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HOUSE BILL 777

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

INTRODUCED BY

Ben Lujan

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.--

A. Every motor carrier of persons holding a  
certificate [~~of public convenience and necessity~~] 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

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1 other motor carriers holding the certificates of all money due  
2 them for transportation sold over their lines by the carrier  
3 filing the bond. Upon failure of any carrier to file the  
4 bond, he shall be cited to appear before the commission to  
5 show cause why his certificate should not be canceled for such  
6 failure. In cases where it is shown to the satisfaction of  
7 the commission that the amount of reclaim business [ ~~between~~  
8 among any motor carriers exceeds five hundred dollars (\$500)  
9 during any one month, the commission shall increase the amount  
10 of the ticket reclaim bond to adequately cover such business.

11 B. Every carrier holding a certificate [ ~~of public~~  
12 ~~convenience and necessity~~] issued by the commission in  
13 compliance with the provisions of the laws of this state  
14 relating to the supervision and regulation of the business of  
15 the transportation of persons or property by motor vehicles  
16 for hire over the public highways of this state shall, before  
17 handling C. O. D. shipments, file with the commission a collect-  
18 on-delivery bond in the amount of five hundred dollars (\$500)  
19 assuring full and prompt payment to any shipper entrusting a  
20 collect-on-delivery shipment of goods to the motor truck  
21 operator of all money due the shipper on the shipment or a  
22 return within ten days of the shipment to the shipper in the  
23 event that the shipment is refused by the consignee of [ ~~same~~ ]  
24 the shipment or in the event that the consignee cannot be  
25 located. Upon failure of any motor carrier to file [ ~~such~~ ] a

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1 collect-on-delivery bond, he shall be cited to appear before  
2 the commission to show cause why his certificate should not be  
3 canceled for such failure. Any shipper entrusting a collect-  
4 on-delivery shipment of goods to a motor carrier upon the  
5 return of the shipment with no delivery shall be liable to the  
6 motor carrier for the transportation charges upon the  
7 shipment, and in the event of the failure or refusal of the  
8 shipper to pay the charges, the motor carrier shall have a  
9 lien upon the shipment for the transportation charges due  
10 [~~thereon~~], which lien may be enforced under the terms and  
11 provisions of Sections 48-3-1 through 48-3-15 NMSA 1978  
12 [~~comprising Article 3 of Chapter 48 of the compilation~~] and  
13 relating to liens on personal property.

14 C. No motor carrier subject to the provisions of  
15 the Motor Carrier Act, including persons that transport the  
16 public only incidentally to their primary business, and  
17 regardless of whether that transportation is for hire or  
18 without charge, shall engage in any operations upon the  
19 highways of this state and no certificate or permit shall be  
20 issued to a motor carrier or shall remain in force unless and  
21 until there [~~shall have~~] has been filed with and approved by  
22 the commission a certificate showing the issuance of a policy  
23 of insurance in a form approved by the commission or a surety  
24 bond or policy of insurance issued by some company authorized  
25 to do surety or insurance business in this state, conditioned

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1 to pay, within the amount of the certificate showing the  
2 issuance of a policy of insurance in a form approved by the  
3 commission or surety bond or policy of insurance, all losses  
4 and damage proximately caused by or resulting from the  
5 negligent operation, maintenance or use of the motor carrier's  
6 vehicles [~~under the certificate or permit~~] or for loss or  
7 damage to property of others; nor shall any motor carrier  
8 subject to the provisions of the Motor Carrier Act engage in  
9 any operations upon the highways of this state, nor shall any  
10 certificate or permit be issued to any motor carrier, nor  
11 remain in force unless and until there [~~shall have~~] has been  
12 filed with and approved by the commission a certificate  
13 showing the issuance of a policy of insurance in a form  
14 approved by the commission or a surety bond or policy of  
15 insurance issued by some company authorized to do surety or  
16 insurance business in this state conditioned upon the carrier  
17 making compensation to shippers or consignees for all property  
18 belonging to shippers or consignees and coming into the  
19 possession of the motor carrier in connection with its  
20 transportation service.

21 D. The minimum amounts of a certificate showing  
22 the issuance of a policy of insurance in a form approved by  
23 the commission or surety bond or policy of insurance  
24 [~~hereinbefore~~] referred to by this section shall be prescribed  
25 by the commission by rule. In prescribing these amounts, the

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1 commission shall take into consideration:

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

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

8 (3) the size and operating characteristics of  
9 carriers;

10 (4) vehicle weight; and

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

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

22 (1) the financial stability of the carrier;

23 (2) previous loss history of the carrier;

24 (3) the safety record of the carrier;

25 (4) the size, nature of operations and other

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operating characteristics of the carrier; and

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

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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5  
6 March 2, 1999

7  
8 Mr. Speaker:

9  
10 Your TRANSPORTATION COMMITTEE, to whom has been  
11 referred

12  
13 HOUSE BILL 777

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS.

17 Respectfully submitted,

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21 \_\_\_\_\_  
22 Daniel P. Silva, Chairman  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HB 777

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4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

6 (Chief Clerk)

(Chief Clerk)

8 Date \_\_\_\_\_

10 The roll call vote was 13 For 0 Against

11 Yes: 13

12 Excused: None

13 Absent: None

15 J: \99BillsWP\H0777

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1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

HB 777/a

3  
4 March 10, 1999

5 Mr. President:

6  
7 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to  
8 whom has been referred

9 HOUSE BILL 777

10  
11 has had it under consideration and reports same with  
12 recommendation that it DO PASS, amended as follows:

13  
14 1. On page 3, line 15, after "persons" strike the  
15 remainder of the line and all of line 16 and insert in lieu  
16 thereof "who provide services for which they charge at the time  
17 the service is rendered and who transport the public  
18 incidentally to that service".

19 2. On page 3, line 17, strike "for hire or".

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21  
22 Respectfully submitted,

FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999

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Roman M. Maes, Chairman

Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Aragon, Rawson, Robinson

Absent: None

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