commission~~] department may approve or deny
an application in whole or in part, or allow or require
particular terms of service as it may find reasonable and
appropriate. If no objection, protest or request for hearing
by the [~~transportation division~~] traffic safety bureau of the

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[~~commission~~] department is filed during the notice period, the [~~commission~~] department may grant the application by ministerial action, if the application complies with the provisions of the Motor Carrier Act and the rules of the [~~commission~~] department regarding fitness, ability, financial responsibility and safety."

SECTION 34. Section 65-2A-6 NMSA 1978 (being Laws 2003, Chapter 359, Section 6, as amended by Laws 2013, Chapter 73, Section 5 and by Laws 2013, Chapter 77, Section 5) is amended to read:

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

A. The [~~commission~~] department shall electronically publish notice regarding an application before the [~~commission~~] department for a certificate [~~or permit~~] or for a change in a certificate [~~or permit~~], regarding proposed rulemaking, or regarding other orders of the [~~commission~~] department of general application, by posting a copy of the notice or document on the [~~commission's~~] department's internet [~~web site~~] website and sending electronic mail to all motor carriers, public officials or agencies, or other persons or entities who have previously supplied electronic mail addresses to the [~~commission~~] department for the purpose of publication, advising such persons of the filing and posting. If the [~~commission~~] department in its discretion should also require publication by newspaper, the requirement is met if notice is

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published once in a newspaper of general circulation in the state. The [~~commission~~] department shall not act on an application for a certificate [~~or permit~~] or for an amendment, lease or transfer of a certificate [~~or permit~~] less than twenty days after the date notice was published.

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

SECTION 35. Section 65-2A-7 NMSA 1978 (being Laws 2003, Chapter 359, Section 7, as amended) is amended to read:

"65-2A-7. OPERATING AUTHORITIES IN GENERAL.--

A. Other than an entity receiving funding to supplement transportation services through Title III B of the federal Older Americans Act of 1965, no person shall offer or provide a transportation service for hire within the state without first obtaining an appropriate operating authority from the [~~commission~~] department. Every motor carrier providing a transportation service shall meet and comply with the requirements of the Motor Carrier Act and the lawfully adopted rules and orders of the [~~commission~~] department.

B. A certificate [~~permit~~] or warrant, or a change in a certificate [~~or permit~~], shall be effective from the date

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issued by the [~~commission~~] department and shall remain in effect until canceled, revoked, suspended or amended.

C. A motor carrier shall carry a copy of its operating authority in each motor vehicle it operates in New Mexico.

D. A certificated service carrier shall render reasonably continuous and adequate service as the [~~commission~~] department may by rule prescribe."

SECTION 36. Section 65-2A-8 NMSA 1978 (being Laws 2003, Chapter 359, Section 8, as amended by Laws 2013, Chapter 73, Section 7 and by Laws 2013, Chapter 77, Section 7) is amended to read:

"65-2A-8. CERTIFICATES FOR PASSENGER SERVICE.--

A. The [~~commission~~] department may issue a certificate for a passenger service as follows:

- (1) a certificate for an ambulance service;
- (2) a certificate for a shuttle service shall be endorsed for nature of service as a scheduled shuttle service or as a general shuttle service;
- (3) a certificate for a specialized passenger service shall be endorsed for nature of service as provided by [~~commission~~] department rule; and
- (4) a certificate for a taxicab service shall be endorsed for nature of service as a municipal taxicab service or as a general taxicab service.

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B. Except as provided in this section and in Section 65-2A-13 NMSA 1978, the [~~commission~~] department shall issue a certificate allowing a person to provide passenger service after notice and public hearing requirements are met, if:

(1) the applicant is fit and able to provide the transportation service to be authorized by the certificate;

(2) the applicant is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act, the rules of the [~~commission~~] department and other applicable federal and state laws and rules;

(3) for an application for ambulance service, the transportation service to be provided under the certificate is or will serve a useful public purpose that is responsive to a public demand or need; and

(4) the applicant has filed a tariff as provided in Section 65-2A-20 NMSA 1978.

C. Before granting a certificate for passenger service, the [~~commission~~] department shall consider any objections or protests that were filed within the notice period.

D. Before granting a certificate for ambulance service, the [~~commission~~] department shall also consider the effect that issuance of the certificate would have on existing ambulance service in the territory.

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E. A certificate issued by the [~~commission~~] department for provision of passenger service shall contain one or more endorsements, each of which shall specify the:

- (1) nature of service to be rendered;
- (2) territory authorized to be served; and
- (3) reasonable terms of service as the

[~~commission~~] department may allow or require for the particular certificate.

F. Territorial endorsements to a certificate for passenger service shall:

(1) be limited to territory sought in the application that will be served in a reasonably continuous and adequate manner beginning within thirty days of the issuance of the certificate or such other definite period or date as the [~~commission~~] department may provide for a particular application and shall generally be authorized on the basis of county or incorporated municipal boundaries, subject to other specification reasonably allowed or required by the [~~commission~~] department;

(2) except for shuttle services, authorize transportation between points and places within the specified territory, and from points and places within the specified territory to all points and places in the state and return, unless otherwise expressly allowed or specified in the terms of service in the endorsement to the certificate; and

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(3) for shuttle services, provide for transportation between two or more specified end or intermediate terminal points or areas, and authorize pick-up or drop-off of passengers throughout a terminal area, but shall not authorize transportation between points and places within a single terminal area or the provision of transportation services in any other areas of the state."

SECTION 37. Section 65-2A-9 NMSA 1978 (being Laws 2003, Chapter 359, Section 9, as amended by Laws 2013, Chapter 73, Section 8 and by Laws 2013, Chapter 77, Section 8) is amended to read:

"65-2A-9. CERTIFICATES FOR HOUSEHOLD GOODS SERVICE.--

A. Except as provided in this section and in Section 65-2A-13 NMSA 1978, the ~~[commission]~~ department shall issue a certificate allowing a person to provide household goods service after notice and public hearing requirements are met, if the applicant:

- (1) is fit and able to provide the transportation to be authorized by the certificate;
- (2) has a place of business and stations equipment within the state and is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act, the rules of the ~~[commission]~~ department and other applicable federal and state laws and rules; and
- (3) has filed a tariff as provided in Section

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65-2A-20 NMSA 1978.

B. Before granting a certificate for household goods service to an applicant, the [~~commission~~] department shall consider any objections that were filed within the notice period.

C. A certificate issued by the [~~commission~~] department for provision of household goods service shall contain one or more endorsements, each of which shall specify:

(1) the territory to be served, which shall be limited to territory sought in the application that will be served in a reasonably continuous and adequate manner beginning within thirty days of the issuance of the certificate or such other definite period or date as the [~~commission~~] department may provide for a particular application, and shall generally be specified on the basis of county boundaries, subject to other or further specification by the [~~commission~~] department by rule or in regard to a particular application; and

(2) any reasonable terms of service that the [~~commission~~] department may allow or require for the particular certificate."

SECTION 38. Section 65-2A-11 NMSA 1978 (being Laws 2003, Chapter 359, Section 11, as amended by Laws 2013, Chapter 73, Section 10 and by Laws 2013, Chapter 77, Section 10) is amended to read:

"65-2A-11. TEMPORARY AUTHORITY.--

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A. The [~~commission~~] department may without notice grant temporary authority to an applicant for a certificate [~~or permit~~] or for amendment, lease or transfer of all or part of a certificate [~~or permit~~] for a period not to exceed the duration of the application process, if it finds that:

(1) the notice period for such application has not yet expired, the application is one directly involving public safety, a governmental program or a specific public event, there is an urgent and immediate public need for such service and the public may be harmed by waiting for the notice period to expire;

(2) the applicant for temporary authority has a complete application for a certificate [~~or permit~~] or for amendment, lease or transfer of all or part of a certificate [~~or permit~~] pending before the [~~commission~~] department;

(3) the applicant is fit to provide the transportation service requested, is able to provide any certificated service requested and is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act and the rules of the [~~commission~~] department; and

(4) satisfactory proof of urgent and immediate need has been made by verified proof as the [~~commission~~] department shall by rule prescribe.

B. An applicant for temporary authority as a tariffed service carrier shall file tariffs covering the

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transportation services for which temporary authority is being sought.

C. If a hearing is held before a hearing examiner for any reason on an application for a certificate [~~or permit~~] or for amendment, lease or transfer of all or part of a certificate [~~or permit~~] or for a tariff rate increase, the applicant may move in such proceeding for a grant of temporary authority or rate approval for a period not to exceed the duration of the application process, and any protesting carrier or the [~~transportation division~~] traffic safety bureau of the [~~commission~~] department may move in such proceeding for reconsideration or modification of any grant of temporary authority previously granted by the [~~commission~~] department or the hearing examiner. The hearing examiner in the proceeding shall hold an expedited preliminary public hearing on the grant of temporary authority on the issues in the proceeding and the testimony evidence presented in the hearing on such procedural basis as the [~~commission~~] department shall by rule prescribe.

D. Motor carriers operating under temporary authority shall comply with the requirements of the Motor Carrier Act and the rules of the [~~commission~~] department.

E. A grant of temporary authority shall not create a presumption that permanent authority will be granted."

SECTION 39. Section 65-2A-12 NMSA 1978 (being Laws 2003, Chapter 359, Section 12, as amended) is amended to read:

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

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

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

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

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

SECTION 40. Section 65-2A-13 NMSA 1978 (being Laws 2003, Chapter 359, Section 13, as amended by Laws 2013, Chapter 73, Section 12 and by Laws 2013, Chapter 77, Section 12) is amended to read:

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"65-2A-13. PROTESTS, OBJECTIONS AND HEARINGS.--

A. Any interested person or any member of the public may provide information to the [~~commission~~] department or express an objection to any application for a certificate [~~or permit~~], or for amendment, lease or transfer of a certificate [~~or permit~~], during the notice period for the application by filing a written objection in regard to the application. The [~~commission~~] department shall consider any objections filed in regard to determining whether to hold a hearing on the application. The [~~commission~~] department is not required to hold a hearing pursuant to any objection but may, in its discretion or on its own motion for any reason, hold a hearing on any application for a certificate [~~or permit~~] or for an amendment, lease or transfer of a certificate [~~or permit~~].

B. The [~~commission~~] department shall hold a hearing on an application whenever a protest is filed within the notice period or the [~~transportation division~~] traffic safety bureau of the [~~commission~~] department files a request for a hearing relative to an application within the notice period. The [~~commission~~] department shall allow a protesting carrier to proceed as an intervenor in the application proceeding.

C. In any hearing held on an application:

(1) the applicant has the burden of proving that the applicant meets the requirements of the Motor Carrier Act and the rules of the [~~commission~~] department for the

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application at issue, the burden of demonstrating with reasonable specificity the nature and scope of its proposed transportation service, the burden of proving any particular factual matters that the [~~commission~~] department or the [~~transportation division~~] traffic safety bureau of the [~~commission~~] department may identify and require, the burden of proving any additional allegations and matters of public interest that it may raise and, if the application pertains to ambulance service, the burden of proving that the ambulance service that currently exists in the territory sought in the application is inadequate and that the proposed service is directly responsive to a public need and demand for the service proposed;

(2) a protesting carrier has the burden of proving all matters of fact pertaining to its full-service operation within its certificated full-service territory, the burden of proving the potential impairment or adverse impact on its existing full-service operation by the transportation service proposed by the applicant and the burden of proving all other allegations and matters of public interest that it may raise. The protesting carrier's proof should include, without limitation, a demonstration with reasonable specificity of the nature of the existing full service being provided, the volume of passengers transported, economic analysis related to expenses and revenues of the full-service operation and the

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anticipated economic, business or functional effect of the proposed service on the existing provision of, or rates for, full-service transportation within the full-service territory;

(3) the [~~commission~~] department may allow other interested persons to intervene, either generally or on the basis of specific facts or issues. A permissive intervenor has the burden of proof for its position on all factual matters and legal issues that it alleges and on which it is permitted to intervene; and

(4) all parties to a hearing may base their demonstration and proof on business data, experienced persons and mathematical calculations. Expert testimony shall not be required of any party but may be provided at the option of a party.

D. The [~~commission~~] department shall not grant an application:

(1) for a certificate [~~or permit~~] for ambulance service, or for amendment, lease or transfer of such a certificate [~~or permit~~], if it finds after hearing that the existing ambulance service is provided on a reasonably continuous and adequate basis in the territory in which the new service is sought or that the holder of the certificate or lessee providing the existing ambulance service in such territory is willing and able to provide, and does subsequently provide, reasonably continuous and adequate service within such

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territory, as specified by ~~[commission]~~ department order;

(2) for a new certificate for general taxicab service within the full-service territory of a protesting municipal taxicab service carrier; or

(3) for a certificate for any passenger service other than those identified in Paragraphs (1) and (2) of this subsection, ~~[or for a permit for passenger service other than for an ambulance service pursuant to a public charge contract]~~ or for amendment, lease or transfer of such a certificate ~~[or permit]~~, within a protesting full-service carrier's full-service territory, if it finds after hearing that the grant of the application presents a reasonable potential to impair, diminish or otherwise adversely affect the existing provision of full-service passenger service to the public in the full-service territory or if the application is otherwise contrary to the public interest in the full-service territory. In considering the potential effect on provision of transportation services to the public in regard to such an application, the ~~[commission]~~ department shall consider all evidence presented pertaining to such potential effect, including evidence of the effect that diversion of revenue or traffic may have on the provision of full-service passenger service to the community. Diversion of revenue or traffic from an existing motor carrier shall not, however, be sufficient grounds for denying the application without a showing that the

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diversion presents a reasonable potential to affect the provision of full-service passenger service to the community."

SECTION 41. Section 65-2A-14 NMSA 1978 (being Laws 2003, Chapter 359, Section 14, as amended by Laws 2013, Chapter 73, Section 13 and by Laws 2013, Chapter 77, Section 13) is amended to read:

"65-2A-14. CHANGES IN CERTIFICATES ~~[OR PERMITS]~~.--

A. A change in a certificate ~~[or permit]~~ shall not be valid or effective without the approval of the ~~[commission]~~ department.

B. The ~~[commission]~~ department may, for good cause and after notice and public hearing requirements are met, authorize the following changes in all or part of a certificate ~~[or permit]~~ at the request of the holder if the ~~[commission]~~ department finds:

(1) that the applicant for amendment, lease or transfer of a certificate for passenger service meets the requirements pursuant to Section 65-2A-8 NMSA 1978 for a certificate for such passenger service;

(2) that the applicant for amendment, lease or a transfer of a certificate for household goods service meets the requirements pursuant to Section 65-2A-9 NMSA 1978 for a certificate for such household goods service; and

~~[(3) that the applicant for amendment, lease or a transfer of a permit meets the requirements pursuant to~~

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~~Section 65-2A-10 NMSA 1978 for such a permit; and~~

~~(4)]~~ (3) in addition, that:

(a) for transfer or lease of all or part of a certificate [~~or permit~~], the transferor-applicant has rendered reasonably continuous and adequate service in the territory to be transferred or leased prior to the application for lease or transfer; and

(b) for transfer of all or a part of a certificate [~~or permit~~], accrued taxes, rents, wages of employees and other indebtedness pertaining to all or part of a certificate [~~or permit~~] proposed to be transferred have been paid by the transferor-applicant or assumed by the transferee-applicant.

C. The [~~commission~~] department may, without notice or a public hearing, authorize the following changes in all or part of a certificate [~~or permit~~] at the request of the holder:

(1) voluntary cancellation of the certificate [~~or permit~~];

(2) voluntary suspension of the certificate [~~or permit~~] for a period not to exceed twelve consecutive months;

(3) change in the form of legal entity or name of the holder of the certificate [~~or permit~~];

(4) reinstatement of the certificate [~~or permit~~] following voluntary suspension of a period not

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exceeding twelve consecutive months;

(5) change in control of a holder of the certificate [~~or permit~~] through issuance or transfer of stock or other legal interest in a holder that is a corporation, partnership, trust or other legal business entity; and

(6) matters pertaining to transfers by operation of law."

SECTION 42. Section 65-2A-15 NMSA 1978 (being Laws 2003, Chapter 359, Section 15, as amended by Laws 2013, Chapter 73, Section 14 and by Laws 2013, Chapter 77, Section 14) is amended to read:

"65-2A-15. MULTIPLE OPERATING AUTHORITIES AND BUSINESS TRADE NAMES ALLOWED.--

A. A person may simultaneously hold certificates for different kinds of certificated services [~~permits for different contracts~~] and warrants for different kinds of warranted service within the same territory.

B. Any motor carrier that holds more than one certificate for the same kind and nature of certificated service in the same territory [~~or more than one permit for the same contract~~] shall file an application with the [~~commission~~] department to consolidate [~~such~~] the operating authorities.

C. The [~~commission~~] department shall not grant any new operating authority to a motor carrier that duplicates the operating authority of the same kind and for the same territory

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already held by that motor carrier.

D. Certificated service carriers holding both a certificate and [~~permit or~~] warrant for related services may use the same vehicles and may transport passengers and property, or mixed loads of household goods and property, pursuant to those authorities in the same vehicles and on the same trip.

E. Every certificated [~~permitted~~] or warranted service carrier shall file with the [~~transportation division~~] traffic safety bureau of the [~~commission~~] department all business trade names under which the carrier operates its service or services authorized and shall provide the [~~transportation division~~] traffic safety bureau of the [~~commission~~] department with proof of financial responsibility for all business trade names in addition to its legal name. The [~~commission~~] department shall accept business trade names as submitted by a carrier. Filing with the [~~transportation division~~] traffic safety bureau of the [~~commission~~] department shall not, by itself, establish or otherwise affect the ownership or right to use a business trade name under the intellectual property laws of the state of New Mexico."

SECTION 43. Section 65-2A-16 NMSA 1978 (being Laws 2003, Chapter 359, Section 16, as amended) is amended to read:

"65-2A-16. INTERSTATE MOTOR CARRIERS.--

A. Foreign and domestic motor carriers, motor

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private carriers, leasing companies, brokers and freight forwarders shall not operate in interstate commerce in this state without first registering with a base state and paying all fees as required under the federal Unified Carrier Registration Act of 2005. The ~~[commission]~~ department is authorized to register applicants and collect all fees without notice or a public hearing.

B. The ~~[commission]~~ department is authorized to follow rules and collect fee assessments set by the federal secretary of transportation from foreign and domestic motor carriers, motor private carriers, leasing companies, brokers and freight forwarders and do all things necessary to enable New Mexico to participate in the federal unified carrier registration system pursuant to the federal Unified Carrier Registration Act of 2005, including the collection of an equal amount of revenue as was collected by the ~~[commission]~~ department in the last registration year under Section 4005 of the federal Intermodal Surface Transportation Efficiency Act of 1991 and the collection of an equal amount of revenue annually from all other sources allowed under the federal Unified Carrier Registration Act of 2005 in the last year that such collections were not prohibited by federal law.

C. The ~~[commission]~~ department is the state agency in New Mexico responsible for operation of the federal Unified Carrier Registration Act of 2005, including participating in

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the development, implementation and administration of the unified carrier registration agreement. The ~~[commission]~~ department is authorized to follow rules governing the unified carrier registration agreement issued under the unified carrier registration plan by its board of directors.

D. Revenue remitted to the state from fees imposed by the federal Unified Carrier Registration Act of 2005 shall be remitted to the state treasurer, who shall deposit the revenue in the motor transportation fee fund.

E. Compliance by an interstate motor carrier with the provisions of the federal Unified Carrier Registration Act of 2005 shall not authorize a carrier to provide intrastate transportation services in New Mexico. An interstate motor carrier wishing to provide compensated transportation in intrastate commerce shall apply for the appropriate intrastate operating authority from the ~~[commission]~~ department. A taxicab service or shuttle service traveling to or from a federally licensed airport terminal facility located in the state of New Mexico is engaged in nonexempt intrastate business within the state regardless of a prior exemption if its service provides, with regard to any service run, for both:

(1) initiation of the transportation of one or more passengers within this state; and

(2) delivery to a departure point within this state of one or more passengers whose transportation on that

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service run was initiated at a point within this state."

SECTION 44. Section 65-2A-18 NMSA 1978 (being Laws 2003, Chapter 359, Section 18, as amended by Laws 2013, Chapter 73, Section 16 and by Laws 2013, Chapter 77, Section 16) is amended to read:

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

A. The [~~commission~~] department shall prescribe minimum requirements for financial responsibility for all motor carriers.

B. A motor carrier shall not operate on the highways of this state without having filed with the [~~commission~~] department proof of financial responsibility in the form and amount as the [~~commission~~] department shall by rule prescribe.

C. In prescribing minimum requirements for financial responsibility for motor carriers, the [~~commission~~] department shall adopt the same minimum liability insurance requirements as those required by the federal motor carrier safety administration for interstate motor carriers for all motor vehicles for carriage of property or household goods and for all passenger motor vehicles with such capacities. The [~~commission~~] department shall adopt reasonable minimum liability insurance requirements for the use of passenger motor vehicles with capacities less than those regulated by the federal motor carrier safety administration and in doing so

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shall consider the number of passengers being transported and the nature of the transportation services provided by the motor carriers using vehicles of those capacities.

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

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

E. Notwithstanding any requirement of the New Mexico Insurance Code to the contrary, the [~~commission~~] department may accept proof of public liability insurance from an insurer not authorized in New Mexico if:

- (1) the insurance is for an interstate motor carrier transporting commodities exempt from regulation by the federal motor carrier safety administration participating in the unified carrier registration system for those motor carriers; and

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(2) the insurer is authorized to write public liability insurance in at least one other state.

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

SECTION 45. Section 65-2A-19 NMSA 1978 (being Laws 2003, Chapter 359, Section 19, as amended) is amended to read:

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

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

B. The [~~commission~~] department shall prescribe safety requirements for drivers and for motor vehicles weighing twenty-six thousand pounds or less or carrying fifteen or fewer persons, including the driver, used by intrastate motor carriers operating in this state. The [~~commission~~] department may prescribe additional requirements related to safety, including driver safety training programs, vehicle preventive maintenance programs, inquiries regarding the safety of the motor vehicles and drivers employed by a motor carrier, and the appropriateness of the motor vehicles and equipment for the transportation services to be provided by the motor carrier.

C. The New Mexico state police division of the department of public safety may immediately order, without

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notice or a public hearing, a motor vehicle to be taken out of service for violation of a federal or state law or rule relating to safety if the violation would endanger the public health or safety.

D. The [~~commission~~] department shall implement rules requiring carriers to obtain criminal background reports for all employed or contract drivers of certificated service carriers and for all other persons employed by certificated household goods service carriers who enter private dwellings in the course of household goods service."

SECTION 46. Section 65-2A-20 NMSA 1978 (being Laws 2003, Chapter 359, Section 20, as amended by Laws 2013, Chapter 73, Section 18 and by Laws 2013, Chapter 77, Section 18) is amended to read:

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

A. A tariffed service carrier shall not commence operations or perform a new service under its operating authority without having an approved tariff on file with the [~~commission~~] department.

B. A tariffed service carrier shall file with the [~~commission~~] department proposed tariffs showing the rates for transportation and all related activities and containing a description of the type and nature of the service, territory and all terms of service for transportation and related services. The rates shall be stated in terms of United States

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currency. Tariffs for individual carriers shall also include the carrier's legal name, all business trade names used by the carrier, contact information, information for service of process, the territory authorized for each transportation service listed in the tariff and any terms of service contained in the operating authorities for that particular carrier. Each tariffed service carrier operating pursuant to a statewide tariff shall file with the [~~commission~~] department a tariff statement referencing the statewide tariff being used and include the carrier's legal name, all business trade names used by the carrier, contact information, information for service of process, the territory authorized for that carrier and any terms of service contained in the operating authority for that particular carrier.

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

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

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

D. A tariffed service carrier shall not pay or refund, directly or indirectly to any person, a portion of the rate specified in its approved tariff, offer to a person privileges or facilities, perform a service or remit anything of value, except:

(1) in accordance with tariffs approved by the [~~commission~~] department;

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

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

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

E. The [~~commission~~] department shall post on its internet [~~web site~~] website electronic copies of all currently approved individual and statewide tariffs, and all tariff statements filed by carriers using statewide tariffs, in a

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manner to facilitate public access, review and comparison of rates and terms of service. A certificated passenger service carrier other than an ambulance service carrier shall post its tariff rates in each vehicle used in the provision of its transportation service.

F. A tariffed service carrier shall file an application with the [~~commission~~] department for any change in the tariff, accompanied by the proposed tariff, at least twenty days prior to implementation of the amended rates and terms of service contained in the tariff. Except as provided in this section, an amended tariff shall be approved and become effective twenty days after filing of the application for a change in the tariff. The [~~commission~~] department shall post notice of each application for a change in a tariff along with a copy of the proposed tariff on the [~~commission web site~~] department website.

G. No changes in terms of service disapproved by the [~~transportation division of the commission~~] traffic safety bureau of the department as inconsistent with the Motor Carrier Act, rule of the [~~commission~~] department, the individual operating authority of the carrier or otherwise in violation of law shall become effective or be part of the approved tariff. The following terms of service contained in a tariff shall not be considered inconsistent with, or predatory or discriminatory in nature under the Motor Carrier Act or [~~commission~~]

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department rule:

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

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

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

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

H. An application for amendment of tariff rates that increases any tariff rate to a level greater than that

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

I. A person may make a complaint in writing to the [~~commission~~] department that a rate or term of service contained in a tariff, or a rate otherwise charged or practice otherwise effected, is inconsistent with or in violation of the Motor Carrier Act, [~~commission~~] department rule or the operating authority or current tariff of the motor carrier. The [~~commission~~] department may suspend the operation of a rate, term of service or practice for a period not to exceed sixty days to investigate its reasonableness. If the [~~commission~~] department finds that a rate charged by a tariffed

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carrier, or a term of service or practice effected by a
tariffed carrier, is unauthorized, predatory or discriminatory,
the [~~commission~~] department shall prescribe the rate or the
maximum or minimum rate to be observed or the terms of service
to be made effective."

SECTION 47. Section 65-2A-21 NMSA 1978 (being Laws 2003,
Chapter 359, Section 21, as amended by Laws 2013, Chapter 73,
Section 19 and by Laws 2013, Chapter 77, Section 19) is amended
to read:

"65-2A-21. RATES.--

A. Tariffed service carriers shall observe
nonpredatory and nondiscriminatory rates and terms of service
for the transportation services they provide. A predatory or
discriminatory charge for service is unlawful.

B. Reduced rates for minor children accompanied by
an adult, for students traveling between their homes and their
schools and for persons sixty-five years of age or older shall
not be considered discriminatory. A motor carrier shall not
furnish free transportation to persons except to bona fide
owners, officers, employees or other business personnel of the
motor carrier and their dependents.

C. Towing services performing nonconsensual tows
may charge rates lower than the rates in their approved tariff
to members of not-for-profit motor clubs after those rates have
been filed with the [~~commission~~] department.

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D. A household goods service carrier shall establish and observe nonpredatory and nondiscriminatory rates and practices relating to the manner and method of presenting, marking, packing and delivering household goods for transportation and other matters relating to the transportation of household goods.

E. In proceedings to determine the reasonableness of rates, the ~~[commission]~~ department shall authorize revenue levels that are adequate under honest, economical and efficient management to cover total operating expenses, including the operation of leased motor vehicles, and depreciation, plus a reasonable profit. The rules adopted by the ~~[commission]~~ department to implement this section shall allow a carrier to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, ensure the repayment of a reasonable level of debt, permit the raising of needed equity capital and attract and retain capital in amounts adequate to provide a sound motor carrier transportation system in the state."

SECTION 48. Section 65-2A-22 NMSA 1978 (being Laws 2003, Chapter 359, Section 22, as amended by Laws 2013, Chapter 73, Section 20 and by Laws 2013, Chapter 77, Section 20) is amended to read:

"65-2A-22. TIME SCHEDULES.--

A. A scheduled shuttle service carrier shall file a

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proposed time schedule with its tariff and shall file any change in its schedule through an amended tariff.

B. Failure by a scheduled shuttle service carrier to operate the service on each day pursuant to ~~[commission]~~ department rule as scheduled in its tariff shall result in an appropriate penalty as the ~~[commission]~~ department, in its discretion, shall determine.

C. A time schedule shall not be designed to require the operation of a motor vehicle between given terminals or terminal areas at a rate of speed greater than the maximum speed allowed."

SECTION 49. Section 65-2A-23 NMSA 1978 (being Laws 2003, Chapter 359, Section 23, as amended by Laws 2013, Chapter 73, Section 21 and by Laws 2013, Chapter 77, Section 21) is amended to read:

"65-2A-23. MOTOR CARRIER ORGANIZATIONS.--

A. A tariffed service carrier may enter into discussions with another tariffed service carrier to establish a motor carrier organization. The organization shall obtain authorization from the ~~[commission]~~ department before its members enter into any discussions concerning the rates contained in a statewide tariff. The ~~[commission]~~ department may authorize the creation of a motor carrier organization to discuss and promote industry matters, other than the rates of individual carriers, if the organization:

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(1) allows any intrastate motor carrier authorized to provide the same type of service to become a member of the organization and allows a member carrier to discuss matters before the organization and to vote upon any proposal;

(2) does not interfere with a member carrier's right to establish its own tariff and does not change or cancel an independently established tariff;

(3) does not file an objection, protest or complaint with the [~~commission~~] department against a tariff item independently published by or for the account of a member carrier;

(4) does not permit its employees or an employee committee to file or act upon a proposal effecting a change in a tariff item published by or for the account of a member carrier; and

(5) proposes matters concerning statewide tariffs for approval by the [~~commission~~] department.

B. A member carrier of the organization shall file with the [~~commission~~] department information as the [~~commission~~] department may by rule prescribe.

C. A motor carrier organization approved by the [~~commission~~] department pursuant to this section shall be subject to accounting, [~~record-keeping~~] recordkeeping, reporting and inspection requirements as the [~~commission~~]

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department may by rule prescribe.

D. The [~~commission~~] department may, upon complaint or upon its own initiative, investigate and determine whether a motor carrier organization previously authorized by it is not in conformity with the requirements of this section or with the terms and conditions upon which the motor carrier organization was granted authorization. The [~~commission~~] department may modify or terminate its authorization of a motor carrier organization found to be noncompliant with the requirements of this rule.

E. The antitrust laws of the state shall not apply to discussions concerning general industry matters, terms of service or any matters concerning a statewide tariff, including the rates contained in a statewide tariff, by member carriers of a motor carrier organization authorized by the [~~commission~~] department."

SECTION 50. Section 65-2A-24 NMSA 1978 (being Laws 2003, Chapter 359, Section 24, as amended by Laws 2013, Chapter 73, Section 22 and by Laws 2013, Chapter 77, Section 22) is amended to read:

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

A. An intrastate motor carrier shall not lease a motor vehicle or operate a leased motor vehicle in the course of its transportation service except as provided by [~~commission~~] department rule. The [~~commission~~] department may

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approve a motor vehicle lease without notice or a public hearing.

B. A motor carrier may use employed or contract drivers or taxicab association member drivers in the provision of a transportation service. Regardless of the provisions of any written or oral agreement between a motor carrier and a contract driver or taxicab association member driver, motor carriers providing transportation services that use contract drivers or taxicab association member drivers remain fully responsible to the ~~[commission]~~ department for complying with all provisions of the Motor Carrier Act and ~~[commission]~~ department rules applicable to transportation service carriers.

C. Motor carriers providing intrastate transportation services that use contract drivers or taxicab association member drivers shall maintain, at their principal places of business within the state, a current written agreement with each such driver. No agreement with any contract driver or taxicab association member driver shall contain any provision contrary to a provision of the Motor Carrier Act or a rule of the ~~[commission]~~ department. Each written agreement shall contain a clause that requires the contract driver or taxicab association member driver to adhere to all provisions of the Motor Carrier Act and to all ~~[commission]~~ department rules applicable to transportation service carriers."

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SECTION 51. Section 65-2A-25 NMSA 1978 (being Laws 2003, Chapter 359, Section 25, as amended by Laws 2013, Chapter 73, Section 23 and by Laws 2013, Chapter 77, Section 23) is amended to read:

"65-2A-25. HOUSEHOLD GOODS OPERATIONS.--

A. The [~~commission~~] department shall establish a statewide tariff for household goods services, containing terms of service and maximum rates that household goods service carriers may charge the public.

B. A certificated household goods service carrier shall be responsible for acts or omissions of its agents that relate to the performance of household goods transportation services, including accessorial or terminal services, that are within the actual or apparent authority of the agent derived from or ratified by the certificated household goods service carrier.

C. A certificated household goods service carrier shall use reasonable care in selecting and retaining household goods agents who are sufficiently knowledgeable, fit, willing and able to provide adequate household goods transportation services, including accessorial and terminal services, and to fulfill the obligations imposed upon them by the Motor Carrier Act and by the certificated household goods service carrier.

D. If the [~~commission~~] department has reason to believe from a complaint or investigation that a household

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goods agent has violated Subsection G or H of Section 65-2A-33 NMSA 1978, or is consistently unfit, unwilling or unable to provide adequate household goods transportation services, including accessorial and terminal services, the ~~[commission]~~ department may issue to that household goods agent notice of the complaint, specific charges and the time and place for a hearing on the complaint. The hearing shall be held no later than sixty days after service of the complaint to the household goods agent. The household goods agent has the right to appear at the hearing and rebut the charges contained in the complaint.

E. If the household goods agent does not appear at the complaint hearing, or if the ~~[commission]~~ department finds that the household goods agent has violated Subsection G or H of Section 65-2A-33 NMSA 1978, or is consistently unfit, unwilling or unable to provide adequate household goods transportation services, including accessorial and terminal services, the ~~[commission]~~ department shall issue an order to compel compliance by the household goods agent. Thereafter, the ~~[commission]~~ department may issue an order to limit or prohibit the household goods agent from any involvement in the provision of household goods transportation services if, after notice and an opportunity to be heard, it finds that the household goods agent has failed to comply with the order within a reasonable time after the date of its issuance, but in

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no event less than thirty days after its issuance. A household goods agent may file a petition with the [~~commission~~] department seeking reconsideration of an order entered by the [~~commission~~] department pursuant to this section.

F. The [~~commission~~] department shall adopt rules for the following elements of household goods transportation services:

- (1) methods of determining shipping charges;
- (2) cost estimates, for which charges shall be subject to the antitrust laws of this state;
- (3) inventory;
- (4) weighing;
- (5) receipts and bills of lading;
- (6) liability based on value established between the motor carrier and the shipper;
- (7) equipment stationing by, and joint transportation between, household goods service carriers;
- (8) household goods agents; and
- (9) service standards.

G. In adopting reasonable rules for intrastate household goods service carriers, the [~~commission~~] department shall balance the interests of shippers and carriers and consider and observe industry standards.

H. The antitrust laws shall not apply to discussions or agreements between a household goods service

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carrier and its authorized agents, whether or not an agent is also a household goods service carrier when related solely to:

(1) rates for the transportation of household goods under the authority of the principal carrier;

(2) accessorial, terminal, storage or other charges for transportation services incidental to the transportation of household goods transported under the authority of the principal carrier;

(3) allowances relating to transportation of household goods under the authority of the principal carrier;
or

(4) ownership of a household goods service carrier by an agent or membership on the board of directors of any household goods service carrier by an agent."

SECTION 52. Section 65-2A-26 NMSA 1978 (being Laws 2003, Chapter 359, Section 26, as amended by Laws 2013, Chapter 73, Section 24 and by Laws 2013, Chapter 77, Section 24) is amended to read:

"65-2A-26. HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT PROGRAM.--

A. The [~~commission~~] department shall establish a program to settle disputes, at the voluntary option of the shipper, between shippers and all household goods service carriers concerning the transportation of household goods, which shall be a fair and expeditious method for settling

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disputes and complies with each of the following requirements and rules the [~~commission~~] department may prescribe:

(1) the program is designed to prevent a household goods service carrier from having any special advantage in a case in which the shipper resides or does business at a place distant from the motor carrier's place of business;

(2) the program provides adequate notice of its availability, including a concise, understandable and accurate summary of the program and disclosure of the legal effects of using the program. The notice shall be given to the shipper before the shipper tenders the household goods to the motor carrier for transportation;

(3) upon request of a shipper, the motor carrier shall promptly provide forms and other information necessary to initiate an action to resolve a dispute under the program;

(4) a person authorized pursuant to the program to settle disputes shall be independent of the parties to the dispute and shall be capable, as determined by rules prescribed by the [~~commission~~] department, to resolve disputes fairly and expeditiously. The program shall ensure that a person chosen to settle a dispute is authorized and able to obtain from the shipper or motor carrier any material and relevant information necessary to carry out a fair and

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expeditious decision-making process;

(5) the person settling the dispute may charge the shipper a fee of not more than twenty-five dollars (\$25.00) for instituting a proceeding under the program if the program is binding solely on the carrier, but shall not charge the shipper a fee otherwise. The person settling the dispute shall refund the fee to the shipper in a case in which the dispute is settled in favor of the shipper, unless the person settling the dispute determines that the refund is inappropriate;

(6) the program shall not require the shipper to agree to use the dispute settlement program prior to the time that a dispute arises;

(7) the program may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute or a party's representative, but an oral presentation shall not be made unless the parties to the dispute expressly agree to the presentation and the date, time and location of the presentation; and

(8) a person settling a dispute under the program shall, as expeditiously as possible, but no later than sixty days after receipt of written notification of the dispute, render a decision based on the information gathered; except that, in a case in which a party to the dispute fails to timely provide information that the person settling the dispute

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may reasonably require, the person settling the dispute may extend the sixty-day period for a reasonable period of time. A decision resolving a dispute may include remedies appropriate under the circumstances, including repair, replacement, refund or reimbursement for expenses and compensation for damages.

B. The [~~commission~~] department may investigate at any time the functioning of the program approved under this section and may, after notice and an opportunity to be heard, take appropriate action against any household goods service carrier for failure to meet the requirements of this section and rules as the [~~commission~~] department may prescribe.

C. In a court action to resolve a dispute between a shipper and a household goods service carrier, concerning the transportation of household goods by the carrier, the shipper shall be awarded reasonable attorney fees if:

(1) the shipper submits a claim to the carrier within one hundred twenty days after the date the shipment is delivered or the date delivery is scheduled, whichever is later;

(2) the shipper prevails in the court action;
and

(3) a decision resolving the dispute was not rendered under the dispute settlement program within sixty days or an extension of the sixty-day period; or

(4) the court proceeding is to enforce a

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decision rendered under the dispute settlement program and is instituted after the period for performance under the decision has elapsed.

D. In a court action to resolve a dispute between a shipper and a household goods service carrier concerning the transportation of household goods by the carrier, the carrier shall be awarded reasonable attorney fees by the court only if the shipper brought the action in bad faith:

(1) after resolution of the dispute under the dispute settlement program; or

(2) after institution of a proceeding by the shipper to resolve the dispute under the dispute settlement program and before:

(a) the expiration of the sixty-day period or extension of the sixty-day period for resolution of the dispute; and

(b) a decision resolving the dispute is rendered under the program."

SECTION 53. Section 65-2A-27 NMSA 1978 (being Laws 2003, Chapter 359, Section 27, as amended by Laws 2013, Chapter 73, Section 25 and by Laws 2013, Chapter 77, Section 25) is amended to read:

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

A. The ~~commission~~ department shall immediately

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suspend, without notice or a public hearing, the operating authority of a motor carrier for failure to continuously maintain the forms and amounts of financial responsibility prescribed by [~~commission~~] department rule.

B. The [~~commission~~] department may immediately suspend, without notice or a public hearing, the operating authority of a motor carrier for violation of a safety requirement of the Motor Carrier Act, the [~~commission's~~] department's rules or the rules of the [~~motor transportation~~] New Mexico state police division of the department of public safety, if the violation endangers the public health or safety.

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

- (1) comply with a provision of the Motor Carrier Act;
- (2) comply with a lawful order or rule of the [~~commission~~] department;
- (3) comply with a term of service of an operating authority or tariff; or
- (4) render reasonably continuous and adequate service under a certificate.

D. The [~~commission~~] department may approve an

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application for reinstatement of an operating authority following involuntary suspension if it finds, after notice and public hearing requirements are met, that:

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

(2) the holder of the operating authority is fit, and a certificate holder is able, to provide the authorized transportation services, and the holder will comply with the Motor Carrier Act and the rules of the [~~commission~~ department]."

SECTION 54. Section 65-2A-28 NMSA 1978 (being Laws 2003, Chapter 359, Section 28, as amended by Laws 2013, Chapter 73, Section 26 and by Laws 2013, Chapter 77, Section 26) is amended to read:

"65-2A-28. DESIGNATION OF AN AGENT FOR SERVICE OF PROCESS.--

A. An applicant for an operating authority shall file with the [~~commission~~ department] an appointment in writing of a resident agent for service of process. The appointment shall specify the address of the agent and shall stipulate that service upon the appointed agent of process of the [~~commission~~ department] or of a court shall have the same force and effect as if service had been made personally upon the motor carrier within this state. The appointment shall continue in force until the motor carrier files an appointment of a substitute

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agent or until liability against the motor carrier growing out of its operations in the state has terminated. A copy of the appointment, duly certified by the [~~commission~~] department, shall be accepted as sufficient evidence of appointment of an agent in a court of the state.

B. If the holder of an operating authority from the [~~commission~~] department operates without appointing a resident agent for service of process, or the [~~commission~~] department has unsuccessfully attempted to serve process upon the designated resident agent, the holder shall be deemed to have appointed the secretary of state as its resident agent for service of process in an action or proceeding against the motor carrier growing out of an accident, collision or transaction in which the motor carrier may be involved by operating in this state.

C. If the secretary of state is served with process directed to the holder of an operating authority from the [~~commission~~] department, the secretary of state shall forward the process by certified mail to the motor carrier at the address shown on its last change of address report, annual report or application with respect to its operating authority, whichever is most recent. The secretary of state shall file a certificate of service with the [~~commission~~] department, which shall be accepted as prima facie proof of service.

D. The secretary of state shall assess to the motor

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carrier the fee prescribed in Section 65-2A-36 NMSA 1978 for a process from a court served upon the secretary of state but shall not charge a fee for service of ~~[commission]~~ department process.

E. The principal motor carrier of a household goods agent shall be deemed to be the agent for service of process of the household goods agent unless the household goods agent notifies the ~~[commission]~~ department in writing of the substitution of another agent for service of process."

SECTION 55. Section 65-2A-29 NMSA 1978 (being Laws 2003, Chapter 359, Section 29, as amended by Laws 2013, Chapter 73, Section 27 and by Laws 2013, Chapter 77, Section 27) is amended to read:

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

A. The ~~[commission]~~ department shall establish reasonable requirements with respect to reports, records and uniform systems of accounts and preservation of records for motor carriers.

B. The ~~[commission]~~ department may require any holder of an operating authority from the ~~[commission]~~ department or any lessee of an authority to prepare and transmit to the ~~[commission]~~ department an annual report of its operations. The report shall be in the form, contain specific information, including financial information, and be due on a date as the ~~[commission]~~ department may by rule require.

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Financial data filed by motor carriers in annual reports shall not be made available for inspection by the public.

C. The [~~commission~~] department or its employees or duly authorized agents shall, at all times, have access to:

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

(2) records kept by motor carriers.

D. The [~~commission~~] department may, by order, require a motor carrier subject to the Motor Carrier Act, or its officers or agents, to produce within this state at such reasonable time and place as it may designate, original or certified copies of records regardless of where they are kept by the motor carrier when their production is pertinent to a matter before the [~~commission~~] department, in order that the [~~commission~~] department may examine them. No trade secret or business confidentiality immunity or privilege may be asserted by the motor carrier in response to such an order or request; provided that nothing in this provision shall prevent a carrier from moving for, or the [~~commission~~] department from entering, an appropriate protective order to preserve the carrier's trade secrets or business confidentiality from further disclosure, nor shall this provision or any production required under this provision waive or diminish the carrier's trade secret or business confidentiality immunity or privilege as to persons

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other than the [~~commission~~] department.

E. The [~~motor transportation~~] New Mexico state police division of the department of public safety shall furnish to the [~~commission~~] department all information needed or required by the [~~commission~~] department to carry out its responsibilities when the information is obtainable only through field enforcement.

F. All applications, protests, objections, amendments to filings, operating authorities, tariffs, pleadings or any other documents filed in docketed proceedings not subject to confidentiality orders are public records and shall, as soon as practical, be made electronically available to the public."

SECTION 56. Section 65-2A-30 NMSA 1978 (being Laws 2003, Chapter 359, Section 30, as amended by Laws 2013, Chapter 73, Section 28 and by Laws 2013, Chapter 77, Section 28) is amended to read:

"65-2A-30. UNAUTHORIZED CARRYING OF PERSONS PROHIBITED.--Except in the case of an emergency, a transportation service carrier not authorized to transport passengers shall not carry a passenger, including a hitchhiker, except on-duty employees of the motor carrier or [~~commission~~] department representatives on official business in a vehicle used in the provision of transportation service under its operating authority."

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SECTION 57. Section 65-2A-31 NMSA 1978 (being Laws 2003, Chapter 359, Section 31) is amended to read:

"65-2A-31. WITNESSES--SUBPOENAS--SERVICE OF PROCESS.--

A. If the [~~commission~~] department orders a person to appear before it, the [~~commission~~] department shall compensate the witness one full day's per diem plus mileage as provided for employees in the Per Diem and Mileage Act. The state shall pay such compensation out of the motor transportation fee fund pursuant to rules of the department of finance and administration. Witnesses subpoenaed by parties other than the [~~commission~~] department shall be paid the same compensation by the party issuing the subpoena.

B. A person shall not be excused from testifying or producing documentary evidence before the [~~commission~~] department or a court in obedience to a subpoena of the [~~commission~~] department issued pursuant to the Motor Carrier Act on the ground that the testimony or documentary evidence required of the person may tend to incriminate [~~him~~] the person or subject [~~him~~] the person to a penalty. A person shall not be prosecuted or subjected to a penalty for a transaction or matter about which [~~he~~] the person may be required to testify or produce documentary evidence; provided that a person testifying shall not be exempt from prosecution and punishment for perjury committed in testifying. A person shall not be required to testify or produce documentary evidence in response

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to an inquiry not pertinent to a question lawfully before the
[~~commission~~] department or court for determination.

C. Upon request of [~~a member of the commission~~] the
department, a district court may issue a writ of attachment to
a person who fails to comply with a subpoena issued by the
[~~commission~~] department compelling the person to comply with
the subpoena. The court shall have the power to punish for
contempt in the same manner as for disobedience of a subpoena
issued by the court.

D. [~~A member of the commission~~] The department may
administer an oath, certify to an official act, issue a
subpoena and compel the attendance of a witness and the
production of evidence in hearings before the [~~commission~~]
department for the purposes provided in the Motor Carrier Act.

E. The [~~commission~~] department may issue and serve
process on the person affected by delivering a copy of the
process, signed by a member of the [~~commission~~] department, to
the person or to an officer or agent of the person. An
employee of the [~~commission~~] department, a duly authorized law
enforcement officer or a person over the age of eighteen who is
not a party to the proceeding may serve process and shall
return a copy of the process served, with an endorsement of
service, to the [~~commission~~] department. The endorsed process
shall be entered into the record of the proceeding and shall be
prima facie evidence that the process was duly served.

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F. The [~~commission~~] department may in writing authorize [~~a commissioner, the chief of staff~~] an employee or other person to investigate and take testimony regarding a matter pending before the [~~commission~~] department."

SECTION 58. Section 65-2A-32 NMSA 1978 (being Laws 2003, Chapter 359, Section 32) is amended to read:

"65-2A-32. ADMINISTRATIVE PENALTIES.--

A. If the [~~commission~~] department finds after investigation that a provision of the Motor Carrier Act or an order or rule of the [~~commission~~] department is being, has been or is about to be violated, it may issue an order specifying the actual or proposed acts or omissions to act that constitute a violation and require that the violation be discontinued, rectified or prevented.

B. Notwithstanding the existence of any other penalties, the [~~commission~~] department may assess an administrative fine of not more than ten thousand dollars (\$10,000) for each violation of a provision of the Motor Carrier Act or of a lawful rule or order of the [~~commission~~] department. In case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense.

C. Notwithstanding the existence of other penalties, the [~~commission~~] department may assess an administrative fine of not more than ten thousand dollars

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(\$10,000) against a person knowingly using a motor carrier not properly authorized by the [~~commission~~] department.

D. All penalties accruing under the Motor Carrier Act shall be cumulative, and a suit for recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or be a bar to any criminal prosecution under the Motor Carrier Act."

SECTION 59. Section 65-2A-33 NMSA 1978 (being Laws 2003, Chapter 359, Section 33, as amended by Laws 2013, Chapter 73, Section 29 and by Laws 2013, Chapter 77, Section 29) is amended to read:

"65-2A-33. CRIMINAL AND CIVIL PENALTIES--UNFAIR TRADE PRACTICES.--

A. A person who knowingly makes a false statement of material fact under oath or penalty of perjury in a [~~commission~~] department proceeding, whether orally or in writing, shall be guilty of perjury.

B. A person who willfully makes a false return of process or report to the [~~commission~~] department or [~~a member or~~] an employee of the [~~commission~~] department, and a person who knowingly aids or abets a person who willfully makes a false return of process or report to the [~~commission~~] department or [~~a member or~~] an employee of the [~~commission~~] department, shall be guilty of a felony, and upon conviction shall be imprisoned for not more than five years.

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C. A person who willfully makes a false entry in records required by the Motor Carrier Act or the rules of the ~~[commission]~~ department, willfully destroys, mutilates or by other means willfully falsifies the records or willfully neglects or fails to make full, true and correct entries of all facts, shall be guilty of a felony and upon conviction shall be imprisoned for not more than five years.

D. An employee of the ~~[commission]~~ department who divulges information about an inspection, examination or investigation of a record or of the property and facilities of a motor carrier, except insofar as may be authorized by the ~~[commission]~~ department or a court of competent jurisdiction, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000).

E. A person who violates or who procures, aids or abets in the violation of a provision of the Motor Carrier Act or a rule or order of the ~~[commission]~~ department shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000), imprisoned for not more than ninety days, or both.

F. A motor carrier shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500), imprisoned for not more than six months, or both, if the motor carrier:

- (1) refuses to permit examination of its

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records;

(2) conceals, destroys or mutilates its

records;

(3) attempts to conceal, destroy or mutilate its records; or

(4) removes its records beyond the limits of the state for the purpose of preventing examination.

G. A person who commits weight-bumping shall be guilty of a felony and upon conviction shall be fined not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), imprisoned for not more than two years, or both.

H. A person shall be assessed a civil penalty of not more than two thousand dollars (\$2,000) for each violation and not more than five thousand dollars (\$5,000) for each subsequent violation if the person knowingly engages in or authorizes an agent or other person to:

(1) falsify the documents used in the transportation of household goods that evidence the weight of shipment; or

(2) charge for accessorial services that are not performed, or for which the carrier is not entitled to be compensated, in a case in which such services are not reasonably necessary for the safe and adequate transportation of the shipment.

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I. A law enforcement officer of the state shall arrest and the district attorney and attorney general shall prosecute a violation of the Motor Carrier Act.

J. It is an unfair and deceptive trade practice under the Unfair Practices Act for any transportation service carrier to offer or provide transportation services of a type for which, or in any territory in which, it is not authorized to do so by the [~~commission~~] department. The attorney general or a person who has been damaged or who is likely to be damaged as the result of such unauthorized service, including a shipper, a passenger or an authorized transportation service carrier, may bring an action pursuant to the Unfair Practices Act against the transportation service carrier regarding such unauthorized service. Any such civil action shall be in addition to, and shall not bar, any investigation or civil or criminal enforcement action regarding the unauthorized service available to the attorney general or a district attorney, or available to the [~~commission~~] department under the Motor Carrier Act.

K. It is an unfair and deceptive trade practice under the Unfair Practices Act for any transportation service carrier or its agent, employee or contract driver to charge or collect a predatory rate or to undertake a predatory practice in the provision of transportation services. The attorney general or a person who has been damaged or who is likely to be

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damaged as the result of a predatory rate or practice may bring an action pursuant to the Unfair Practices Act against the transportation service carrier regarding [~~such~~] the predatory rate or practice. Any [~~such~~] civil action shall be in addition to, and shall not bar, any investigation or civil or criminal enforcement action regarding the predatory rate or practice available to the attorney general or a district attorney, or available to the [~~commission~~] department under the Motor Carrier Act."

SECTION 60. Section 65-2A-34 NMSA 1978 (being Laws 2003, Chapter 359, Section 34) is amended to read:

"65-2A-34. ACTIONS TO ENFORCE [~~COMMISSION~~] DEPARTMENT ORDERS.--If a person fails to comply with an order of the [~~commission~~] department within the time prescribed in the order or within thirty days after the order is entered, whichever is later, unless a stay has been granted, the [~~commission~~] department shall seek enforcement of the order in the district court for Santa Fe county. The enforcement hearing shall be held on an expedited basis. At the hearing, the sole question shall be whether the person has failed to comply with the order."

SECTION 61. Section 65-2A-35 NMSA 1978 (being Laws 2003, Chapter 359, Section 35) is amended to read:

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

A. A motor carrier or other interested person

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aggrieved by a final order or determination of the [~~commission~~]
department issued pursuant to the Motor Carrier Act may appeal
to the supreme court within thirty days. The appellant shall
pay to the [~~commission~~] department the costs of preparing and
transmitting the record to the court.

B. The pendency of an appeal shall not
automatically stay the order appealed from. The appellant may
petition the [~~commission~~] department or the supreme court for a
stay of the order.

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

- (1) arbitrary, capricious or an abuse of
discretion;
- (2) not supported by substantial evidence in
the record; or
- (3) otherwise not in accordance with law."

SECTION 62. Section 65-2A-36 NMSA 1978 (being Laws 2003,
Chapter 359, Section 36, as amended by Laws 2013, Chapter 73,
Section 30 and by Laws 2013, Chapter 77, Section 30) is amended
to read:

"65-2A-36. FEES.--

A. The [~~commission~~] department shall [~~charge and~~

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~~collect the following]~~ establish in rule reasonable fees:

(1) for filing an application for a certificate or an application for an amendment of a certificate, or for any protest or permissive intervention in regard to such application; [~~two hundred fifty dollars (\$250);~~

~~(2) for filing an application for a permit or an application for amendment of a permit, or for any protest or permissive intervention in regard to such application, two hundred fifty dollars (\$250);~~

~~(3)]~~ (2) for filing an application for a warrant; [~~twenty-five dollars (\$25.00);~~

~~(4)]~~ (3) for filing an application or motion for temporary authority; [~~one hundred dollars (\$100);~~

~~(5)]~~ (4) for filing an application for a change in a tariff for a tariffed service carrier; [~~two hundred dollars (\$200);~~

~~(6)]~~ (5) for filing an application for lease or transfer of a certificate [~~or permit~~], or for any protest or permissive intervention in regard to such application; [~~two hundred dollars (\$200);~~

~~(7)]~~ (6) for filing an application for reinstatement of a certificate [~~or permit~~] following voluntary or involuntary suspension; [~~one hundred dollars (\$100);~~

~~(8)]~~ (7) for filing an application for voluntary suspension of a certificate [~~or permit~~]; [~~fifteen~~

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~~dollars (\$15.00);~~

~~(9)] (8)~~ for filing an application for a single trip ticket; ~~[five dollars (\$5.00) per vehicle per trip;~~

~~(10)] (9)~~ for filing a change in the legal name of any holder of an operating authority, or a change of business trade name or the addition or deletion of a business trade name of any holder or lessee of an operating authority; ~~[ten dollars (\$10.00);~~

~~(11)] (10)~~ for filing an equipment lease; ~~[five dollars (\$5.00) per vehicle leased;~~

~~(12)] (11)~~ for a miscellaneous filing; ~~[five dollars (\$5.00) per document;~~

~~(13)] (12)~~ for certifying copies of a record, order or operating authority, the charge per page provided by law for governmental agencies;

~~(14)] (13)~~ for copies of written ~~[commission]~~ department documents or records, the charge per page provided by law for governmental agencies, in addition to any applicable certification charge; and

~~(15)] (14)~~ for copies of other ~~[commission]~~ department records, including electronic media, an amount set by the ~~[commission]~~ department, in addition to any applicable certification charge.

B. The fees established by the department pursuant to Subsection A of this section shall not exceed the actual

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cost of processing the application or providing the administrative service.

[B-] C. The secretary of state shall charge and collect a fee of four dollars (\$4.00) for each process from a court served upon the secretary of state as the designated agent for service of process by operation of law.

[G-] D. The "motor transportation fee fund" is created in the state treasury. The [~~commission~~] department shall collect all fees at the time an application is filed or service is provided, and shall remit them to the state treasurer, who shall deposit them in the fund. At the end of each month, the state treasurer shall transfer the unencumbered balance in the fund to the state road fund.

[D-] E. If a fee has been erroneously paid, the person having paid the fee may apply for a refund in writing to the [~~commission~~] department no later than sixty days after the erroneous payment. Upon approval of the application by the [~~commission~~] department, the amount erroneously paid shall be refunded from the motor transportation fee fund to the person who made the payment.

[E-] F. An application shall be fully completed within sixty days or the fee submitted with the application shall be forfeited to the state. If the applicant renews the application, the applicant shall pay the applicable fee."

SECTION 63. Section 65-2A-37 NMSA 1978 (being Laws 2003,

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Chapter 359, Section 37, as amended by Laws 2013, Chapter 73, Section 31 and by Laws 2013, Chapter 77, Section 31) is amended to read:

"65-2A-37. ELECTRONIC FILING AND CERTIFICATION OF DOCUMENTS--ELECTRONIC PAYMENT OF FEES.--

A. The [~~commission~~] department may adopt rules permitting the electronic filing, submission and service of documents by facsimile, electronic mail or other electronic transmission, including original documents, and the certification of electronically filed documents when filing or certification is required or permitted pursuant to the Motor Carrier Act. The rules shall provide for the appropriate treatment of electronic filings to satisfy requirements for original documents or copies and shall provide the requirements for signature with respect to electronic filings. If the [~~commission~~] department accepts electronic filing of a document, it may accept for filing a document containing a signature line, however made.

B. The [~~commission~~] department may accept a credit or debit card or other means of payment, in lieu of cash or check, as payment of a fee pursuant to the Motor Carrier Act. The [~~commission~~] department shall determine those credit or debit cards or other means of payment that may be accepted for payment."

SECTION 64. Section 65-5-3 NMSA 1978 (being Laws 1943,

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Chapter 125, Section 10, as amended) is amended to read:

"65-5-3. CLEARANCE CERTIFICATES--TYPES OF CARRIERS.--

After inspection of the vehicle and related documentation and any necessary registration, clearance certificates or special permits may be issued by the department for:

A. commercial motor carrier vehicles operating in compliance with the provisions of the Motor Carrier Act when:

(1) all taxes and registration fees required by the laws of this state upon the vehicles and contents of the vehicles have been paid and all other laws and rules and regulations of departments of this state applicable to the vehicles and contents have been complied with; and

(2) the operator or owner of the vehicle is not in default or delinquent in the payment of any tax, the filing of any report or the observance of any requirements of the Motor Carrier Act;

B. commercial motor carrier vehicles classified and designated in law as exempt when:

(1) all taxes required by the laws of this state upon the contents of the vehicles have been paid and all other laws and rules and regulations of departments of this state applicable to the contents have been complied with; and

(2) the vehicles have been registered in this state or another state and evidence of registration, including proper display of registration plates, required by the laws of

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this state is provided;

C. commercial motor carrier vehicles not registered or licensed in this state that are transporting passengers for hire or property for hire or resale when:

(1) all taxes and registration fees required by the laws of this state upon the vehicles and contents of the vehicles have been paid and all other laws and rules and regulations of departments of this state applicable to the vehicles and contents have been complied with;

(2) the vehicle is properly covered by liability insurance in accordance with the provisions of the Motor Carrier Act and the ~~[regulations]~~ rules of the ~~[state corporation commission]~~ department of transportation; and

(3) the trip tax has been fully paid; and

D. commercial motor carrier vehicles not registered or licensed in this state that are transporting property not for hire or resale when:

(1) all taxes required by the laws of this state upon the contents of the vehicles have been paid and all other laws, rules and regulations applicable to such contents have been complied with; and

(2) the trip tax has been fully paid."

SECTION 65. Section 65-6-1 NMSA 1978 (being Laws 1974, Chapter 82, Section 1) is amended to read:

"65-6-1. SHORT TITLE.--~~[Sections 1 through 6 of this act]~~

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Chapter 65, Article 6 NMSA 1978 may be cited as the "Ambulance Standards Act".

SECTION 66. Section 65-6-2 NMSA 1978 (being Laws 1974, Chapter 82, Section 2, as amended) is amended to read:

"65-6-2. DEFINITIONS.--As used in the Ambulance Standards Act:

A. "ambulance" means a vehicle, including motor vehicles or watercraft, designed and used or intended to be used for the transportation of sick or injured persons;

~~B. "driver" means a person who, on a regular or irregular basis, either paid or voluntary, serves as the operator of an ambulance;~~

~~C.]~~ B. "attendant" means a person who, on a regular or irregular basis, either paid or voluntary, serves as an assistant to the driver in the operation of the ambulance; ~~[and~~

~~D. "commission" means the public regulation commission]~~

C. "department" means the department of transportation; and

D. "driver" means a person who, on a regular or irregular basis, either paid or voluntary, serves as the operator of an ambulance."

SECTION 67. Section 65-6-4 NMSA 1978 (being Laws 1974, Chapter 82, Section 4) is amended to read:

"65-6-4. ~~[CORPORATION COMMISSION]~~ DEPARTMENT--DUTIES.--

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The [~~corporation commission~~] department, in accordance with its responsibilities to regulate common carriers, shall [~~within one year of the effective date of this Act~~] hold public hearings as prescribed in [~~Article 27 of Chapter 64 NMSA 1953~~] the Motor Carrier Act and adopt [~~regulations~~] rules:

A. for the establishment of reasonable, flexible standards for ambulances, including but not limited to:

- (1) vehicle design;
- (2) health and safety equipment to be maintained and used in ambulances;
- (3) procedures for the operation of ambulances; and
- (4) at least annual inspection of [~~ambulances~~] ambulances; and

B. for the licensure of all [~~ambulance~~] drivers and attendants, to include:

- (1) [~~minimum~~] minimum training requirements to include basic and advanced red cross and such other available training as the [~~commission~~] department finds reasonable and in the best interests of the public; and
- (2) a written and practical examination of competence limited to that material, information and training required of [~~ambulance~~] drivers and attendants, respectively, in the [~~regulations~~] rules adopted by the [~~corporation commission~~] department.

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In establishing standards for ambulances, the ~~[commission]~~ department shall give serious consideration to the vehicle needs and limitations imposed by the topography and road and weather conditions of various localities. Further, the ~~[commission]~~ department shall take into consideration the resources of the various communities, institutions and sponsoring organizations providing ambulance service to the public."

SECTION 68. Section 65-7-1 NMSA 1978 (being Laws 2016, Chapter 80, Section 1) is amended to read:

"65-7-1. SHORT TITLE.--~~[Sections 1 through 22 of this act]~~ Chapter 65, Article 7 NMSA 1978 may be cited as the "Transportation Network Company Services Act"."

SECTION 69. Section 65-7-4 NMSA 1978 (being Laws 2016, Chapter 80, Section 4) is amended to read:

"65-7-4. TRANSPORTATION NETWORK COMPANY PERMIT REQUIRED.--

A. A person shall not operate a transportation network company in New Mexico without first having obtained a permit from the ~~[public regulation commission]~~ department of transportation.

B. A permit issued to a transportation network company by the ~~[public regulation commission]~~ department of transportation shall be effective for one year.

C. The ~~[public regulation commission]~~ department of

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transportation shall issue a permit to a transportation network company that meets the requirements set forth in the Transportation Network Company Services Act and any rules adopted by the [~~commission~~] department pursuant to that act. The transportation network company shall pay an annual permit fee of ten thousand dollars (\$10,000) to the [~~commission~~] department."

SECTION 70. Section 65-7-13 NMSA 1978 (being Laws 2016, Chapter 80, Section 13) is amended to read:

"65-7-13. VEHICLE SAFETY.--

A. A transportation network company shall not allow a driver to be connected to potential passengers using the digital network or software application service of the transportation network company if the motor vehicle operated by the driver to provide transportation services:

(1) is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle;

(2) has fewer than four doors; or

(3) is designed to carry more than eight passengers, including the driver.

B. A transportation network company shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services before allowing the driver to use the motor vehicle to provide prearranged rides and not

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less than once each year thereafter.

C. The [~~public regulation commission~~] department of transportation shall promulgate rules [~~and regulations~~] setting forth the requirements of annual inspection of a vehicle used by a transportation network company driver while logged on to a digital network or engaged in a prearranged ride."

SECTION 71. Section 65-7-19 NMSA 1978 (being Laws 2016, Chapter 80, Section 19) is amended to read:

"65-7-19. TRANSPORTATION [~~DIVISION~~] NETWORK FUND CREATED--ASSESSMENT AND COLLECTION OF FEES.--

A. The "transportation [~~division~~] network fund" is created in the state treasury for the purpose of ensuring the safety and financial responsibility of transportation network companies and transportation network company drivers. The fund shall consist of fees collected pursuant to the Transportation Network Company Services Act, [~~administrative fines collected under that act~~] appropriations, gifts, grants, donations and earnings on investment of the fund. Balances in the fund shall not revert to the general fund or any other fund at the end of any fiscal year.

B. The transportation [~~division~~] network fund shall be administered by the [~~public regulation commission~~] department of transportation. Money in the fund is appropriated to the [~~commission~~] department to carry out its duties pursuant to the provisions of the Transportation Network

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Company Services Act. Not more than five percent of the fees collected pursuant to this section shall be used by the ~~[commission]~~ department for administrative purposes.

C. Payments from the transportation ~~[division]~~ network fund shall be made upon vouchers issued and signed by the ~~[director of the administrative services division of the public regulation commission or the director's]~~ secretary of transportation or the secretary's authorized representative upon warrants drawn by the secretary of finance and administration."

SECTION 72. Section 65-7-20 NMSA 1978 (being Laws 2016, Chapter 80, Section 20) is amended to read:

"65-7-20. RECORDS PURSUANT TO RULES OF THE ~~[PUBLIC REGULATION COMMISSION]~~ DEPARTMENT OF TRANSPORTATION.--

A. A transportation network company holding a permit issued by the ~~[public regulation commission]~~ department of transportation shall maintain the records required pursuant to the Transportation Network Company Services Act to be collected by the transportation network company, including records regarding transportation network company drivers.

B. In response to a specific complaint, the ~~[public regulation commission]~~ department of transportation, its employees or its duly authorized agents may inspect those records held by a transportation network company for the investigation and resolution of the complaint.

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C. No more than semiannually and as determined by the [~~public regulation commission, the commission~~] department of transportation, the department, its employees or its duly authorized agents may, in a mutually agreed setting, inspect those records held by a transportation network company whose review is necessary to ensure public safety; provided that such review shall be on an audit rather than a comprehensive basis.

D. Any proprietary records obtained by the [~~public regulation commission~~] department of transportation pursuant to this section shall not be subject to disclosure by the [~~commission~~] department."

SECTION 73. Section 65-7-21 NMSA 1978 (being Laws 2016, Chapter 80, Section 21) is amended to read:

"65-7-21. ADMINISTRATIVE PENALTIES.--

A. If the [~~public regulation commission~~] department of transportation finds after investigation that a provision of the Transportation Network Company Services Act or an order or rule of the [~~commission~~] department is being, has been or is about to be violated, it may issue an order specifying the actual or proposed acts or omissions to act that constitute a violation and require that the violation be discontinued, rectified or prevented.

B. Notwithstanding the existence of any other penalties, the [~~public regulation commission~~] department of transportation may assess an administrative fine of not more

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than one thousand dollars (\$1,000) for each violation of a provision of the Transportation Network Company Services Act or of a lawful rule or order of the [~~commission~~] department. In the case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense.

C. All penalties accruing under the Transportation Network Company Services Act shall be cumulative, and a suit for recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or be a bar to any criminal prosecution."

SECTION 74. Section 65-7-22 NMSA 1978 (being Laws 2016, Chapter 80, Section 22) is amended to read:

"65-7-22. INVOLUNTARY SUSPENSION AND REVOCATION.--

A. The [~~public regulation commission~~] department of transportation shall immediately suspend, without notice or a hearing, the permit of a transportation network company that:

(1) does not continuously maintain the insurance coverage prescribed by the Transportation Network Company Services Act;

(2) does not pay the fees owed by the transportation network company and the transportation network company's drivers; or

(3) operates in a manner that poses an immediate or imminent threat to public safety.

B. Once suspended, the transportation network

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company may apply for reinstatement by requesting a public hearing before the [~~public regulation commission~~] department of transportation and shall establish that the basis for the suspension has been corrected."

SECTION 75. Section 66-1-4.16 NMSA 1978 (being Laws 1990, Chapter 120, Section 17, as amended) is amended to read:

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

A. "safety glazing materials" means glazing materials constructed, treated or combined with other materials to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they are cracked and broken;

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

C. "salvage vehicle" means a vehicle:

(1) other than a nonrepairable vehicle, of a type subject to registration that has been wrecked, destroyed or damaged excluding, pursuant to rules issued by the department, hail damage, to the extent that the owner, leasing company, financial institution or the insurance company that

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insured or is responsible for repair of the vehicle considers it uneconomical to repair the vehicle and that is subsequently not repaired by or for the person who owned the vehicle at the time of the event resulting in damage; or

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

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

(1) operated by a common carrier, subject to and meeting all requirements of the [~~public regulation commission~~] department of transportation but not used exclusively for the transportation of students;

(2) operated solely by a government-owned transit authority, if the transit authority meets all safety requirements of the [~~public regulation commission~~] department of transportation but is not used exclusively for the

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transportation of students;

(3) operated as a per capita feeder as provided in Section 22-16-6 NMSA 1978; or

(4) that is a minimum six-passenger, full-size, extended-length, sport utility vehicle operated by a school district employee pursuant to Subsection D of Section 22-16-4 NMSA 1978;

E. "seal" means the official seal of the taxation and revenue department as designated by the secretary;

F. "secretary" means the secretary of taxation and revenue, and, except for the purposes of Sections 66-2-3 and 66-2-12 NMSA 1978, also includes the deputy secretary and any division director delegated by the secretary;

G. "semitrailer" means a vehicle without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some significant part of its weight and that of its load rests upon or is carried by another vehicle;

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

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

J. "solid tire" means every tire of rubber or other

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resilient material that does not depend upon compressed air for the support of the load;

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

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

M. "standard driver's license" means a license or a class of license issued by a state or other jurisdiction recognized by the laws of New Mexico that authorizes the holder to operate motor vehicles and is not guaranteed to be accepted by federal agencies for official federal purposes;

N. "standard identification card" means an identification card that is not guaranteed to be accepted by federal agencies for official federal purposes;

O. "state" means a state, territory or possession of the United States, the District of Columbia or any state of the Republic of Mexico or the Federal District of Mexico or a

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province of the Dominion of Canada;

P. "state highway" means a public highway that has been designated as a state highway by the legislature, the state transportation commission or the secretary of transportation;

Q. "stop", when required, means complete cessation from movement;

R. "stop, stopping or standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal;

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

T. "subsequent offender" means a person who was previously a first offender and who again, under state law, federal law or a municipal ordinance or a tribal law, has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor or any drug that rendered the person incapable of safely driving a motor vehicle, regardless of whether the person's sentence was suspended or deferred; and

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U. "suspension" means that a person's driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn."

SECTION 76. Section 66-3-120 NMSA 1978 (being Laws 1978, Chapter 35, Section 67) is amended to read:

"66-3-120. TRANSPORTATION OF CERTAIN VEHICLES--PROOF OF OWNERSHIP.--

A. ~~[Any]~~ A person transporting ~~[any]~~ a crushed or inoperable vehicle or motor vehicle on ~~[any]~~ a public way, street or highway in any manner ~~[whatsoever]~~ shall have in ~~[his]~~ the person's possession proof of ownership of ~~[such]~~ the vehicle or:

(1) an affidavit from the property owner upon whose property the vehicle or motor vehicle was abandoned authorizing the vehicle's removal from the property owner's land; and

(2) a police clearance indicating the vehicle or motor vehicle has not been reported stolen.

B. Any person who possesses either a New Mexico dismantler's or wrecker's license, a New Mexico auto dealer's license, a ~~[state corporation commission]~~ department of transportation license or a vehicle contract or common carrier license issued by the federal interstate commerce commission shall be exempt from the provisions of this section while transporting vehicles ~~[which]~~ that are not abandoned, provided

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[he] the person prominently displays a dealer's license plate or a dismantler's plate on the vehicle in tow or has a New Mexico [~~state corporation commission~~] department of transportation vehicle contract or common carrier permit number or a federal interstate commerce commission vehicle contract or common carrier permit number prominently displayed on the towing vehicle.

C. Any person failing to have such documentation in [his] the person's possession while transporting such a vehicle or motor vehicle is subject to the penalties produced in Section [~~64-4-9 NMSA 1953~~] 66-4-9 NMSA 1978, and any vehicle or motor vehicle being transported by [~~such a~~] the person [~~shall be~~] is subject to immediate confiscation. [~~Said~~] The vehicle or motor vehicle shall be towed to an authorized police impound lot until proof of ownership is presented or until the documentation described in this section is provided by either the owner of the vehicle or the person in possession. Failure to provide [~~such~~] documentation within thirty days shall result in the vehicle or motor vehicle being deemed unclaimed and thus subject to claim by the person or firm in possession."

SECTION 77. Section 66-6-8 NMSA 1978 (being Laws 1978, Chapter 35, Section 343, as amended) is amended to read:

"66-6-8. BUS REGISTRATION--AGRICULTURAL LABOR FEES.--

A. A bus that has a normal seating capacity of forty passengers or less and that is used exclusively for the

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transportation of agricultural laborers may be registered upon payment to the division of a fee of thirty-three dollars (\$33.00).

B. In addition to the registration fee imposed by this section, there is imposed at the time of registration an annual tire recycling fee of fifty cents (\$.50) per wheel that is in contact with the ground on each vehicle subject to a registration fee pursuant to this section.

C. Application for registration of a bus pursuant to this section shall be made in the form prescribed by the division and shall be accompanied by an affidavit that the bus will be used exclusively for the transportation of agricultural laborers. Upon registration, the bus is exempt from tariff-filing requirements of the ~~[public regulation commission]~~ department of transportation."

SECTION 78. Section 66-7-413 NMSA 1978 (being Laws 1978, Chapter 35, Section 484, as amended) is amended to read:

"66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

A. The department of transportation and local highway authorities may, in their discretion, upon application in writing and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on a

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highway under the jurisdiction of the state transportation commission or local authorities. Except for the movement of manufactured homes, a permit may be granted, in cases of emergency, for the transportation of loads on a certain unit or combination of equipment for a specified period of time not to exceed one year, and the permit shall contain the route to be traversed, the type of load to be transported and any other restrictions or conditions deemed necessary by the body granting the permit. In every other case, the permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting the permit. Every permit shall be carried in the vehicle to which it refers and shall be opened for inspection to any peace officer. It is a misdemeanor for a person to violate a condition or term of the special permit.

B. The department of transportation shall promulgate rules in accordance with the State Rules Act pertaining to safety practices, liability insurance and equipment for escort vehicles provided by the motor carrier and for escort vehicles provided by a private business in this state; provided that:

(1) the department of public safety or the department of transportation shall provide the escort personnel with a copy of applicable rules and shall inspect the escort

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vehicles for the safety equipment required by the rules. If the escort vehicles and personnel meet the requirements set forth in the rules, the department of public safety shall issue the special permit;

(2) the movement of vehicles upon the highways of this state requiring a special permit and required to use an escort of the type noted in Paragraph (1) of this subsection is subject to the authority of the department of transportation and the department of public safety and to inspection at all times; and

(3) the department of transportation shall conduct engineering investigations and engineering inspections to determine which four-lane highways are safe for the operation or movement of manufactured homes without an escort. After making that determination, the department of transportation shall hold public hearings in the area of the state affected by the determination, after which it may adopt rules designating those four-lane highways as being safe for the operation or movement of manufactured homes without an escort. If a portion of such a four-lane highway lies within the boundaries of a municipality, the department of transportation, after obtaining the approval of the municipal governing body, shall include such portions in its rules.

C. Except for the movement of manufactured homes, special permits may be issued for a single vehicle or

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combination of vehicles by the department of transportation for a period not to exceed one year for a fee of two hundred fifty dollars (\$250). The special permits may allow excessive height, length and width for a vehicle or combination of vehicles or load thereon and may include a provision for excessive weight if the weight of the vehicle or combination of vehicles is not greater than one hundred forty thousand pounds. Utility service vehicles, operating with special permits pursuant to this subsection, shall be exempt from prohibitions or restrictions relating to hours or days of operation or restrictions on movement because of poor weather conditions.

D. Special permits for a single trip for a vehicle or combination of vehicles or load thereon of excessive weight, width, length and height may be issued by the department of transportation for a single vehicle for a fee of twenty-five dollars (\$25.00) plus the product of two and one-half cents (\$.025) for each two thousand pounds in excess of eighty-six thousand four hundred pounds or major fraction thereof multiplied by the number of miles to be traveled by the vehicle or combination of vehicles on the highways of this state.

E. If a vehicle for which a permit is issued pursuant to this section is a manufactured home, the department of transportation or local highway authority issuing the permit shall furnish the following information to the property tax division of the taxation and revenue department, which shall

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forward the information:

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

(2) to the county assessor of any county in this state to which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to, the name of the owner of the manufactured home and the registration and identification numbers of the manufactured home; and

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

F. Except as provided in Subsection G of this section, if the movement of a manufactured home originates in this state, a permit shall not be issued pursuant to Subsection E of this section until the owner of the manufactured home or the authorized agent of the owner obtains and presents to the department of transportation proof that a certificate has been issued by the county assessor or treasurer of the county in

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which the manufactured home movement originates showing that either:

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

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

G. The movement of a manufactured home from the lot or business location of a manufactured home dealer to its destination designated by an owner-purchaser is not subject to the requirements of Subsection F of this section if the manufactured home movement originates from the lot or business location of the dealer and the manufactured home was part of the dealer's inventory prior to the sale to the owner-purchaser; however, the movement of a manufactured home by a dealer or the dealer's authorized agent as a result of a sale or trade-in from a nondealer-owner is subject to the requirements of Subsection F of this section whether the destination is the business location of a dealer or some other destination.

H. A permit shall not be issued pursuant to this section for movement of a manufactured home whose width exceeds

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eighteen feet with no more than a six-inch roof overhang on the left side or twelve inches on the right side in addition to the eighteen-foot width of the manufactured home. Manufactured homes exceeding the limitations of this section shall only be moved on dollies placed on the front and the rear of the structure.

I. The secretary of transportation may by rule provide for movers of manufactured homes to self-issue permits for certain sizes of manufactured homes over specific routes. The cost of a permit shall not be less than twenty-five dollars (\$25.00).

J. The secretary of transportation may provide by rule for dealers of implements of husbandry to self-issue permits for the movement of certain sizes of implements of husbandry from the lot or business location of the dealer over specific routes with specific escort requirements, if necessary, to a destination designated by an owner-purchaser or for purposes of a working demonstration on the property of a proposed owner-purchaser. The department of transportation shall charge a fee for each self-issued permit not to exceed fifteen dollars (\$15.00).

K. A private motor carrier requesting an oversize or overweight permit shall provide proof of insurance in at least the following amounts:

- (1) bodily injury liability, providing:

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

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

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

L. A motor carrier requesting an oversize permit shall produce a copy of a warrant or a single state registration receipt as evidence that the motor carrier maintains the insurance minimums prescribed by the [~~public regulation commission~~] department of transportation.

M. The department of transportation may provide by rule the time periods during which a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 may be operated or moved by a motor carrier on a highway under the jurisdiction of the state transportation commission or local authorities.

N. An applicant for a special permit to operate a vehicle or combination of vehicles with a gross weight not exceeding ninety-six thousand pounds within six miles of the port of entry at the border with Mexico at Santa Teresa or within a circular quadrant starting at that port of entry with an east boundary line running due north twelve miles from the Santa Teresa port of entry to a point, then along an arc to the west with a twelve-mile radius and central angle of

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approximately ninety degrees to a point on the international boundary with Mexico, then returning due east twelve miles to the starting point at that port of entry, and twelve miles of other ports of entry on the border with Mexico shall not be required to demonstrate to the department of transportation that the load cannot be reduced as a condition of the issuance of the permit.

0. Revenue from fees for special permits authorizing vehicles and loads of excessive size or weight to operate or move upon a highway under the jurisdiction of the state transportation commission or local authorities shall be collected for the department of transportation and transferred to the state road fund."

SECTION 79. Section 66-8-116.2 NMSA 1978 (being Laws 1989, Chapter 319, Section 13, as amended) is amended to read:

"66-8-116.2. PENALTY ASSESSMENT MISDEMEANORS--MOTOR CARRIER ACT.--As used in the Motor Vehicle Code and the Motor Carrier Act, "penalty assessment misdemeanor" means, in addition to the definitions of that term in Sections 66-8-116 and 66-8-116.1 NMSA 1978, violation of the following listed sections of the NMSA 1978 for which, except as provided in Subsection E of this section, the listed penalty is established:

A. GENERAL

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
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Failure to register		
motor carrier	66-3-1.1	\$300.00
Failure to carry tax		
identification		
permit	65-1-26	300.00
Failure of motor carrier		
to comply with weight distance		
requirements of the Weight		
Distance Tax Act	65-1-26	
(1) first conviction		300.00
(2) second conviction, within		
ten years of the first conviction		500.00
(3) third or subsequent		
conviction, within ten years of the		
first conviction		1,000.00
Failure to comply with		
[public regulation		
commission] <u>department of</u>		
<u>transportation</u> rules [and		
regulations]	65-2A-7	50.00
Failure to		
carry single state		
registration receipt issued		
by a base state	65-2A-7	50.00
Failure to register with		

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a base state under the federal Unified Carrier Registration Act of 2005	65-2A-16	50.00
Failure to stop at designated registration place	65-5-1	100.00
Failure to obtain proper clearance certificates	65-5-3	100.00.

B. VEHICLE OUT-OF-SERVICE VIOLATIONS

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Absence of braking action	65-3-9	\$100.00
Damaged brake lining or pads	65-3-9	50.00
Loose or missing brake components	65-3-12	100.00
Inoperable breakaway braking system	65-3-12	50.00
Defective or damaged brake tubing	65-3-12	50.00
Inoperative low pressure warning device	65-3-9	50.00
Reservoir pressure not maintained	65-3-12	100.00
Inoperative tractor protection valve	65-3-9	100.00

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Damaged or loose air		
compressor	65-3-12	100.00
Audible air leak at brake		
chamber	65-3-12	50.00
Defective safety devices--		
chains or hooks	65-3-9	100.00
Defective towing or coupling		
devices	65-3-9	100.00
Defective exhaust systems	65-3-9	30.00
Frame defects--trailers	65-3-12	100.00
Frame defects--other	65-3-9	100.00
Defective fuel systems	65-3-9	50.00
Missing or inoperative		
lamps	65-3-9	25.00
Missing lamps on projecting		
loads	65-3-9	50.00
Missing or inoperative		
turn signal	65-3-9	25.00
Unsafe loading	65-3-8	100.00
Possession of radar detector		
in commercial motor carrier		
vehicle	65-3-8	100.00
Possession of alcoholic		
beverage in commercial		
motor carrier vehicle	65-3-8	200.00

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Excessive steering wheel		
play	65-3-9	100.00
Steering column defects	65-3-9	100.00
Steering box or steering		
system defects	65-3-9	100.00
Suspension system defects	65-3-9	50.00
Defective springs or spring		
assembly	65-3-9	50.00
Defective tires--steering		
axle	65-3-9	100.00
Defective tires--other axles	65-3-9	30.00
Defective wheels and rims	65-3-9	50.00
Defective or missing		
windshield wipers	65-3-9	30.00
Defective or inoperative		
emergency exit--bus	65-3-9	100.00.

C. DRIVER OUT-OF-SERVICE VIOLATIONS

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Driver's age	65-3-7	\$30.00
Driver not licensed for		
type of vehicle being		
operated	65-3-7	30.00
Failure to have valid		
commercial driver's license		
in possession	66-5-59	30.00

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No waiver of physical disqualification in possession	65-3-7	30.00
Sickness or fatigue	65-3-8	100.00
Driver disqualification	65-3-7	500.00
Exceeding the 10-hour driving rule for passenger carrier transportation	65-3-11	100.00
Exceeding the 11-hour driving rule for property carrier transportation	65-3-11	100.00
Exceeding the 14-hour on duty rule for property carrier transportation	65-3-11	100.00
Exceeding the 15-hour on duty rule for passenger carrier transportation	65-3-11	100.00
Exceeding the 60 hours in 7 days on duty rule	65-3-11	100.00
Exceeding the 70 hours in 8 days on duty rule	65-3-11	100.00
False log book	65-3-11	100.00
No log book	65-3-11	100.00
No record for previous		

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7 days 65-3-11 100.00.

D. HAZARDOUS MATERIALS OUT-OF-SERVICE VIOLATIONS

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Placarding violations	65-3-13	\$250.00
Cargo tank not meeting specifications	65-3-13	250.00
Internal valve operation violations	65-3-13	250.00
Hazardous materials packaging violations	65-3-13	250.00
Insecure load--hazardous materials	65-3-13	250.00
Shipping papers violations	65-3-13	30.00
Shipment of forbidden combination of hazardous materials	65-3-13	250.00
No hazardous waste manifest	65-3-13	30.00
Bulk packaging marking violations	65-3-13	30.00
Cargo tank marking violations	65-3-13	30.00.

E. Upon a second conviction for failure to stop at a port of entry or inspection station pursuant to Section 65-5-1 NMSA 1978, the penalty assessment shall be two hundred fifty dollars (\$250). Upon a third or subsequent conviction, the penalty assessment shall be five hundred dollars (\$500)."

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SECTION 80. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND
REFERENCES IN LAW.--

A. On HGEIC→January←HGEIC HGEIC→July←HGEIC 1, 2024,
all staff positions, functions, personnel, appropriations,
money, records, equipment, supplies, other property and
contractual obligations of the public regulation commission
related to motor carrier regulation and enforcement, railroad
safety enforcement and ambulance standards are transferred to
the department of transportation.

B. Beginning HGEIC→January←HGEIC HGEIC→July←HGEIC
1, 2024, all references in law, rules, orders and other
official acts to the public regulation commission or the
transportation division of the public regulation commission
related to motor carrier regulation and enforcement, railroad
safety enforcement and ambulance standards shall be deemed
references to the department of transportation.

C. Beginning HGEIC→January←HGEIC HGEIC→July←HGEIC
1, 2024, all contractual obligations of the public regulation
commission related to motor carrier regulation and enforcement,
railroad safety enforcement and ambulance standards are binding
on the department of transportation.

D. The rules, orders and decisions of the public
regulation commission related to motor carrier regulation and
enforcement, railroad safety enforcement and ambulance

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standards shall remain in effect until repealed or amended.

HGEIC→SECTION 81. TEMPORARY PROVISION--RULES.--The department of transportation may review, amend, repeal and enact rules to carry out the provisions of this act; provided that any rules amended, repealed or enacted pursuant to the authority provided in this section shall not be effective until July 1, 2024.←HGEIC

SECTION HGEIC→81.←HGEIC HGEIC→82.←HGEIC

REPEAL.--Sections 63-3-33, 64-1-1 through 64-1-10, 64-1-18, 65-2A-10, 65-2A-41 and 65-6-5 NMSA 1978 (being Laws 1915, Chapter 37, Section 5; Laws 1929, Chapter 71, Sections 1 through 8 and 10; Laws 1941, Chapter 115, Section 1; Laws 1939, Chapter 199, Section 5; Laws 2003, Chapter 359, Section 10; Laws 2013, Chapter 73, Section 33 and Laws 2013, Chapter 77, Section 33; and Laws 1974, Chapter 82, Section 5, as amended) are repealed.

SECTION 82. EFFECTIVE DATE.--The effective date of the provisions of HGEIC→Sections 1 through 80 and 82 of←HGEIC this act is HGEIC→January←HGEIC HGEIC→July←HGEIC 1, 2024.

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