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HOUSE BILL 419

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Richard D. Vigil

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; TRANSFERRING THE MOTOR
TRANSPORTATION DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY TO
THE DEPARTMENT OF TRANSPORTATION; PROVIDING FOR TRANSFER OF
FUNCTIONS, APPROPRIATIONS, PERSONNEL, MONEY, PROPERTY,
CONTRACTUAL OBLIGATIONS AND REFERENCES; AMENDING SECTIONS OF
THE NMSA 1978.

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

SECTION 1. Section 7-15-2.1 NMSA 1978 (being Laws 1988,
Chapter 73, Section 23, as amended) is amended to read:

"7-15-2.1. DEFINITIONS.--As used in the Trip Tax Act:

A. "combination gross vehicle weight" means the sum
total of the gross vehicle weights of all units of a
combination;

B. "commercial motor carrier vehicle" means any

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1 motor vehicle with a gross weight of twelve thousand pounds or
2 more used or reserved for use in the transportation of persons,
3 property or merchandise for hire, compensation or profit or in
4 the furtherance of a commercial enterprise or any vehicle used
5 or maintained primarily for the transportation of property or
6 merchandise or for drawing other vehicles so used or
7 maintained;

8 C. "department" means the department of [~~public~~
9 ~~safety~~] transportation, the secretary of [~~public safety~~]
10 transportation and any employee of that department exercising
11 authority lawfully delegated to that employee by the secretary;

12 D. "gross vehicle weight" means the weight of a
13 vehicle without load, plus the weight of any load [~~thereon~~];

14 E. "motor vehicle" means every vehicle [~~which~~] that
15 is self-propelled and every vehicle [~~which~~] that is propelled
16 by electric power obtained from batteries or from overhead
17 trolley wires, but not operated upon rails;

18 F. "registrant" means the person who has registered
19 the vehicle pursuant to the laws of this state or another
20 state;

21 G. "trip tax" means the use fee imposed under the
22 Trip Tax Act; and

23 H. "vehicle" means every device in, upon or by
24 which any person or property is or may be transported or drawn
25 upon a highway, including any frame, chassis or body of any

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1 vehicle or motor vehicle, except devices moved by human power
2 or used exclusively upon stationary rails or tracks."

3 SECTION 2. Section 7-15A-12 NMSA 1978 (being Laws 2003
4 (1st S.S.), Chapter 3, Section 6) is amended to read:

5 "7-15A-12. WEIGHT DISTANCE TAX IDENTIFICATION PERMITS--
6 SUSPENSION AND RENEWAL.--

7 A. An operator of a motor vehicle registered in
8 this state and subject to the weight distance tax shall display
9 a weight distance tax identification permit issued for that
10 vehicle to an enforcement officer of the department of [~~public~~
11 ~~safety~~] transportation upon demand of that employee and when
12 the vehicle passes through a port of entry.

13 B. The department may suspend or decline to renew a
14 weight distance tax identification permit for a motor vehicle
15 if the owner or operator of the vehicle does not comply with
16 the provisions of the Weight Distance Tax Act."

17 SECTION 3. Section 7-15A-14 NMSA 1978 (being Laws 2003
18 (1st S.S.), Chapter 3, Section 8, as amended) is amended to
19 read:

20 "7-15A-14. WEIGHT DISTANCE TAX IDENTIFICATION PERMIT
21 FUND.--The "weight distance tax identification permit fund" is
22 created in the state treasury. The purpose of the fund is to
23 provide an account from which the department may pay the costs
24 of issuing and administering weight distance tax identification
25 permits and of enforcing weight distance tax identification

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1 permit use. The fund shall consist of administrative fees
2 collected pursuant to the Weight Distance Tax Act. Money in
3 the fund shall be appropriated to the department to pay for the
4 cost of issuance and administration of weight distance tax
5 identification permits and of enforcement by the department or
6 the motor transportation division of the department of [~~public~~
7 ~~safety~~] transportation of weight distance tax identification
8 permit use for motor carriers that do not comply with the
9 provisions of the Weight Distance Tax Act. Disbursements from
10 the fund shall be by warrant of the secretary of finance and
11 administration upon vouchers signed by the secretary or the
12 secretary's authorized representative. Money in the fund shall
13 not revert to the general fund at the end of a fiscal year."

14 SECTION 4. Section 9-19-4 NMSA 1978 (being Laws 1987,
15 Chapter 254, Section 4, as amended) is amended to read:

16 "9-19-4. DEPARTMENT ESTABLISHED.--There is created in the
17 executive branch the "department of public safety". The
18 department shall be a cabinet department and shall consist of,
19 but not be limited to, [~~five~~] six program divisions, an
20 administrative division and an information technology division
21 as follows:

- 22 A. the New Mexico state police division;
- 23 B. the special investigations division;
- 24 C. the training and recruiting division;
- 25 D. the technical support division;

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1 E. the administrative services division; and
2 [~~F. the motor transportation division; and~~
3 ~~G.~~] F. the information technology division."

4 SECTION 5. Section 65-1-2 NMSA 1978 (being Laws 1978,
5 Chapter 19, Section 1, as amended) is amended to read:

6 "65-1-2. DEFINITIONS.--As used in the Motor
7 Transportation Act:

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

12 B. "combination gross vehicle weight" means the sum
13 total of the gross vehicle weights of all units of a
14 combination;

15 C. "commercial motor carrier vehicle" means a self-
16 propelled or towed vehicle, other than special mobile
17 equipment, used on public highways in commerce to transport
18 passengers or property when the vehicle:

19 (1) is operated interstate and has a gross
20 vehicle weight rating or gross combination weight rating, or
21 gross vehicle weight or gross combination weight, of four
22 thousand five hundred thirty-six kilograms, or ten thousand one
23 pounds or more; or is operated only in intrastate commerce and
24 has a gross vehicle weight rating or gross combination weight
25 rating, or gross vehicle weight or gross combination weight, of

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1 twenty-six thousand one or more pounds;

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

5 (3) is designed or used to transport more than
6 fifteen passengers, including the driver, and is not used to
7 transport passengers for compensation; or

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

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 but
14 not permanently attached thereto. A "converter gear" shall not
15 be considered a vehicle as that term is used in Chapter 66 NMSA
16 1978, but its weight [~~attributable thereto~~] shall be included
17 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 registration
21 period as declared by the registrant for registration and fee
22 purposes. The vehicle or combination shall have only one
23 "declared gross weight" for all operating considerations;

24 F. "department", without modification, means the
25 department of [~~public safety~~] transportation, the secretary of

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1 ~~[public safety]~~ transportation or any employee of the
2 department exercising authority lawfully delegated to that
3 employee by the secretary;

4 G. "director" means the secretary;

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

7 I. "evidence of registration" means documentation
8 issued by the taxation and revenue department identifying a
9 motor 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" or "in the field" means
18 patrolling of the highway, stopping of commercial motor carrier
19 vehicles or establishing ports of entry and roadblocks for the
20 purpose of checking motor carriers and includes similar
21 activities;

22 K. "freight trailer" means any trailer, semitrailer
23 or pole trailer drawn by a truck tractor or road tractor and
24 any trailer, semitrailer or pole trailer drawn by a truck that
25 has a gross vehicle weight of more than twenty-six thousand

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1 pounds, but the term does not include house trailers, trailers
2 of less than one-ton carrying capacity used to transport
3 animals or fertilizer trailers of less than three thousand five
4 hundred pounds empty weight;

5 L. "gross vehicle weight" means the weight of a
6 vehicle without load plus the weight of any load thereon;

7 M. "motor carrier" means any person that owns,
8 controls, operates or manages any motor vehicle with gross
9 vehicle weight of twelve thousand pounds or more that is used
10 to transport persons or property on the public highways of this
11 state;

12 N. "motor vehicle" means any vehicle or device that
13 is propelled by an internal combustion engine or electric motor
14 power that is used or may be used on the public highways for
15 the purpose of transporting persons or property and includes
16 any connected trailer or semitrailer;

17 O. "one-way rental fleet" means two or more
18 vehicles each having a gross vehicle weight of under twenty-six
19 thousand one pounds and rented to the public without a driver;

20 P. "person" means any individual, estate, trust,
21 receiver, cooperative association, club, corporation, company,
22 firm, partnership, joint venture, syndicate or other
23 association; "person" also means, to the extent permitted by
24 law, any federal, state or other governmental unit or
25 subdivision or an agency, department or instrumentality

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1 [thereof]; "person" also includes an officer or employee of a
2 corporation, a member or employee of a partnership or any
3 individual who, as such, is under a duty to perform any act in
4 respect of which a violation occurs;

5 Q. "properly registered" means bearing the lawfully
6 issued and currently valid evidence of registration of this or
7 another jurisdiction, regardless of the owner's residence,
8 except in those cases where the evidence has been procured by
9 misrepresentation or fraud;

10 R. "public highway" means every way or place
11 generally open to the use of the public as a matter of right
12 for the purpose of vehicular travel, even though it may be
13 temporarily closed or restricted for the purpose of
14 construction, maintenance, repair or reconstruction;

15 S. "secretary" means the secretary of [~~public~~
16 ~~safety~~] transportation and, except for the purposes of Section
17 65-1-33 NMSA 1978, also includes [~~the~~] a deputy secretary and
18 any division director delegated by the secretary;

19 T. "state" or "jurisdiction" means a state,
20 territory or possession of the United States, the District of
21 Columbia, the commonwealth of Puerto Rico, a foreign country or
22 a state or province of a foreign country; and

23 U. "utility trailer" means any trailer, semitrailer
24 or pole trailer and includes house trailers that exceed neither
25 eight feet in width nor forty feet in length, but does not

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1 include freight trailers, trailers of less than one-ton
2 carrying capacity used to transport animals or fertilizer
3 trailers of less than three thousand five hundred pounds empty
4 weight."

5 SECTION 6. Section 65-1-39 NMSA 1978 (being Laws 2007,
6 Chapter 54, Section 2) is amended to read:

7 "65-1-39. DEFINITIONS.--As used in Sections [~~1 through 8~~
8 ~~of this act~~] 65-1-39 through 65-1-45 NMSA 1978:

9 [~~A. "director" means the director of the division;~~

10 ~~B.] A. "department" means the department of [~~public~~
11 ~~safety~~] transportation;~~

12 B. "director" means the director of the division;

13 C. "division" means the motor transportation
14 division of the department;

15 D. "officer" means a commissioned officer of the
16 division;

17 E. "personnel board" means the personnel board
18 created in the Personnel Act; and

19 F. "secretary" means the secretary of [~~public~~
20 ~~safety~~] transportation."

21 SECTION 7. Section 66-1-4.17 NMSA 1978 (being Laws 1990,
22 Chapter 120, Section 18, as amended) is amended to read:

23 "66-1-4.17. DEFINITIONS.--As used in the Motor Vehicle
24 Code:

25 A. "tank vehicle" means a motor vehicle that is

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1 designed to transport any liquid or gaseous material within a
2 tank that is either permanently or temporarily attached to the
3 vehicle or the chassis and that has either a gross vehicle
4 weight rating of twenty-six thousand one or more pounds or is
5 used in the transportation of hazardous materials requiring
6 placarding of the vehicle under applicable law;

7 B. "taxicab" means a motor vehicle used for hire in
8 the transportation of persons, having a normal seating capacity
9 of not more than seven persons;

10 C. "temporary off-site location" means a location
11 other than a dealer's established or additional place of
12 business that is used exclusively for the display of vehicles
13 or vessels for sale or resale and for related business;

14 D. "through highway" means every highway or portion
15 of a highway at the entrance to which vehicular traffic from
16 intersecting highways is required by law to stop before
17 entering or crossing it when stop signs are erected as provided
18 in the Motor Vehicle Code;

19 E. "title service company" means a person, other
20 than the department, an agent of the department, a licensed
21 dealer or the motor transportation division of the department
22 of [~~public safety~~] transportation, who for consideration issues
23 temporary registration plates or prepares and submits to the
24 taxation and revenue department on behalf of others
25 applications for registration of or title to motor vehicles;

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1 F. "traffic" means pedestrians, ridden or herded
2 animals, vehicles and other conveyances either singly or
3 together using any highway for purposes of travel;

4 G. "traffic-control signal" means any device,
5 whether manually, electrically or mechanically operated, by
6 which traffic is alternately directed to stop and to proceed;

7 H. "traffic safety bureau" means the traffic safety
8 bureau of the department of transportation;

9 I. "trailer" means any vehicle without motive
10 power, designed for carrying persons or property and for being
11 drawn by a motor vehicle, and so constructed that no
12 significant part of its weight rests upon the towing vehicle;

13 J. "transaction" means all operations necessary at
14 one time with respect to one identification card, one driver,
15 one vessel or one vehicle;

16 K. "transportation inspector" means an employee of
17 the motor transportation division of the department of [~~public~~
18 ~~safety~~] transportation who has been certified by the director
19 of the division to enter upon and perform inspections of motor
20 carriers' vehicles in operation;

21 L. "transporter of manufactured homes" means a
22 commercial motor vehicle operation engaged in the business of
23 transporting manufactured homes from the manufacturer's
24 location to the first dealer's location. A "transporter of
25 manufactured homes" may or may not be associated with or

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1 affiliated with a particular manufacturer or dealer;

2 M. "travel trailer" means a trailer with a camping
3 body and includes recreational travel trailers and camping
4 trailers;

5 N. "trial court" means the magistrate, municipal or
6 district court that tries the case concerning an alleged
7 violation of a provision of the Motor Vehicle Code;

8 O. "tribal court" means a court created by a tribe
9 or a court of Indian offense created by the United States
10 secretary of the interior;

11 P. "tribe" means an Indian nation, tribe or pueblo
12 located wholly or partially in New Mexico;

13 Q. "truck" means every motor vehicle designed, used
14 or maintained primarily for the transportation of property;

15 R. "truck camper" means a camping body designed to
16 be loaded onto, or affixed to, the bed or chassis of a truck.
17 A camping body, when combined with a truck or truck cab and
18 chassis, even though not attached permanently, becomes a part
19 of the motor vehicle, and together they are a recreational unit
20 to be known as a "truck camper"; there are three general types
21 of truck campers:

22 (1) "slide-in camper" means a camping body
23 designed to be loaded onto and unloaded from the bed of a
24 pickup truck;

25 (2) "chassis-mount camper" means a camping

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1 body designed to be affixed to a truck cab and chassis; and

2 (3) "pickup cover" or "camper shell" means a
3 camping body designed to provide an all-weather protective
4 enclosure over the bed of a pickup truck and to be affixed to
5 the pickup truck; and

6 S. "truck tractor" means every motor vehicle
7 designed and used primarily for drawing other vehicles and
8 constructed to carry a part of the weight of the vehicle and
9 load drawn."

10 SECTION 8. Section 74-13-9 NMSA 1978 (being Laws 2005,
11 Chapter 171, Section 9) is amended to read:

12 "74-13-9. SCRAP TIRE MANIFEST SYSTEM.--A scrap tire
13 generator ~~[who]~~ that transports or offers for transportation
14 scrap tires for offsite handling, altering, storage, disposal
15 or for any combination thereof shall complete a scrap tire
16 manifest pursuant to rules adopted by the board. Upon demand,
17 the manifest for every generator whose scrap tire load is
18 transported shall be shown to an officer of the motor
19 transportation division of the department of ~~[public safety]~~
20 transportation, the New Mexico state police, a local law
21 enforcement officer or the secretary or the secretary's
22 designee."

23 SECTION 9. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
24 APPROPRIATIONS, PERSONNEL AND PROPERTY--CONTRACTUAL
25 OBLIGATIONS--STATUTORY REFERENCES.--

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1 A. On the effective date of this act, all
2 functions, appropriations, personnel, money, records,
3 furniture, equipment and other property of the motor
4 transportation division of the department of public safety
5 shall be transferred to the department of transportation.
6 B. On the effective date of this act, contractual
7 obligations of the motor transportation division of the
8 department of public safety are binding on the department of
9 transportation.
10 C. On the effective date of this act, all
11 references in law to the motor transportation division of the
12 department of public safety shall be deemed to be references in
13 law to the motor transportation division of the department of
14 transportation. All references in law to the director of the
15 motor transportation division of the department of public
16 safety shall be deemed to be references to the director of the
17 motor transportation division of the department of
18 transportation.

19 **SECTION 10. EFFECTIVE DATE.**--The effective date of the
20 provisions of this act is July 1, 2011.