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HOUSE BILL 473

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Rhonda King

AN ACT

**RELATING TO PUBLIC SAFETY; PROVIDING FOR CERTIFICATION OF
WHEELCHAIR LIFT OPERATORS; PROVIDING FOR SAFETY TRAINING
PROGRAMS FOR EMPLOYEES WHO ASSIST WHEELCHAIR-BOUND CLIENTS OR
PATIENTS; PROVIDING POWERS AND DUTIES; PRESCRIBING
ADMINISTRATIVE PENALTIES.**

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

**Section 1. HEALTH FACILITIES--WHEELCHAIR SAFETY AND
CERTIFICATION PROGRAMS--DEPARTMENT OF HEALTH POWERS AND
DUTIES. --**

A. As used in this section:

- (1) "department" means the department of health;**
- (2) "employee" includes a contractor; and**
- (3) "health facility" means any public**

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1 hospital, profit or nonprofit private hospital, general or
2 special hospital, outpatient facility, maternity home or
3 shelter, adult daycare facility, nursing home, intermediate
4 care facility, boarding home not under the control of an
5 institution of higher learning, child-care center, shelter-
6 care home, diagnostic and treatment center, rehabilitation
7 center, infirmary or health service organization operating as
8 a free-standing hospice or a home health agency.

9 B. All health facilities shall provide wheelchair
10 safety training to employees who assist wheelchair-bound
11 clients or patients. All health facility employees who
12 operate wheelchair lifts shall be certified.

13 C. The department shall develop wheelchair safety
14 training and certification programs for health facility
15 employees. The wheelchair safety training program and
16 wheelchair lift operator certification training shall be
17 conducted by each health facility, but certification shall be
18 provided by the department. Employees seeking certification
19 as wheelchair lift operators must pass a test provided by the
20 department. The department shall provide certification
21 testing in the most convenient, efficient and cost-effective
22 manner possible and may provide for certification tests at
23 local health facilities or at state-owned or -operated health
24 facilities around the state.

25 D. The department may assess an administrative

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1 penalty against a health facility of up to five thousand
2 dollars (\$5,000) per occurrence if the department finds that
3 the health facility allowed an employee to assist a
4 wheelchair-bound client or patient without having been trained
5 in wheelchair safety or allowed an employee to operate a
6 wheelchair lift without certification. The department shall
7 promulgate rules governing notice and the conduct of hearings
8 for the assessment of administrative penalties pursuant to
9 this section. Appeals may be taken as provided in Section
10 39-3-1.1 NMSA 1978.

11 Section 2. TRANSPORTATION COMPANIES--WHEELCHAIR SAFETY
12 TRAINING AND CERTIFICATION PROGRAMS--PUBLIC REGULATION
13 COMMISSION POWERS AND DUTIES. --

14 A. As used in this section:

15 (1) "commission" means the public regulation
16 commi ssi on;

17 (2) "employee" includes a contractor; and

18 (3) "transportation company" means any public
19 or private entity that provides transportation for disabled
20 persons, including municipal transit agencies and senior
21 citizen centers.

22 B. All transportation companies that use
23 wheelchair lifts shall provide wheelchair safety training for
24 all employees who assist wheelchair-bound passengers and
25 certification programs for employees who operate wheelchair

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1 lifts.

2 C. The commission, in consultation with the
3 department of health, shall develop wheelchair safety training
4 and certification programs for transportation company
5 employees. The wheelchair safety training program and
6 wheelchair lift operator certification training shall be
7 conducted by each transportation company, but testing and
8 certification of wheelchair lift operators shall be provided
9 by the commission. The commission may request the assistance
10 of the department of health in certification testing to ensure
11 that it is conducted in the most convenient, efficient and
12 cost-effective manner possible.

13 D. The commission may assess an administrative
14 penalty against a transportation company of up to five
15 thousand dollars (\$5,000) per occurrence if the commission
16 finds that the transportation company allowed an employee to
17 assist a wheelchair-bound passenger without having been
18 trained in wheelchair safety or allowed an employee to operate
19 a wheelchair lift without certification. The procedures for
20 assessing an administrative penalty pursuant to this section
21 shall be the same as those provided by commission rule for
22 assessing other administrative penalties. Appeals may be
23 taken as provided in Section 39-3-1.1 NMSA 1978.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 February 26, 1999

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8 Mr. Speaker:

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10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 HOUSE BILL 473

13
14 has had it under consideration and reports same with
15 recommendation that it DO NOT PASS, but that

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17 HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
18 HOUSE BILL 473

19 DO PASS.

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HB 473

Page 6

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Luna, Thompson, Sanchez

Absent: None

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 473

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO PUBLIC SAFETY; PROVIDING FOR SAFETY TRAINING FOR
CERTAIN EMPLOYEES WHO TRANSPORT PERSONS IN WHEELCHAIRS;
PROVIDING POWERS AND DUTIES; PRESCRIBING ADMINISTRATIVE
PENALTIES.

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

Section 1. HEALTH FACILITIES--WHEELCHAIR SAFETY
TRAINING--DEPARTMENT OF HEALTH POWERS AND DUTIES.--

A. As used in this section:

(1) "department" means the department of
health;

(2) "employee" means a person, hired by a
health facility, whose duties include assisting a person in a
wheelchair to board or exit a motor vehicle or transporting a
person in a wheelchair in a motor vehicle, and includes a
contractor;

(3) "health facility" means any public
hospital, profit or nonprofit private hospital, general or

1 special hospital, outpatient facility, maternity home or
2 shelter, adult daycare facility, nursing home, intermediate
3 care facility, boarding home not under the control of an
4 institution of higher learning, child-care center, shelter-
5 care home, diagnostic and treatment center, rehabilitation
6 center, infirmary or health service organization operating as
7 a free-standing hospice or a home health agency; and

8 (4) "secretary" means the secretary of
9 health.

10 B. After consultation with the public
11 transportation programs bureau of the state highway and
12 transportation department, the department shall develop
13 wheelchair transportation safety training guidelines and shall
14 provide the guidelines to all health facilities licensed by
15 the department. The guidelines shall emphasize the following
16 aspects of safe wheelchair transport:

- 17 (1) boarding and exiting a vehicle;
- 18 (2) use of lifts and tie downs;
- 19 (3) familiarity with various types of
20 wheelchairs and related equipment;
- 21 (4) dealing with dangerous, emergency and
22 unexpected conditions; and
- 23 (5) situation assessment skills.

24 C. A health facility shall provide wheelchair
25 transportation safety training to employees and every six
months shall provide the department with an accurate list of
persons who successfully completed the training.

D. The department shall require, as part of its

1 regular health facility inspection pursuant to Section 24-1-5
2 NMSA 1978, verification by demonstration that employees have
3 received satisfactory wheelchair transportation safety
4 training.

5 E. No health facility employee may transport a
6 person in a wheelchair unless that employee has successfully
7 completed wheelchair transportation safety training.

8 F. If the secretary determines there has been a
9 violation of the requirements of Subsection C, D or E of this
10 section, he may assess an administrative penalty of up to five
11 thousand dollars (\$5,000) for a first offense and, for second
12 and subsequent offenses, an administrative penalty of up to
13 ten thousand dollars (\$10,000). A person subject to an
14 administrative penalty pursuant to this subsection may request
15 a hearing pursuant to rules established pursuant to Subsection
16 H of this section.

17 G. The secretary shall, after a second or
18 subsequent assessment of an administrative penalty, proceed
19 with a sanction established by department rule that imposes:

- 20 (1) a directed plan of correction;
- 21 (2) denial of payment of federal
22 assistance funds; or
- 23 (3) restricted ability to transport
24 persons in wheelchairs.

25 H. The department shall promulgate rules governing
notice and the conduct of hearings requested after the
assessment of administrative penalties pursuant to this
section. Appeals may be taken as provided in Section 39-3-1.1

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1 NMSA 1978.

2 Section 2. TRANSPORTATION COMPANIES--WHEELCHAIR SAFETY
3 TRAINING--PUBLIC REGULATION COMMISSION--POWERS AND DUTIES.--

4 A. As used in this section:

5 (1) "chief of staff" means the chief of staff
6 of the public regulation commission;

7 (2) "division" means the transportation
8 division of the public regulation commission;

9 (3) "employee" means a person, hired by a
10 health facility, whose duties include assisting a person in a
11 wheelchair to board or exit a motor vehicle or transporting a
12 person in a wheelchair in a motor vehicle, and includes a
13 contractor; and

14 (4) "transportation provider" means any
15 public or private entity whose services include transportation
16 for disabled persons, including municipal transit agencies,
17 senior citizen centers and nonprofit social service
18 organizations, but does not include transportation providers
19 that function as part of a health facility licensed pursuant
20 to the provisions of Section 24-1-5 NMSA 1978.

21 B. The division shall, after consultation with the
22 public transportation programs bureau of the state highway and
23 transportation department, develop wheelchair transportation
24 safety training guidelines and shall provide the guidelines to
25 all appropriate transportation companies. The guidelines
shall emphasize the following aspects of safe wheelchair
transport:

(1) boarding and exiting a vehicle;

- 1 (2) use of lifts and tie downs;
- 2 (3) familiarity with various types of
- 3 wheelchairs and related equipment;
- 4 (4) dealing with dangerous, emergency and
- 5 unexpected conditions; and
- 6 (5) situation assessment skills.

7 C. A transportation company shall provide
 8 wheelchair transportation safety training to employees and
 9 every six months shall provide the division with an accurate
 10 list of persons who successfully completed the training.

11 D. The division shall require verification through
 12 on-site demonstration that employees have received
 13 satisfactory wheelchair transportation safety training.

14 E. No employee may transport a person in a
 15 wheelchair unless that employee has successfully completed
 16 wheelchair transportation safety training.

17 F. If the chief of staff finds a violation of the
 18 requirements of Subsection C, D or E of this section, he may
 19 assess an administrative penalty of up to five thousand
 20 dollars (\$5,000) for a first offense and, for a second and
 21 subsequent offenses, an administrative penalty of up to ten
 22 thousand dollars (\$10,000). A person subject to an
 23 administrative penalty pursuant to this subsection may request
 24 a hearing pursuant to rules established pursuant to Subsection
 25 H of this section.

G. The chief of staff shall, after a second or
 subsequent assessment of an administrative penalty, proceed
 with a sanction established by the public regulation

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1 commission rule that imposes:

- 2 (1) a directed plan of correction;
- 3 (2) denial of payment of federal assistance
- 4 funds; or
- 5 (3) restricted ability to transport persons
- 6 in wheel chairs.

7 H. The public regulation commission shall

8 promulgate rules governing notice and the conduct of hearings

9 for the assessment of administrative penalties pursuant to

10 this section. Appeals may be taken as provided in Section

11 39-3-1.1 NMSA 1978.

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HB 473/a

March 10, 1999

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 473

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 4, line 19, strike "health facility" and insert "transportation provider".

Respectfully submitted,

Shannon Robinson, Chairman

HJC/HB 473

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Feldman, Ingle, Stockard, Smith

Absent: None

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