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AN ACT

RELATING TO MOTOR VEHICLES; ADDING AND CHANGING DEFINITIONS;  
PROVIDING APPLICATION AND TESTING REQUIREMENTS FOR COMMERCIAL  
DRIVER'S LICENSE APPLICANTS; PROVIDING FOR CERTAIN  
RESTRICTIONS ON ISSUANCE OF COMMERCIAL DRIVER'S LICENSES;  
REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO PROVIDE  
INFORMATION TO THE COMMERCIAL DRIVER'S LICENSE INFORMATION  
SYSTEM; PROVIDING REQUIREMENTS FOR USE OF INFORMATION  
RECEIVED FROM THE COMMERCIAL DRIVER'S LICENSE INFORMATION  
SYSTEM; PROVIDING DISQUALIFICATION CRITERIA FOR HOLDERS OF  
COMMERCIAL DRIVER'S LICENSES; REQUIRING THE DIRECTOR OF THE  
MOTOR VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT  
TO COLLECT PENALTIES UPON CONVICTIONS OF CERTAIN VIOLATIONS;  
CHANGING A DEFINITION; CHANGING PROVISIONS TO COMPLY WITH  
FEDERAL REQUIREMENTS.

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

Section 1. Section 66-1-4.3 NMSA 1978 (being Laws 1990,  
Chapter 120, Section 4, as amended) is amended to read:

"66-1-4.3. DEFINITIONS.--As used in the Motor Vehicle  
Code:

A. "camping body" means a vehicle body primarily  
designed or converted for use as temporary living quarters  
for recreational, camping or travel activities;

B. "camping trailer" means a camping body, mounted

1 on a chassis, or frame with wheels, designed to be drawn by  
2 another vehicle and that has collapsible partial side walls  
3 that fold for towing and unfold at the campsite;

4 C. "cancellation" means that a driver's license is  
5 annulled and terminated because of some error or defect or  
6 because the licensee is no longer entitled to the license,  
7 but cancellation of a license is without prejudice, and  
8 application for a new license may be made at any time after  
9 cancellation;

10 D. "casual sale" means the sale of a motor vehicle  
11 by the registered owner of the vehicle if the owner has not  
12 sold more than four vehicles in that calendar year;

13 E. "chassis" means the complete motor vehicle,  
14 including standard factory equipment, exclusive of the body  
15 and cab;

16 F. "collector" means a person who is the owner of  
17 one or more vehicles of historic or special interest who  
18 collects, purchases, acquires, trades or disposes of these  
19 vehicles or parts thereof for the person's own use in order  
20 to preserve, restore and maintain a similar vehicle for hobby  
21 purposes;

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

1           H. "combination gross vehicle weight" means the  
2 sum total of the gross vehicle weights of all units of a  
3 combination;

4           I. "commerce" means the transportation of persons,  
5 property or merchandise for hire, compensation, profit or in  
6 the furtherance of a commercial enterprise in this state or  
7 between New Mexico and a place outside New Mexico, including  
8 a place outside the United States;

9           J. "commercial motor vehicle" means a  
10 self-propelled or towed vehicle, other than special mobile  
11 equipment, used on public highways in commerce to transport  
12 passengers or property when the vehicle:

13                 (1) is operated interstate and has a gross  
14 vehicle weight rating or gross combination weight rating, or  
15 gross vehicle weight or gross combination weight, of four  
16 thousand five hundred thirty-six kilograms, or ten thousand  
17 one pounds or more; or is operated only in intrastate  
18 commerce and has a gross vehicle weight rating or gross  
19 combination weight rating, or gross vehicle weight or gross  
20 combination weight, of twenty-six thousand one or more  
21 pounds;

22                 (2) is designed or used to transport more  
23 than eight passengers, including the driver, and is used to  
24 transport passengers for compensation;

25                 (3) is designed or used to transport more

1 than fifteen passengers, including the driver, and is not  
2 used to transport passengers for compensation; or

3 (4) is used to transport hazardous materials  
4 of the type or quantity requiring placarding under rules  
5 prescribed by applicable federal or state law;

6 K. "controlled-access highway" means every  
7 highway, street or roadway in respect to which owners or  
8 occupants of abutting lands and other persons have no legal  
9 right of access to or from the highway, street or roadway  
10 except at those points only and in the manner as may be  
11 determined by the public authority having jurisdiction over  
12 the highway, street or roadway;

13 L. "controlled substance" means any substance  
14 defined in Section 30-31-2 NMSA 1978 as a controlled  
15 substance;

16 M. "converter gear" means any assemblage of one or  
17 more axles with a fifth wheel mounted thereon, designed for  
18 use in a combination to support the front end of a  
19 semitrailer but not permanently attached thereto. A  
20 converter gear shall not be considered a vehicle, as that  
21 term is defined in Section 66-1-4.19 NMSA 1978, but weight  
22 attributable thereto shall be included in declared gross  
23 weight;

24 N. "conviction" means:

25 (1) an unvacated adjudication of guilt, or a SB 243  
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1 determination by a court of original jurisdiction that a  
2 person has violated or failed to comply with the law;

3 (2) an unvacated adjudication of guilt, or a  
4 determination by an authorized administrative tribunal  
5 authorized pursuant to the Implied Consent Act that a person  
6 who holds a valid commercial driver's license has violated or  
7 failed to comply with the law;

8 (3) an unvacated forfeiture of bail or  
9 collateral deposited to secure the person's appearance in  
10 court;

11 (4) a plea of guilty or nolo contendere  
12 accepted by the court;

13 (5) the payment of a fine or court cost; or

14 (6) a violation of a condition of release  
15 without bail, regardless of whether the payment is rebated,  
16 suspended or probated;

17 0. "crosswalk" means:

18 (1) that part of a roadway at an  
19 intersection included within the connections of the lateral  
20 lines of the sidewalks on opposite sides of the highway  
21 measured from the curbs or, in the absence of curbs, from the  
22 edges of the traversable roadway; and

23 (2) any portion of a roadway at an  
24 intersection or elsewhere distinctly indicated for pedestrian  
25 crossing by lines or other markings on the surface; and

1 P. "curb cut" means a short ramp through a curb or  
2 built up to the curb."

3 Section 2. Section 66-5-54 NMSA 1978 (being Laws 1989,  
4 Chapter 14, Section 3, as amended) is amended to read:

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

7 A. "commerce" means:

8 (1) trade, traffic or transportation within  
9 the jurisdiction of the United States between a place in New  
10 Mexico and a place outside of New Mexico, including a place  
11 outside of the United States; and

12 (2) trade, traffic or transportation in the  
13 United States that affects any trade, traffic or  
14 transportation described in Paragraph (1) of this subsection;

15 B. "commercial driver's license information  
16 system" means the information system created pursuant to the  
17 federal Commercial Motor Vehicle Safety Act of 1986 that  
18 contains information pertaining to operators of commercial  
19 motor vehicles;

20 C. "commercial motor vehicle" means a motor  
21 vehicle or combination of motor vehicles used in commerce to  
22 transport passengers or property if the motor vehicle:

23 (1) has a gross combination weight rating of  
24 more than twenty-six thousand pounds inclusive of a towed  
25 unit with a gross vehicle weight rating of more than ten

1 thousand pounds;

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

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

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

9 D. "director" means the director of the motor  
10 vehicle division of the department;

11 E. "disqualification" means:

12 (1) a suspension, revocation or cancellation  
13 of a commercial driver's license by the state or jurisdiction  
14 that issued the commercial driver's license;

15 (2) a withdrawal of a person's privileges to  
16 drive a commercial motor vehicle by a state or other  
17 jurisdiction as the result of a violation of state or local  
18 law relating to motor vehicle control other than a parking,  
19 vehicle weight or vehicle defect violation; and

20 (3) a determination by the federal motor  
21 carrier safety administration that a person is not qualified  
22 to operate a motor vehicle;

23 F. "division" means the motor vehicle division of  
24 the department;

25 G. "driving a commercial motor vehicle while under

1 the influence of alcohol" means:

2 (1) driving a commercial motor vehicle while  
3 the driver has an alcohol concentration in the driver's blood  
4 or breath of four one hundredths or more;

5 (2) driving a commercial motor vehicle while  
6 the driver is under the influence of intoxicating liquor; or

7 (3) refusal to submit to chemical tests  
8 administered pursuant to Section 66-8-107 NMSA 1978;

9 H. "employee" means an operator of a commercial  
10 motor vehicle, including full-time, regularly employed  
11 drivers; casual, intermittent or occasional drivers; leased  
12 drivers; and independent owner-operator contractors, while in  
13 the course of operating a commercial motor vehicle, who is  
14 either directly employed by or under lease to an employer;

15 I. "employer" means a person, including the  
16 United States, a state and a political subdivision of a state  
17 or their agencies or instrumentalities, that owns or leases a  
18 commercial motor vehicle or assigns employees to operate such  
19 a vehicle;

20 J. "fatality" means the death of a person as a  
21 result of a motor vehicle accident;

22 K. "gross combination weight rating" means the  
23 value specified by the manufacturer as the loaded weight of a  
24 combination vehicle. In the absence of a value specified by  
25 the manufacturer, gross combination weight rating shall be

1 determined by adding the gross vehicle weight rating of the  
2 power unit and the total weight of the towed unit or units  
3 and any load thereon;

4 L. "gross vehicle weight rating" means the value  
5 specified by the manufacturer as the loaded weight of a  
6 single vehicle;

7 M. "imminent hazard" means a condition that  
8 presents a substantial likelihood that death, serious  
9 illness, severe personal injury or a substantial endangerment  
10 to health, property or the environment will occur before the  
11 reasonable foreseeable completion date of a formal proceeding  
12 to lessen the risk of that death, illness, injury or  
13 endangerment;

14 N. "noncommercial motor vehicle" means a motor  
15 vehicle or combination of motor vehicles that is not a  
16 commercial motor vehicle;

17 O. "nonresident commercial driver's license" means  
18 a commercial driver's license issued by another state to a  
19 person domiciled in that state or by a foreign country to a  
20 person domiciled in that country;

21 P. "out-of-service order" means a declaration by  
22 an authorized enforcement officer of a federal, state,  
23 Canadian, Mexican or local jurisdiction that a driver, a  
24 commercial motor vehicle or a motor carrier operation is  
25 temporarily prohibited from operating;

1           Q. "railroad-highway grade crossing violation"  
2 means a violation of a provision of Section 66-7-341 or  
3 66-7-343 NMSA 1978 or a violation of federal or local law or  
4 rule pertaining to stopping at or crossing a railroad-highway  
5 grade crossing; and

6           R. "serious traffic violation" means conviction of  
7 any of the following if committed when operating a motor  
8 vehicle:

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

11                   (2) reckless driving as defined by Section  
12 66-8-113 NMSA 1978 or a municipal ordinance or the law of  
13 another state;

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

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

19                   (5) any other violation of law relating to  
20 motor vehicle traffic control, other than a parking  
21 violation, that the secretary determines by regulation to be  
22 a serious traffic violation. "Serious traffic violation"  
23 does not include a vehicle weight or vehicle defect  
24 violation;

25                   (6) improper or erratic lane changes in

1 violation of Section 66-7-317 NMSA 1978;

2 (7) following another vehicle too closely in  
3 violation of Section 66-7-318 NMSA 1978;

4 (8) directly or indirectly causing death or  
5 great bodily injury to a human being in the unlawful  
6 operation of a motor vehicle in violation of Section 66-8-101  
7 NMSA 1978;

8 (9) driving a commercial motor vehicle  
9 without possession of a commercial driver's license in  
10 violation of Section 66-5-59 NMSA 1978;

11 (10) driving a commercial motor vehicle  
12 without the proper class of commercial driver's license and  
13 endorsements pursuant to Section 66-5-65 NMSA 1978 and the  
14 Motor Carrier Safety Act for the specific vehicle group  
15 operated or for the passengers or type of cargo transported;  
16 or

17 (11) driving a commercial motor vehicle  
18 without obtaining a commercial driver's license in violation  
19 of Section 66-5-59 NMSA 1978."

20 Section 3. Section 66-5-58 NMSA 1978 (being Laws 1989,  
21 Chapter 14, Section 7, as amended) is amended to read:

22 "66-5-58. EMPLOYER RESPONSIBILITY.--It is unlawful for  
23 an employer to knowingly allow, require, permit or authorize  
24 a driver to drive a commercial motor vehicle during a period  
25 in which:

1           A. the driver has a driver's license suspended,  
2 revoked or canceled by a state, has lost the privilege to  
3 drive a commercial motor vehicle in a state or has been  
4 disqualified from driving a commercial motor vehicle;

5           B. the driver has more than one driver's license  
6 as of the effective date of the provisions of the New Mexico  
7 Commercial Driver's License Act;

8           C. the driver, the commercial motor vehicle the  
9 driver is driving or the motor carrier operation of the  
10 employer is subject to an out-of-service order; or

11           D. the driver has been convicted of a  
12 railroad-highway grade crossing violation."

13           Section 4. Section 66-5-60 NMSA 1978 (being Laws 1989,  
14 Chapter 14, Section 9) is amended to read:

15           "66-5-60. COMMERCIAL DRIVER'S LICENSE--QUALIFICATIONS--  
16 STANDARDS.--

17           A. The division shall not issue a commercial  
18 driver's license to a person unless that person is a resident  
19 of New Mexico and has passed a knowledge and skills test for  
20 driving a commercial motor vehicle and for related  
21 endorsements, has passed a medical fitness test and has  
22 satisfied any other requirements of the New Mexico Commercial  
23 Driver's License Act.

24           B. The division may authorize a person, including  
25 an agency of this or another state, an employer, a private

1 driver-training facility or other private institution or a  
2 department, agency or instrumentality of local government to  
3 administer the skills test specified by this section.

4 C. The director may waive the requirement of any  
5 test specified in this section for a commercial driver's  
6 license applicant who complies with the other provisions of  
7 the New Mexico Commercial Driver's License Act through any  
8 pertinent rules, regulations or contractual agreements with  
9 the public education department, other governments or private  
10 entities.

11 D. A commercial driver's license applicant shall  
12 not take a test specified in this section more than three  
13 times within one year.

14 E. If the department determines that a commercial  
15 driver's license applicant has committed an offense in taking  
16 a test specified in this section, the division shall not  
17 issue a commercial driver's license to that applicant within  
18 one year of the department's determination."

19 Section 5. Section 66-5-63 NMSA 1978 (being Laws 1989,  
20 Chapter 14, Section 12, as amended) is amended to read:

21 "66-5-63. COMMERCIAL DRIVER'S LICENSE--PERMIT--  
22 APPLICATION--DUPLICATE.--

23 A. The application for a commercial driver's  
24 license or commercial driver's instruction permit shall  
25 include the following:

1 (1) the full name and current mailing and  
2 residential address of the person;

3 (2) a physical description of the person,  
4 including sex, height, weight and eye color;

5 (3) the person's date of birth;

6 (4) the person's social security number;

7 (5) the person's signature;

8 (6) a consent to release the person's  
9 driving record information;

10 (7) certification by the applicant that the  
11 commercial motor vehicle used for the knowledge and skills  
12 test for driving a motor vehicle is in the class of  
13 commercial motor vehicles for which the person has applied  
14 for a commercial motor vehicle license;

15 (8) certification by the applicant that the  
16 commercial motor vehicle used for the knowledge and skills  
17 test for driving a motor vehicle is representative of the  
18 endorsement for which the person has applied; and

19 (9) any other information required by the  
20 department.

21 B. When a licensee changes his name or residence  
22 or mailing address, an application for a duplicate license  
23 shall be made as provided in Section 66-5-20 NMSA 1978."

24 Section 6. Section 66-5-66 NMSA 1978 (being Laws 1989,  
25 Chapter 14, Section 15) is amended to read:

1 "66-5-66. APPLICANT RECORD INFORMATION--INFORMATION  
2 EXCHANGE.--

3 A. Before issuing a commercial driver's license,  
4 the division shall obtain pertinent driving record  
5 information from each state where the applicant has been  
6 licensed, through a multistate database, or from each state.

7 B. The department shall have the authority to  
8 exchange commercial driver's license information as it deems  
9 necessary to carry out the provisions of the New Mexico  
10 Commercial Driver's License Act.

11 C. The department shall provide to the commercial  
12 driver's license information system information on a  
13 conviction, disqualification, change in applicant status,  
14 change in the state of record or any other information  
15 concerning a holder of a commercial driver's license within  
16 ten days of receipt of that information. The secretary may  
17 adopt regulations to administer the requirement set forth  
18 pursuant to this subsection.

19 D. In determining whether a violation of law has  
20 occurred for the purpose of issuance, administration or  
21 revocation of a commercial driver's license, the department  
22 shall use information received from the commercial driver's  
23 license information system in the same manner as information  
24 received from the state or any of its agencies,  
25 instrumentalities or political subdivisions."

1           Section 7. Section 66-5-68 NMSA 1978 (being Laws 1989,  
2 Chapter 14, Section 17, as amended) is amended to read:

3           "66-5-68. DISQUALIFICATION.--

4           A. The department shall disqualify a person from  
5 driving a commercial motor vehicle for at least thirty days  
6 if the federal motor carrier safety administration reports to  
7 the division that the person poses an imminent hazard.

8           B. The department shall disqualify a person who  
9 holds a commercial driver's license from driving a commercial  
10 motor vehicle for a period of not less than one year, which  
11 shall run concurrently with any revocation or suspension  
12 action for the same offense, if the person:

13                   (1) refuses to submit to a chemical test  
14 when requested pursuant to the provisions of the Implied  
15 Consent Act;

16                   (2) is twenty-one years of age or more and  
17 submits to chemical testing pursuant to the Implied Consent  
18 Act and the test results indicate an alcohol concentration of  
19 eight one hundredths or more;

20                   (3) submits to chemical testing pursuant to  
21 the Implied Consent Act and the test results indicate an  
22 alcohol concentration of four one hundredths or more if the  
23 person is driving a commercial motor vehicle;

24                   (4) is less than twenty-one years of age and  
25 submits to chemical testing pursuant to the Implied Consent

1 Act and the test results indicate an alcohol concentration of  
2 two one hundredths or more; or

3 (5) is convicted of a violation of:

4 (a) driving a commercial motor vehicle  
5 while under the influence of intoxicating liquor or drugs in  
6 violation of Section 66-8-102 NMSA 1978, an ordinance of a  
7 municipality of this state or the law of another state;

8 (b) leaving the scene of an accident  
9 involving a commercial motor vehicle driven by the person in  
10 violation of Section 66-7-201 NMSA 1978 or an ordinance of a  
11 municipality of this state or the law of another state;

12 (c) using a commercial motor vehicle in  
13 the commission of a felony;

14 (d) driving a commercial motor vehicle  
15 after the driver's commercial driver's license is revoked,  
16 suspended, disqualified or canceled for violations while  
17 operating a commercial motor vehicle; or

18 (e) causing a fatality in the unlawful  
19 operation of a motor vehicle pursuant to Section 66-8-101  
20 NMSA 1978.

21 C. The department shall disqualify a person from  
22 driving a commercial motor vehicle for a period of not less  
23 than three years if any of the violations specified in  
24 Subsection B of this section occur while transporting a  
25 hazardous material required to be placarded.

1           D. The department shall disqualify a person from  
2 driving a commercial motor vehicle for life if convicted of  
3 two or more violations of any of the offenses specified in  
4 Subsection B of this section, or any combination of those  
5 offenses, arising from two or more separate incidents, but  
6 the secretary may issue regulations establishing guidelines,  
7 including conditions, under which a disqualification for life  
8 under this subsection may be reduced to a period of not less  
9 than ten years. This subsection applies only to those  
10 offenses committed after July 1, 1989.

11           E. The department shall disqualify a person from  
12 driving a commercial motor vehicle for life if the person  
13 uses a commercial motor vehicle in the commission of any  
14 felony involving the manufacture, distribution or dispensing  
15 of a controlled substance or the possession with intent to  
16 manufacture, distribute or dispense a controlled substance.

17           F. The department shall disqualify a person from  
18 driving a commercial motor vehicle for a period of not less  
19 than sixty days if convicted of two serious traffic  
20 violations or one hundred twenty days if convicted of three  
21 serious traffic violations, if the violations were committed  
22 while driving a commercial motor vehicle, arising from  
23 separate incidents occurring within a three-year period.

24           G. The department shall disqualify a person from  
25 driving a commercial motor vehicle for a period of not less

1 than one hundred eighty days nor more than two years if the  
2 person is convicted of a first violation of an out-of-service  
3 order while transporting hazardous materials required to be  
4 placarded pursuant to the federal Hazardous Materials  
5 Transportation Act or while operating a motor vehicle  
6 designed to transport more than fifteen passengers, including  
7 the driver. The department shall disqualify a person from  
8 driving a commercial motor vehicle for a period of not less  
9 than three years nor more than five years if, during any  
10 ten-year period, the person is convicted of any subsequent  
11 violations of out-of-service orders, in separate incidents,  
12 while transporting hazardous materials required to be  
13 placarded pursuant to that act or while operating a motor  
14 vehicle designed to transport more than fifteen passengers,  
15 including the driver.

16 H. The department shall disqualify a person from  
17 driving a commercial motor vehicle for sixty days if:

18 (1) the person has been convicted of two  
19 serious traffic violations in separate incidents within a  
20 three-year period; and

21 (2) the second conviction results in  
22 revocation, cancellation or suspension of the person's  
23 commercial driver's license or noncommercial motor vehicle  
24 driving privileges for sixty days.

25 I. The department shall disqualify a person from

1 driving a commercial motor vehicle for one hundred twenty  
2 days if:

3 (1) the person has been convicted of more  
4 than two serious traffic violations within a three-year  
5 period; and

6 (2) the third or a subsequent conviction  
7 results in the revocation, cancellation or suspension of the  
8 person's commercial driver's license or noncommercial motor  
9 vehicle driving privileges.

10 J. When a person is disqualified from driving a  
11 commercial motor vehicle, any commercial driver's license  
12 held by that person is invalidated without separate  
13 proceeding of any kind and the driver is not eligible to  
14 apply for a commercial driver's license until the period of  
15 time for which the driver was disqualified has elapsed.

16 K. The department shall disqualify a person from  
17 driving a commercial motor vehicle for not less than:

18 (1) sixty days if the person is convicted of  
19 a first violation of a railroad-highway grade crossing  
20 violation;

21 (2) one hundred twenty days if, during any  
22 three-year period, the person is convicted of a second  
23 railroad-highway grade crossing violation in a separate  
24 incident; and

25 (3) one year if, during any three-year

1 period, the person is convicted of a third or subsequent  
2 railroad-highway grade crossing violation in a separate  
3 incident.

4 L. After disqualifying, suspending, revoking or  
5 canceling a commercial driver's license, the department  
6 shall, within ten days, update its records to reflect that  
7 action. After disqualifying, suspending, revoking or  
8 canceling a nonresident commercial driver's privileges, the  
9 department shall, within ten days, notify the licensing  
10 authority of the state that issued the commercial driver's  
11 license.

12 M. The department shall post and enforce any  
13 disqualification sent by the federal motor carrier safety  
14 administration to the division that indicates that a  
15 commercial motor vehicle driver poses an imminent hazard."

16 Section 8. Section 66-5-71 NMSA 1978 (being Laws 1998,  
17 Chapter 17, Section 5, as amended) is amended to read:

18 "66-5-71. PENALTIES FOR VIOLATION OF OUT-OF-SERVICE  
19 ORDERS.--

20 A. A driver who is convicted of violating an  
21 out-of-service order shall be subject to a civil penalty of  
22 not less than one thousand one hundred dollars (\$1,100) or  
23 more than two thousand seven hundred fifty dollars (\$2,750),  
24 in addition to disqualification as provided in Subsection C  
25 of this section. The director shall collect the penalty upon

1 conviction.

2 B. An employer who is convicted of a violation of  
3 Subsection C of Section 66-5-58 NMSA 1978 shall be subject to  
4 a civil penalty of not less than two thousand seven hundred  
5 fifty dollars (\$2,750) or more than eleven thousand dollars  
6 (\$11,000). The director shall collect the penalty upon  
7 conviction.

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

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

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

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

21 Section 9. Section 66-5-72 NMSA 1978 (being Laws 2003,  
22 Chapter 51, Section 7) is amended to read:

23 "66-5-72. EMPLOYER PENALTIES FOR RAILROAD-HIGHWAY GRADE  
24 CROSSING VIOLATIONS.--An employer who is convicted of a  
25 violation of Subsection D of Section 66-5-58 NMSA 1978 shall

1 be subject to a civil penalty of not more than ten thousand  
2 dollars (\$10,000) for each violation. The director shall  
3 collect the penalty upon conviction."

4 Section 10. Section 66-8-135 NMSA 1978 (being Laws  
5 1978, Chapter 35, Section 543, as amended) is amended to  
6 read:

7 "66-8-135. RECORD OF TRAFFIC CASES.--

8 A. Every trial court judge shall keep a record of  
9 every traffic complaint, uniform traffic citation and other  
10 form of traffic charge filed in the judge's court or its  
11 traffic violations bureau and every official action and  
12 disposition of the charge by that court.

13 B. Within ten days of the later of entry of  
14 judgment and sentence or failure to appear on a charge of  
15 violating the Motor Vehicle Code or other law or ordinance  
16 relating to motor vehicles or the final decision of any  
17 higher court that reviews the matter and from which no appeal  
18 or review is successfully taken, every trial court judge,  
19 including children's court judges, or the clerk of the court  
20 in which the entry of judgment and sentence or failure to  
21 appear occurred shall prepare and forward to the department  
22 an abstract of the record containing:

23 (1) the name and address of the defendant;

24 (2) the specific section number and common  
25 name of the provision of the NMSA 1978 or local law,

1 ordinance or regulation under which the defendant was tried;

2 (3) the plea, finding of the court and  
3 disposition of the charge, including fine or jail sentence or  
4 both, forfeiture of bail or dismissal of the charge;

5 (4) an itemization of costs assessed to the  
6 defendant;

7 (5) the date of the hearing;

8 (6) the court's name and address;

9 (7) whether the defendant was a first or  
10 subsequent offender; and

11 (8) whether the defendant was represented by  
12 counsel or waived his right to counsel and, if represented,  
13 the name and address of counsel.

14 C. The abstract of record prepared and forwarded  
15 under Subsection B of this section shall be certified as  
16 correct by the person required to prepare it. With the prior  
17 approval of the department, the information required by  
18 Subsection B of this section may be transmitted  
19 electronically to the department. Report need not be made of  
20 any disposition of a charge of illegal parking or standing of  
21 a vehicle except when the uniform traffic citation is used.

22 D. When the uniform traffic citation is used, the  
23 court shall provide the information required by Subsection B  
24 of this section in the manner prescribed by the department.

25 E. Every court of record shall also forward a like

1 report to the department upon conviction of any person of any  
2 felony if a motor vehicle was used in the commission. With  
3 the prior approval of the department, the information  
4 required by this subsection may be submitted electronically  
5 to the department. The report shall be forwarded to the  
6 department within ten days of the final decision of the court  
7 or of any higher court that reviews the matter and from which  
8 the decision of no appeal or review is successfully taken.

9 F. The failure or refusal of any judicial officer  
10 to comply with this section is misconduct in office and  
11 grounds for removal.

12 G. The department shall keep records received on  
13 motorists licensed in this state at its main office. Records  
14 showing a record of conviction by a court of law shall be  
15 open to public inspection during business hours for three  
16 years from the date of their receipt, after which they shall  
17 be destroyed by the department except for records of  
18 convictions under Sections 66-8-101 through 66-8-112 NMSA  
19 1978, which may not be destroyed until fifty-five years from  
20 the date of their receipt. Any record received on a motorist  
21 licensed in another state or country shall be forwarded to  
22 the licensing authority of that state or country."

23 Section 11. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is July 1, 2005. \_\_\_\_\_