

AN ACT

RELATING TO MOTOR CARRIERS; REQUIRING MOTOR CARRIERS THAT
TRANSPORT THE PUBLIC TO HAVE INSURANCE COVERAGE.

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

Section 1. Section 65-2-110 NMSA 1978 (being Laws
1981, Chapter 358, Section 31) is amended to read:

"65-2-110. FINANCIAL RESPONSIBILITY--TICKET RECLAIM
BONDS--C.O.D. BONDS--PUBLIC LIABILITY AND PROPERTY DAMAGE--
CARGO LIABILITY AND INTERCHANGE CHARGE LIABILITY BONDS OR
INSURANCE POLICIES--SELF-INSURANCE--AMOUNTS--CONSIDERATIONS.-

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A. Every motor carrier of persons holding a
certificate issued by the commission shall, before
interlining tickets, file with the commission a ticket
reclaim bond in the amount of five hundred dollars (\$500)
assuring full and prompt payment to all other motor carriers
holding the certificates of all money due them for
transportation sold over their lines by the carrier filing
the bond. Upon failure of any carrier to file the bond, he
shall be cited to appear before the commission to show cause
why his certificate should not be canceled for such failure.
In cases where it is shown to the satisfaction of the
commission that the amount of reclaim business among any
motor carriers exceeds five hundred dollars (\$500) during any

one month, the commission shall increase the amount of the ticket reclaim bond to adequately cover such business.

B. Every carrier holding a certificate issued by the commission in compliance with the provisions of the laws of this state relating to the supervision and regulation of the business of the transportation of persons or property by motor vehicles for hire over the public highways of this state shall, before handling C.O.D. shipments, file with the commission a collect-on-delivery bond in the amount of five hundred dollars (\$500) assuring full and prompt payment to any shipper entrusting a collect-on-delivery shipment of goods to the motor truck operator of all money due the shipper on the shipment or a return within ten days of the shipment to the shipper in the event that the shipment is refused by the consignee of the shipment or in the event that the consignee cannot be located. Upon failure of any motor carrier to file a collect-on-delivery bond, he shall be cited to appear before the commission to show cause why his certificate should not be canceled for such failure. Any shipper entrusting a collect-on-delivery shipment of goods to a motor carrier upon the return of the shipment with no delivery shall be liable to the motor carrier for the transportation charges upon the shipment, and in the event of the failure or refusal of the shipper to pay the charges, the motor carrier shall have a lien upon the shipment for the

transportation charges due, which lien may be enforced under the terms and provisions of Sections 48-3-1 through 48-3-15 NMSA 1978 and relating to liens on personal property.

C. No motor carrier subject to the provisions of the Motor Carrier Act, including persons who provide services for which they charge at the time the service is rendered and who transport the public incidentally to that service regardless of whether that transportation is without charge, shall engage in any operations upon the highways of this state and no certificate or permit shall be issued to a motor carrier or shall remain in force unless and until there has been filed with and approved by the commission a certificate showing the issuance of a policy of insurance in a form approved by the commission or a surety bond or policy of insurance issued by some company authorized to do surety or insurance business in this state, conditioned to pay, within the amount of the certificate showing the issuance of a policy of insurance in a form approved by the commission or surety bond or policy of insurance, all losses and damage proximately caused by or resulting from the negligent operation, maintenance or use of the motor carrier's vehicles or for loss or damage to property of others; nor shall any motor carrier subject to the provisions of the Motor Carrier Act engage in any operations upon the highways of this state, nor shall any certificate or permit be issued to any motor

carrier, nor remain in force unless and until there has been filed with and approved by the commission a certificate showing the issuance of a policy of insurance in a form approved by the commission or a surety bond or policy of insurance issued by some company authorized to do surety or insurance business in this state conditioned upon the carrier making compensation to shippers or consignees for all property belonging to shippers or consignees and coming into the possession of the motor carrier in connection with its transportation service.

D. The minimum amounts of a certificate showing the issuance of a policy of insurance in a form approved by the commission or surety bond or policy of insurance referred to by this section shall be prescribed by the commission by rule. In prescribing these amounts, the commission shall take into consideration:

(1) the creation of sufficient incentives to carriers to maintain and operate their equipment in a safe manner;

(2) the requirements of the Motor Carrier Act with regard to entry into the transportation business and rate flexibility;

(3) the size and operating characteristics of carriers;

(4) vehicle weight; and

(5) all other factors necessary to assure that carriers maintain an appropriate level of financial responsibility.

E. The commission may, upon application made to the commission and upon terms and conditions to be prescribed by the commission, permit any motor carrier to carry its own insurance in lieu of filing a certificate showing the issuance of a policy of insurance in a form approved by the commission or a surety bond or a policy of insurance. In granting an application under this subsection, the commission shall take into account:

(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) all other factors necessary for the protection of passengers, shippers and the public."