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SENATE BILL 199

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

INTRODUCED BY

MANNY M. ARAGON

AN ACT

RELATING TO LAW ENFORCEMENT; ELIMINATING THE TAXATION AND
REVENUE DEPARTMENT'S LAW ENFORCEMENT POWERS RELATING TO MOTOR
CARRIERS; TRANSFERRING THE POWERS AND LAW ENFORCEMENT
PERSONNEL TO THE DEPARTMENT OF PUBLIC SAFETY.

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

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

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

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

B. "combination gross vehicle weight" means the

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1 sum total of the gross vehicle weights of all units of a
2 combination;

3 C. "commercial motor carrier vehicle" means any
4 motor vehicle with a gross vehicle weight of twelve thousand
5 pounds or more used or reserved for use in the transportation
6 of persons or property for hire, compensation or profit or in
7 the furtherance of a commercial enterprise or any vehicle
8 designed, used or maintained primarily for the transportation
9 of property or for drawing other vehicles so designed, used or
10 maintained;

11 D. "converter gear" means any assemblage of one or
12 more axles with a fifth wheel mounted thereon designed for use
13 in a combination to support the front end of a semitrailer,
14 but not permanently attached thereto. A "converter gear"
15 shall not be considered a vehicle as that term is used in
16 Chapter 66 NMSA 1978, but weight attributable thereto shall be
17 included in declared gross weight;

18 E. "declared gross weight" means maximum gross
19 vehicle weight or combination gross vehicle weight at which a
20 vehicle or combination will be operated during the
21 registration period as declared by the registrant for
22 registration and fee purposes. The vehicle or combination
23 shall have only one "declared gross weight" for all operating
24 considerations;

25 F. "department", without modification, means the

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1 taxation and revenue department, the secretary of taxation and
2 revenue or any employee of the department exercising authority
3 lawfully delegated to that employee by the secretary;

4 G. "director" means the secretary;

5 H. "division" or "motor transportation division"
6 means the department;

7 I. "evidence of registration" means any
8 documentation issued by the department identifying a motor
9 carrier vehicle as being registered with New Mexico or
10 documentation issued by another state pursuant to the terms of
11 a multistate agreement on registration of vehicles to which
12 this state is a party identifying a motor carrier vehicle as
13 being registered with that state; provided that evidence of
14 payment of the weight distance tax and permits obtained under
15 either the Special Fuels Supplier Tax Act or Trip Tax Act are
16 not "evidence of registration";

17 J. "field [~~enforcement~~] inspection" or "in the
18 field" means [~~patrolling of the highway, stopping of~~
19 ~~commercial motor carrier vehicles or~~] establishing ports of
20 entry [~~and roadblocks~~] for the purpose of checking motor
21 carriers and includes similar activities;

22 K. "fleet" means one or more motor carrier
23 vehicles, either commercial or noncommercial but not mixed,
24 that are operated in this and at least one other jurisdiction;

25 L. "freight trailer" means any trailer,

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1 semi trailer or pole trailer drawn by a truck tractor or road
2 tractor and any trailer, semi trailer or pole trailer drawn by
3 a truck that has a gross vehicle weight of more than twenty-
4 six thousand pounds, but the term does not include house
5 trailers, trailers of less than one-ton carrying capacity used
6 to transport animals or fertilizer trailers of less than three
7 thousand five hundred pounds empty weight;

8 M "gross vehicle weight" means the weight of a
9 vehicle without load plus the weight of any load thereon;

10 N. "motor carrier" means any person or firm that
11 owns, controls, operates or manages any motor vehicle with a
12 gross vehicle weight of twelve thousand pounds or more that is
13 used to transport persons or property on the public highways
14 of this state;

15 O. "motor vehicle" means any vehicle or device
16 that is propelled by an internal combustion engine or electric
17 motor power that is used or may be used on the public highways
18 for the purpose of transporting persons or property and
19 includes any connected trailer or semi trailer;

20 P. "one-way rental fleet" means two or more
21 vehicles each having a gross vehicle weight of under twenty-
22 six thousand one pounds and rented to the public without a
23 driver;

24 Q. "person" means any individual, estate, trust,
25 receiver, cooperative association, club, corporation, company,

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1 firm, partnership, joint venture, syndicate or other
2 association; "person" also means, to the extent permitted by
3 law, any federal, state or other governmental unit or
4 subdivision or an agency, department or instrumentality
5 thereof; "person" also includes an officer or employee of a
6 corporation, a member or employee of a partnership or any
7 individual who, as such, is under a duty to perform any act in
8 respect of which a violation occurs;

9 R. "preceding year" means a period of twelve
10 consecutive months fixed by the department, which period is
11 within the sixteen months immediately preceding the
12 commencement of the registration or license year for which
13 proportional registration is sought. The department, in
14 fixing that period, shall make it conform to the terms,
15 conditions and requirements of any applicable agreement or
16 arrangement for the proportional registration of vehicles;

17 S. "properly registered" means bearing the
18 lawfully issued and currently valid evidence of registration
19 of this or another jurisdiction, regardless of the owner's
20 residence, except in those cases where the evidence has been
21 procured by misrepresentation or fraud;

22 T. "public highway" means every way or place
23 generally open to the use of the public as a matter of right
24 for the purpose of vehicular travel, even though it may be
25 temporarily closed or restricted for the purpose of

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1 construction, maintenance, repair or reconstruction;

2 U. "secretary" means the secretary of taxation and
3 revenue and, except for the purposes of [Sections 65-1-10 and]
4 Section 65-1-33 NMSA 1978, also includes the deputy secretary
5 and any division director delegated by the secretary;

6 V. "state" or "jurisdiction" means a state,
7 territory or possession of the United States, the District of
8 Columbia, the commonwealth of Puerto Rico, a foreign country
9 or a state or province of a foreign country; and

10 W. "utility trailer" means any trailer,
11 semitrailer or pole trailer and includes house trailers that
12 exceed neither eight feet in width nor forty feet in length,
13 but does not include freight trailers, trailers of less than
14 one-ton carrying capacity used to transport animals or
15 fertilizer trailers of less than three thousand five hundred
16 pounds empty weight. "

17 Section 2. Section 65-1-6 NMSA 1978 (being Laws 1967,
18 Chapter 97, Section 8, as amended) is amended to read:

19 "65-1-6. FIELD [ENFORCEMENT OF] INSPECTION PURSUANT TO
20 THE MOTOR CARRIER ACT AND [REGULATIONS] RULES. --The department
21 has the authority to:

22 A. [enforce] perform inspections in the field
23 pursuant to the provisions of the Motor Carrier Act and the
24 [regulations] rules promulgated by the state corporation
25 commission pursuant to that act; and

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1 B. maintain sufficient personnel in the field to
2 ~~[enforce]~~ perform inspections pursuant to the provisions of
3 the Motor Carrier Act and the ~~[regulations]~~ rules promulgated
4 by the state corporation commission pursuant to that act. "

5 Section 3. Section 65-1-9 NMSA 1978 (being Laws 1967,
6 Chapter 97, Section 11, as amended) is amended to read:

7 "65-1-9. DEPARTMENT TO ENFORCE LAWS. --The department
8 shall enforce and collect all excise taxes, license fees and
9 other fees and charges of every nature and perform all
10 inspections and collect all information considered necessary
11 to enforce the laws ~~[of all departments, commissions and other~~
12 ~~agencies of state government, in addition to those]~~
13 specifically assigned ~~[by law]~~ to the department. ~~[whenever~~
14 ~~the department is so requested and agrees and the agreement is~~
15 ~~in writing containing all reasonable detail concerning the~~
16 ~~responsibilities of the parties to the agreement.]~~ The
17 department shall also assist, as far as practicable and in
18 accordance with a proper written agreement, in the enforcement
19 of statutory, administrative and judicial provisions of the
20 federal Motor Carrier Act. ~~[Enforcement employees of the~~
21 ~~department shall be considered to have the same powers as the~~
22 ~~enforcement officers of the department, commission or other~~
23 ~~agency having the primary responsibility.]~~"

24 Section 4. TEMPORARY PROVISION-- TRANSFER OF PERSONNEL,
25 PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On the effective

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1 date of this act:

2 A. all personnel of the taxation and revenue
3 department who are certified law enforcement officers pursuant
4 to the provisions of the Law Enforcement Training Act and who
5 are charged primarily with enforcement of the Motor
6 Transportation Act, the Motor Carrier Act or other laws or
7 rules relating to motor carriers are transferred to the
8 department of public safety;

9 B. all appropriations, money, records, property,
10 equipment and supplies of the taxation and revenue department
11 and primarily associated with the personnel described in
12 Subsection A of this section are transferred to the department
13 of public safety;

14 C. all contracts and agreements of the taxation
15 and revenue department relating to the activities of the
16 personnel described in Subsection A of this section are
17 transferred to the department of public safety; and

18 D. all references in law to law enforcement powers
19 of the taxation and revenue department pursuant to the Motor
20 Transportation Act or the Motor Carrier Act shall be deemed to
21 be references to the powers of the department of public
22 safety.

23 Section 5. REPEAL. -- Section 65-1-7 NMSA 1978 (being Laws
24 1967, Chapter 97, Section 9, as amended) is repealed.

25 Section 6. EFFECTIVE DATE. -- The effective date of the

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1 provisions of this act is July 1, 1998.

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 January 31, 1998
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8 Mr. President:
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10 Your COMMITTEES' COMMITTEE, to whom has been referred
11

12 SENATE BILL 199
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14 has had it under consideration and finds same to be GERMANE, in
15 accordance with constitutional provisions, and thence referred to the
16 PUBLIC AFFAIRS COMMITTEE.
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19 Respectfully submitted,
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25 _____
Manny M. Aragon, Chairman

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(Chief Clerk)

(Chief Clerk)

Date _____

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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5 February 17, 1998

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7 Mr. President:

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9 Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

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11 SENATE BILL 199

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14 has had it under consideration and reports same with recommendation
15 that it DO PASS, and thence referred to the FINANCE COMMITTEE.

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17 Respectfully submitted,

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23 Shannon Robinson, Chairman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

The roll call vote was 3 For 2 Against

Yes: Feldman, Robinson, Rodarte

No: Garcia, Smith

Excused: Adair, Boitano, Ingle, Lyons

Absent: None

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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6 February 19, 1998

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8 Mr. Speaker:

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10 Your APPROPRIATIONS AND FINANCE COMMITTEE, to whom has
11 been referred

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13 SENATE BILL 199

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

17 Respectfully submitted,

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22 Max Coll, Chairman
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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 Page 15

4 Adopted _____ Not Adopted _____
5 (Chief Clerk) (Chief Clerk)

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7 Date _____

8
9 The roll call vote was 13 For 2 Against

10 Yes: 13

11 No: Buffett, Pearce

12 Excused: Bird, Marquardt, Picraux

13 Absent: None

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