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HOUSE BILL 133

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

DONALD L. WHITAKER

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSES; AMENDING THE NEW MEXICO COMMERCIAL DRIVER'S LICENSE ACT TO BRING NEW MEXICO INTO SUBSTANTIAL COMPLIANCE WITH THE FEDERAL COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986, AS AMENDED; ADDING PENALTIES FOR VIOLATION OF OUT-OF-SERVICE ORDERS.

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

Section 1. Section 66-5-54 NMSA 1978 (being Laws 1989, Chapter 14, Section 3, as amended) is amended to read:

"66-5-54. DEFINITIONS. --As used in the New Mexico Commercial Driver's License Act:

A. "commerce" means:

(1) any trade, traffic or transportation within the jurisdiction of the United States between a place in New Mexico and a place outside of New Mexico, including a

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1 place outside of the United States; and

2 (2) trade, traffic and transportation in the  
3 United States that affects any trade, traffic or  
4 transportation described in Paragraph (1) of this subsection;

5 B. "commercial motor vehicle" means a motor  
6 vehicle or combination of motor vehicles used in commerce to  
7 transport passengers or property if the motor vehicle:

8 (1) has a gross combination weight rating of  
9 more than twenty-six thousand pounds inclusive of a towed unit  
10 with a gross vehicle weight rating of more than ten thousand  
11 pounds;

12 (2) has a gross vehicle weight rating of more  
13 than twenty-six thousand pounds;

14 (3) is designed to transport sixteen or more  
15 passengers, including the driver; or

16 (4) is of any size and is used in the  
17 transportation of hazardous materials, which requires the  
18 motor vehicle to be placarded under applicable law;

19 C. "employee" means any operator of a commercial  
20 motor vehicle, including full-time, regularly employed  
21 drivers; casual, intermittent or occasional drivers; leased  
22 drivers; and independent owner-operator contractors, while in  
23 the course of operating a commercial motor vehicle, who are  
24 either directly employed by or under lease to an employer;

25 [A.] D. "employer" means any person, including the

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1 United States, a state or a political subdivision of a state  
2 or their agencies or instrumentalities, who owns or leases a  
3 commercial motor vehicle or assigns employees to operate such  
4 a vehicle;

5 E. "gross combination weight rating" means the  
6 value specified by the manufacturer as the loaded weight of a  
7 combination vehicle. In the absence of a value specified by  
8 the manufacturer, gross combination weight rating shall be  
9 determined by adding the gross vehicle weight rating of the  
10 power unit and the total weight of the towed unit or units and  
11 any load thereon;

12 F. "gross vehicle weight rating" means the value  
13 specified by the manufacturer as the loaded weight of a single  
14 vehicle;

15 ~~[B.]~~ G. "out-of-service order" means a [temporary  
16 prohibition against driving a commercial motor vehicle]  
17 declaration by an authorized enforcement officer of a federal,  
18 state, Canadian, Mexican or local jurisdiction that a driver,  
19 a commercial motor vehicle or a motor carrier operation is  
20 temporarily prohibited from operating; and

21 ~~[C.]~~ H. "serious traffic violation" means  
22 conviction of any of the following if committed when operating  
23 a commercial motor vehicle:

24 (1) speed of fifteen miles or more per hour  
25 above the posted limits;

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1 (2) reckless driving as defined by Section  
2 66-8-113 NMSA 1978 or a municipal ordinance or the law of  
3 another state;

4 (3) homicide by vehicle, as defined in  
5 Section 66-8-101 NMSA 1978;

6 (4) injury to pregnant woman by vehicle as  
7 defined in Section 66-8-101.1 NMSA 1978 or a municipal  
8 ordinance or the law of another state; or

9 (5) any other violation of law relating to  
10 motor vehicle traffic control, other than a parking violation,  
11 that the secretary determines by regulation to be a serious  
12 traffic violation. A serious traffic violation does not  
13 include vehicle weight and vehicle defect violation. "

14 Section 2. Section 66-5-58 NMSA 1978 (being Laws 1989,  
15 Chapter 14, Section 7) is amended to read:

16 "66-5-58. EMPLOYER RESPONSIBILITY. --No employer shall  
17 knowingly allow, require, permit or authorize a driver to  
18 drive a commercial motor vehicle during any period:

19 A. in which the driver has a driver's license  
20 suspended, revoked or canceled by a state, has lost the  
21 privilege to drive a commercial motor vehicle in any state or  
22 has been disqualified from driving a commercial motor vehicle;  
23 [~~or~~]

24 B. in which the driver has more than one driver's  
25 license as of the effective date of the provisions of the New

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1 Mexico Commercial Driver's License Act; or  
2 C. in which the employee, the commercial motor  
3 vehicle the employee is driving or the motor carrier operation  
4 of the employer is subject to an out-of-service order."

5 Section 3. Section 66-5-65 NMSA 1978 (being Laws 1989,  
6 Chapter 14, Section 14, as amended) is amended to read:

7 "66-5-65. CLASSIFICATIONS--ENDORSEMENTS--RESTRICTIONS.--

8 A. Commercial driver's licenses may be issued with  
9 the classifications, endorsements and restrictions enumerated  
10 in Subsections B, C and D of this section. The holder of a  
11 valid commercial driver's license may drive all vehicles in  
12 the class for which that license is issued and all lesser  
13 classes of vehicles except motorcycles and vehicles that  
14 require an endorsement unless the proper endorsement appears  
15 on the license.

16 B. The following classifications shall apply to  
17 commercial driver's licenses:

18 (1) class A - any combination of vehicles  
19 with a gross [~~vehicle weight or a declared gross vehicle~~  
20 ~~weight~~] combination weight rating of more than twenty-six  
21 thousand pounds, if the gross vehicle weight rating of the  
22 vehicle or vehicles being towed is in excess of ten thousand  
23 pounds;

24 (2) class B - any single vehicle with a gross  
25 vehicle weight [~~or a declared gross vehicle weight~~] rating of

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1 more than twenty-six thousand pounds and any such vehicle  
2 towing a vehicle with a gross vehicle weight rating of ten  
3 thousand pounds or less; and

4 (3) class C - any single vehicle [~~with a~~  
5 ~~gross vehicle weight or a declared gross vehicle weight of~~  
6 ~~twenty-six thousand pounds or less or any vehicle towing a~~  
7 ~~vehicle with a gross vehicle weight of ten thousand pounds or~~  
8 ~~less~~] or combination of vehicles that does not meet either the  
9 definition of Paragraph (1) or (2) of this subsection but is :

10 (a) designed to transport sixteen or  
11 more passengers, including the driver; or

12 (b) used in the transportation of  
13 hazardous materials, which requires the vehicle to be  
14 placarded under applicable law.

15 C. The secretary, by regulation, may provide for  
16 classifications in addition to those set forth in Subsection B  
17 of this section.

18 D. The following endorsements and restrictions  
19 shall apply to commercial driver's licenses:

20 (1) "H" - authorizes driving a vehicle  
21 transporting hazardous material;

22 (2) "L" - restricts the driver to vehicles  
23 not equipped with airbrakes;

24 (3) "T" - authorizes driving a vehicle towing  
25 more than one trailer;

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1 (4) "P" - authorizes driving vehicles, other  
2 than school buses, carrying passengers;

3 (5) "N" - authorizes driving tank vehicles;

4 (6) "X" - represents a combination of the  
5 hazardous ~~[materials]~~ material ("H") and tank vehicle ("N")  
6 endorsements; ~~[and]~~

7 (7) "S" - authorizes driving a school bus;  
8 and

9 (8) "K" - restricts the driver to driving a  
10 commercial motor vehicle in intrastate commerce only."

11 Section 4. Section 66-5-70 NMSA 1978 (being Laws 1989,  
12 Chapter 14, Section 19) is amended to read:

13 "66-5-70. RECIPROCITY. -- Notwithstanding any other  
14 provision of law, a person who is not a New Mexico resident  
15 may drive a commercial motor vehicle if that person has a  
16 commercial driver's license issued by any state in accordance  
17 with the minimum standards established by the federal highway  
18 administration for the issuance of ~~[New Mexico]~~ commercial  
19 driver's licenses, if the license is not suspended, revoked or  
20 canceled and if the person is not disqualified from driving a  
21 commercial motor vehicle or subject to an out-of-service  
22 order. "

23 Section 5. A new section of the New Mexico Commercial  
24 Driver's License Act is enacted to read:

25 "[NEW MATERIAL] PENALTIES FOR VIOLATION OF OUT-OF-SERVICE

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1       **ORDERS. --**

2                   A.     A driver who is convicted of violating an out-  
3 of-service order shall be subject to a civil penalty of not  
4 less than ten dollars (\$10.00) or more than twenty-five  
5 dollars (\$25.00), in addition to disqualification as provided  
6 in Subsection C of this section.

7                   B.     An employer who is convicted of a violation of  
8 Subsection C of Section 66-5-58 NMSA 1978 shall be subject to  
9 a civil penalty of not less than twenty-five dollars (\$25.00)  
10 or more than one hundred dollars (\$100).

11                  C.     A driver who is convicted of violating an out-  
12 of-service order shall be disqualified for:

13                           (1)   not less than ninety days or more than  
14 one year if the driver is convicted of a first violation of an  
15 out-of-service order;

16                           (2)   not less than one year or more than five  
17 years if, during any ten-year period, the driver is convicted  
18 of two violations of out-of-service orders in separate  
19 incidents; and

20                           (3)   not less than three years or more than  
21 five years if, during any ten-year period, the driver is  
22 convicted of three or more violations of out-of-service orders  
23 in separate incidents. "

24                  Section 6.   **APPLICABILITY.** --The provisions of this act  
25 apply to commercial driver's licenses issued on or after



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January 1, 1998.

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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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6 January 28, 1998  
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9 Mr. Speaker:  
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11 Your RULES AND ORDER OF BUSINESS COMMITTEE, to  
12 whom has been referred  
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15 HOUSE BILL 133  
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17 has had it under consideration and finds same to be GERMANE  
18 in accordance with constitutional provisions.  
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21 Respectfully submitted,  
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R. David Pederson, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Lujan, Picraux, Sanchez, Taylor, James G., Williams,

S. M

Absent: None

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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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6 February 4, 1998  
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8 Mr. Speaker:  
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10 Your JUDICIARY COMMITTEE, to whom has been referred  
11

12 HOUSE BILL 133  
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14 has had it under consideration and reports same with  
15 recommendation that it DO PASS.  
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17 Respectfully submitted,  
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21 Thomas P. Foy, Chairman  
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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998

3 Page 13

4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

5  
6 (Chief Clerk)

(Chief Clerk)

7  
8 Date \_\_\_\_\_

9  
10 The roll call vote was 8 For 0 Against

11 Yes: 8

12 Excused: Garcia, Larranaga, Luna, Pederson, Sanchez

13 Absent: None

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

February 11, 1998

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 133

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

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Fernando R. Macias, Chairman

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Sanchez, Vernon

Absent: None

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