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SENATE BILL 126

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO TRANSPORTATION; INCLUDING TAXICAB SERVICES AND
TERMINAL SHUTTLE SERVICE AS NON-EXEMPT INTRASTATE BUSINESSES;
AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 65-2-82 NMSA 1978 (being Laws 1981,
Chapter 358, Section 3, as amended by Laws 2001, Chapter 245,
Section 3 and by Laws 2001, Chapter 259, Section 1) is amended
to read:

"65-2-82. DEFINITIONS. -- As used in the Motor Carrier Act:

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

B. "broker" means a person not included in the term
"motor carrier" and not a bona fide employee or agent of ~~any~~
a motor carrier ~~who~~ that, as principal or agent, sells or

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1 offers for sale any transportation subject to the Motor Carrier
2 Act or negotiates for or [~~holds himself out by solicitation,~~
3 ~~advertisement~~] solicits, advertises or otherwise represents
4 itself as one [~~who~~] that sells, provides, furnishes, contracts
5 or arranges for that transportation;

6 C. "certificate" means a certificate of public
7 convenience and necessity issued under authority of the laws of
8 the state to ~~common~~ motor carriers;

9 D. "clerk" or "chief clerk" means the chief clerk
10 of the [~~public regulation~~] ~~commi~~ ssion;

11 E. "commission" means the public regulation
12 ~~commi~~ ssi on;

13 F. "common motor carrier" means a person [~~who~~] that
14 undertakes, whether directly or indirectly or by lease of
15 equipment or operating rights or any other arrangement, to
16 transport persons or property or any class of property for the
17 general public by motor vehicle for compensation, whether over
18 regular or irregular routes and under scheduled or nonscheduled
19 service, but does not include farm carriers and does not
20 include ~~commuter~~ vanpools;

21 G. "commuter vanpool" means a volunteer-driver
22 ~~commuter~~ group that operates a vanpool that utilizes a seven-
23 to fifteen-passenger vehicle to share rides to and from [~~the~~] a
24 workplace or training site; where participation is open to the
25 public and incidental to the primary work- or training-related

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1 purposes of the individuals in the group; and where the
2 volunteer drivers determine the daily vanpool route, have no
3 employer-employee relationship with the vanpool operator and
4 generally begin their vanpool driving duties at their home and
5 end at the individual workplace or training site;

6 H. "contract motor carrier" means a person not a
7 common motor carrier ~~[who]~~ that, under individual contracts or
8 agreements and whether directly or indirectly or by lease of
9 equipment or operating rights or any other arrangements,
10 transports persons or property by motor vehicle for
11 compensation, but does not include farm carriers;

12 I. "farm carrier" means a motor vehicle registered
13 in this state being used in the transportation for hire of a
14 cargo consisting of one or several of the following: farm
15 produce, including grains, cotton, cottonseed, vegetables, hay
16 and other farm products; livestock feed; livestock; stock salt;
17 manure; wire; posts; dairy products; and farm or ranch
18 machinery except tractors weighing more than forty-five
19 thousand pounds;

20 J. "highway" means the public roads, highways,
21 streets and ways in this state;

22 K. "household goods" means:

23 (1) personal effects and property used or to
24 be used in a dwelling when a part of the equipment or supply of
25 the dwelling and other similar property as the commission may

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1 provide by rule; except that this paragraph shall not be
2 construed to include property moving from a factory or store,
3 except property as the householder has purchased with intent to
4 use in his dwelling and that is transported at the request of,
5 and the transportation charges paid to the carrier by, the
6 householder;

7 (2) furniture, fixtures, equipment and the
8 property of stores, offices, ~~museums~~, institutions, hospitals
9 or other establishments when a part of the stock, equipment or
10 supply of stores, offices, ~~museums~~, institutions, hospitals or
11 other establishments and other similar property as the
12 commission may provide by rule; except that this paragraph
13 shall not be construed to include the stock-in-trade of [~~any~~]
14 an establishment, whether consignor or consignee, other than
15 used furniture and used fixtures, except when transported as
16 incidental to the moving of the establishment, or a portion of
17 it, from one location to another; and

18 (3) articles, including objects of art,
19 displays and exhibits, that, because of their unusual nature or
20 value, require the specialized handling and equipment usually
21 employed in moving household goods and other similar articles
22 as the commission may provide by rule; except that this
23 paragraph shall not be construed to include [~~any~~] an article,
24 whether crated or uncrated, that does not, because of its
25 unusual nature or value, require the specialized handling and

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1 equipment usually employed in moving household goods;

2 L. "interested parties" shall in all cases include
3 all carriers operating over the routes or any part thereof or
4 in the territory involved in an application for a certificate
5 or permit or an application to file or change a schedule of
6 rates, charges or fares or a rule or practice, and other
7 parties as the commission may deem interested in the particular
8 matter;

9 M. "irregular route" means a course to be used by a
10 motor carrier that is not restricted to any specific highway
11 within the area the motor carrier is authorized to serve;

12 N. "lease" means an arrangement whereby a motor
13 carrier augments [~~his~~] its equipment by use of equipment owned
14 by others;

15 O. "license" means a license issued pursuant to the
16 Motor Carrier Act to a broker;

17 P. "motor carrier" includes common motor carriers,
18 contract motor carriers and any person performing for-hire
19 transportation service without authority from the commission
20 and farm carriers;

21 Q. "motor vehicle" means a vehicle, machine,
22 tractor, trailer or semi-trailer propelled or drawn by
23 mechanical power and used upon the highways in the
24 transportation of property or persons, but does not include
25 [~~any~~] a vehicle, locomotive or car operated exclusively on rail

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1 or rails;

2 R. "permit" means a permit issued under authority
3 of the laws of this state to contract motor carriers;

4 S. "person" means an individual, firm, partnership,
5 corporation, company, association or organization and includes
6 any trustee, receiver, assignee or personal representative
7 thereof;

8 T. "regular route" means a fixed, specific and
9 determined course to be traveled by a motor carrier's vehicles
10 rendering service to, from or between various points,
11 localities or municipalities in this state;

12 U. the "services" and "transportation" to which the
13 Motor Carrier Act applies include all vehicles operated by, for
14 or in the interest of [~~any~~] a motor carrier irrespective of
15 ownership or of contract, express or implied, together with all
16 facilities and property controlled by [~~any~~] a motor carrier and
17 used in the transportation of persons or property or in the
18 performance of [~~any~~] a service in connection therewith;

19 V. "shipper" means a person who consigns or
20 receives goods for transportation;

21 W. "single-line rate" means a rate, charge or
22 allowance proposed by a single common motor carrier of property
23 that is applicable only over its line and for which the
24 transportation can be provided by that common motor carrier;

25 X. "state" means New Mexico;

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1 Y. "taxicab service" means a common motor carrier
2 engaged in unscheduled passenger transportation in a motor
3 vehicle having a capacity of not more than eight passengers,
4 including the driver, not operated on a regular route or
5 between specified places, and that:

6 (1) is licensed as a taxicab by a state or a
7 local jurisdiction; or

8 (2) is offered by a person that:

9 (a) provides local transportation for a
10 fare determined, except with respect to transportation to or
11 from airport and train terminals, primarily on the basis of the
12 distance traveled; and

13 (b) does not primarily provide
14 transportation to or from one or more airport or train
15 terminals;

16 Z. "terminal shuttle service" means a common motor
17 carrier engaged in passenger transportation service that:

18 (1) is:

19 (a) pre-arranged by contract; or

20 (b) operated for hire on a regular
21 route, allowing for deviation to pick up or drop off
22 passengers, between specified or generally specified points;
23 and

24 (2) primarily provides transportation to or
25 from one or more airport or train terminals but may also

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1 provide for intermediate pickup and departure of passengers;

2 [Y.-] AA. "towing company" means a common motor
3 carrier engaged in transporting for hire disabled or abandoned
4 motor vehicles by means of a tow truck or flatbed vehicle
5 carrier; and

6 [Z.-] BB. "weight-bumping" means the knowing and
7 willful making or securing of a fraudulent weight on a shipment
8 of household goods that is subject to the jurisdiction of the
9 commission under the Motor Carrier Act. "

10 Section 2. Section 65-2-83 NMSA 1978 (being Laws 1981,
11 Chapter 358, Section 4, as amended) is amended to read:

12 "65-2-83. POWERS AND DUTIES OF COMMISSION. -- The
13 commission is vested with power and authority, and it is its
14 duty to:

15 A. regulate common motor carriers as provided in
16 the Motor Carrier Act, and to that end, the commission shall
17 establish reasonable requirements with respect to continuous
18 and adequate service and shall establish reasonable
19 requirements with respect to uniform systems of accounts,
20 records and reports and preservation of records;

21 B. regulate contract motor carriers as provided in
22 the Motor Carrier Act, and to that end, the commission shall
23 establish reasonable requirements with respect to uniform
24 systems of accounts, records and reports and preservation of
25 records;

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1 C. regulate, as intrastate services, taxicab
2 services and terminal shuttle services, including those that
3 may operate in part between the state and other states, so long
4 as the service routes both begin and end in the state;

5 [~~C.-~~] D. regulate brokers as provided in the Motor
6 Carrier Act, and to that end, the commission shall establish
7 reasonable requirements with respect to licensing, financial
8 responsibility, accounts, records, reports, operations and
9 practices of any such person;

10 [~~D.-~~] E. prescribe rules [~~regulations~~] and
11 procedures for the administration of the Motor Carrier Act,
12 [~~to~~] make all necessary orders and do all things necessary to
13 administer, execute, carry out and enforce the provisions of
14 that act, except those powers set forth in Section 65-1-6 NMSA
15 1978; and

16 [~~E.-~~] F. prescribe rules and procedures for default
17 proceedings. In the event no protest or intervention is filed
18 by a party within thirty [~~(30)~~] days of the date of notice to
19 parties required to be notified by statute and to such other
20 persons as the commission shall direct, a default proceeding
21 may be held at any time thereafter pursuant to rules and
22 procedures promulgated pursuant to this subsection. "

23 Section 3. Section 65-2-115 NMSA 1978 (being Laws 1981,
24 Chapter 358, Section 36, as amended) is amended to read:

25 "65-2-115. INTERSTATE CARRIERS--CERTIFICATE OF

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1 REGISTRATION - - PROCEDURE. - -

2 A. [~~No~~] A common motor carrier or contract motor
3 carrier engaged exclusively in interstate commerce shall not
4 operate for the transportation of persons or property for hire
5 upon [~~any public~~] a highway [~~in this state~~] without first
6 either obtaining from the commission a certificate of
7 registration under the provisions of this section or complying
8 with the provisions of Section 65-2-115.1 NMSA 1978, as
9 directed by the commission.

10 B. [~~The~~] A certificate of registration shall be
11 issued to an interstate [~~carriers~~] motor carrier, as a matter
12 of course, upon proper application being made and shall
13 designate the route and type of service specified in the
14 application. [~~No~~] A certificate of registration shall not
15 authorize the holder to engage in whole or in part as a common
16 motor carrier or contract motor carrier in intrastate business
17 within this state or to engage in [~~any~~] a business or operate
18 over [~~any~~] a route not specified in the certificate of
19 registration. The certificate of registration shall become
20 void [~~unless~~] if the applicant to which it is granted [~~begins~~]
21 does not begin operations within thirty days from the date the
22 certificate of registration is issued [~~and shall become void~~]
23 or if the service is [~~thereafter~~] discontinued [~~or~~] unless [~~in~~
24 ~~either event~~] an extension is granted upon proper showing by
25 order of the commission. A taxicab service or terminal shuttle

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1 service that begins and ends service routes in the state is
2 engaged in non-exempt intrastate business within the state.

3 C. The commission shall adopt rules prescribing the
4 manner and form in which interstate motor carriers shall apply
5 for certificates of registration. [~~but~~] The application shall
6 be in writing and sworn to and shall show:

7 (1) the name and address of the applicant and,
8 if a corporation, the names of its officers and directors and
9 their addresses;

10 (2) the entire route within this state over
11 which the applicant desires to operate [~~and~~];

12 (3) the kind of transportation, whether
13 passenger or freight or both, in which the applicant proposes
14 to engage [~~together with~~];

15 (4) a brief description of each vehicle
16 [~~which~~] the applicant intends to use, including the seating
17 capacity if for passenger traffic or the tonnage capacity if
18 for freight;

19 (5) a specification of the proposed schedule,
20 [~~the proposed~~] rate and schedule or schedules of rates for
21 transportation or for services [~~in connection therewith~~]; and

22 (6) other information as the commission may
23 require covering observance of New Mexico state police
24 [~~regulations~~] rules and payment of license taxes and fees.

25 D. [~~This~~] The certificate of registration shall be

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subject to all the motor carrier provisions of the revised Interstate Commerce Act, as amended, Subtitle 4, Title 49, United States Code. "

Section 4. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2003.