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HOUSE BILL 692

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Danice R. Picraux

AN ACT

**RELATING TO MOTOR CARRIERS; PROVIDING FOR REGULATION OF
COMMUTER VANPOOLS; AMENDING AND ENACTING SECTIONS OF THE MOTOR
CARRIER ACT; DECLARING AN EMERGENCY.**

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) 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 motor carrier who, as principal or agent, sells or offers
for sale any transportation subject to the Motor Carrier Act**

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1 or negotiates for or holds himself out by solicitation,
2 advertisement or otherwise as one who sells, provides,
3 furnishes, contracts or arranges for that transportation;

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

7 D. "clerk" or "chief clerk" means the chief clerk
8 of the public regulation commission;

9 E. "commission" means the public regulation
10 commission;

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

19 G. "commuter vanpool" means a volunteer-driver
20 commuter group that operates a not-for-profit, not-for-hire
21 vanpool that utilizes a seven- to fifteen-passenger vehicle to
22 share rides to and from the workplace, and where the
23 participation in the commuter group is voluntary and
24 incidental to the primary work-related purposes of the
25 individuals in the group;

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1 [~~G.~~] H. "contract motor carrier" means a person
2 not a common motor carrier who, under individual contracts or
3 agreements and whether directly or indirectly or by lease of
4 equipment or operating rights or any other arrangements,
5 transports persons or property by motor vehicle for
6 compensation, but does not include farm carriers;

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

15 [~~I.~~] J. "highway" means the public roads,
16 highways, streets and ways in this state;

17 [~~J.~~] K. "household goods" means:

18 (1) personal effects and property used or to
19 be used in a dwelling when a part of the equipment or supply
20 of the dwelling and other similar property as the commission
21 may provide by rule; except that this paragraph shall not be
22 construed to include property moving from a factory or store,
23 except property as the householder has purchased with intent
24 to use in his dwelling and that is transported at the request
25 of, and the transportation charges paid to the carrier by, the

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1 householder;

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

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

22 [~~K.~~] L. "interested parties" shall in all cases
23 include all carriers operating over the routes or any part
24 thereof or in the territory involved in an application for a
25 certificate or permit or an application to file or change a

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1 schedule of rates, charges or fares or a rule or practice, and
2 other parties as the commission may deem interested in the
3 particular matter;

4 [L-] M. "irregular route" means [~~that the route~~] a
5 course to be used by a motor carrier that is not restricted to
6 any specific highway within the area the motor carrier is
7 authorized to serve;

8 [M-] N. "lease" means an arrangement whereby a
9 motor carrier augments his equipment by use of equipment owned
10 by others;

11 [N-] O. "license" means a license issued pursuant
12 to the Motor Carrier Act to a broker;

13 [O-] P. "motor carrier" includes common motor
14 carriers, contract motor carriers and any person performing
15 for-hire transportation service without authority from the
16 commission and farm carriers;

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

23 [Q-] R. "permit" means a permit issued under
24 authority of the laws of this state to contract motor
25 carriers;

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1 ~~[R-]~~ S. "person" means an individual, firm,
2 partnership, corporation, company, association or organization
3 and includes any trustee, receiver, assignee or personal
4 representative thereof;

5 ~~[S-]~~ T. "regular route" means a fixed, specific
6 and determined course to be traveled by a motor carrier's
7 vehicles rendering service to, from or between various points,
8 localities or municipalities in this state;

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

17 ~~[U-]~~ V. "shipper" means a person who consigns or
18 receives goods for transportation;

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

24 ~~[W-]~~ X. "state" means New Mexico;

25 ~~[X-]~~ Y. "towing company" means a common motor

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1 carrier engaged in transporting for hire disabled or abandoned
2 motor vehicles by means of a tow truck or flatbed vehicle
3 carrier; and

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

8 Section 2. A new section of the Motor Carrier Act is
9 enacted to read:

10 "[NEW MATERIAL] COMMUTER VANPOOLS--REGISTRATION--
11 COMMISSION JURISDICTION--APPLICABILITY--EXEMPTIONS.--

12 A. No commuter vanpool shall be operated on any
13 public highway in this state without first obtaining from the
14 commission a certificate of registration.

15 B. A certificate of registration shall be issued
16 for commuter vanpools as a matter of course, without hearing,
17 upon proper application being made and filed and fees paid.
18 The application shall be in writing, be sworn to and designate
19 the equipment to be used, the area to be served and other
20 information as the commission may require. The application
21 shall be accompanied by a certificate of insurance or some
22 other showing of insurance coverage for public liability and
23 property damage in amounts determined by the commission. This
24 coverage shall be comparable to that required of other
25 regulated carriers and issued by a company authorized to do

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1 business in this state. The application shall also be
2 accompanied by a vehicle inspection certificate. A vehicle
3 used as a commuter vanpool shall be required to have an annual
4 inspection, and the inspection certificate must be filed with
5 the commission at the end of each calendar year.

6 C. A fee in the amount provided in Section
7 65-2-125 NMSA 1978 shall accompany the application for
8 registration, which may be for one or more vehicles. This fee
9 shall be in lieu of mileage taxes and the inspection and
10 supervision fees required under Section 63-7-20 NMSA 1978.
11 However, commuter vanpools shall not be entitled to one-half
12 rates on license plates as common, contract or private
13 carriers.

14 D. The certificate of registration shall remain in
15 force until canceled by the commission. Cancellation for
16 failure to maintain prescribed insurance coverage or vehicle
17 inspections may be ordered by the commission without hearing.
18 Cancellation for other causes may be made only after hearing.
19 A commuter vanpool certificate of registration is subject to
20 cancellation if the holder fails to operate under the
21 certificate of registration for twelve consecutive months.

22 E. The commission shall have the power and
23 authority over commuter vanpools as to all matters of public
24 liability and property damage insurance and shall make all
25 necessary rules and regulations in connection with those

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1 matters and for hearings. Commuter vanpools covered by
2 certificates of registration shall bear a number or other
3 identification prescribed by the commission. "

4 Section 3. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect
6 immediately.

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