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HOUSE BILL 217

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Richard D. Vigil

AN ACT

RELATING TO MOTOR VEHICLES; CHANGING SPECIAL PERMIT
REQUIREMENTS FOR THE MOVEMENT OF OVERSIZE MOTOR VEHICLES;
INCREASING FEES; MAKING AN APPROPRIATION.

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

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

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

A. "tank vehicle" means a motor vehicle that is
designed to transport any liquid or gaseous material within a
tank that is either permanently or temporarily attached to the
vehicle or the chassis and that has either a gross vehicle
weight rating of twenty-six thousand one or more pounds or is
used in the transportation of hazardous materials requiring

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1 placarding of the vehicle under applicable law;

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

5 C. "through highway" means every highway or
6 portion thereof at the entrance to which vehicular traffic
7 from intersecting highways is required by law to stop before
8 entering or crossing it when stop signs are erected as
9 provided in the Motor Vehicle Code;

10 D. "title service company" means a person, other
11 than the department, an agent of the department, a licensed
12 dealer or the motor transportation division of the department
13 of public safety, who for consideration issues temporary
14 registration plates or prepares and submits to the department
15 on behalf of others applications for registration of or title
16 to motor vehicles;

17 E. "traffic" means pedestrians, ridden or herded
18 animals, vehicles and other conveyances either singly or
19 together using any highway for purposes of travel;

20 F. "traffic-control signal" means any device,
21 whether manually, electrically or mechanically operated, by
22 which traffic is alternately directed to stop and to proceed;

23 G. "traffic safety bureau" means the traffic
24 safety bureau of the state highway and transportation
25 department;

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1 H. "trailer" means any vehicle without motive
2 power, designed for carrying persons or property and for being
3 drawn by a motor vehicle, and so constructed that no
4 significant part of its weight rests upon the towing vehicle;

5 I. "transportation inspector" means an employee of
6 the motor transportation division of the department of public
7 safety who has been certified by the director of the division
8 to enter upon and perform inspections of motor carriers'
9 vehicles in operation;

10 [~~I.~~] J. "transporter of manufactured homes" means
11 a commercial motor vehicle operation engaged in the business
12 of transporting manufactured homes from the manufacturer's
13 location to the first dealer's location. A "transporter of
14 manufactured homes" may or may not be associated with or
15 affiliated with a particular manufacturer or dealer;

16 [~~J.~~] K. "travel trailer" means a trailer with a
17 camping body and includes recreational travel trailers and
18 camping trailers;

19 [~~K.~~] L. "trial court" means the magistrate,
20 municipal or district court that tries the case concerning an
21 alleged violation of a provision of the Motor Vehicle Code;

22 [~~L.~~] M. "truck" means every motor vehicle
23 designed, used or maintained primarily for the transportation
24 of property;

25 [~~M.~~] N. "truck camper" means a camping body

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1 designed to be loaded onto, or affixed to, the bed or chassis
2 of a truck. A camping body, when combined with a truck or
3 truck cab and chassis, even though not attached permanently,
4 becomes a part of the motor vehicle, and together they are a
5 recreational unit to be known as a "truck camper"; there are
6 three general types of truck campers:

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

10 (2) "chassis-mount camper" means a camping
11 body designed to be affixed to a truck cab and chassis; and

12 (3) "pickup cover" or "camper shell" means a
13 camping body designed to provide an all-weather protective
14 enclosure over the bed of a pickup truck and to be affixed
15 thereto; and

16 ~~[N.]~~ 0. "truck tractor" means every motor vehicle
17 designed and used primarily for drawing other vehicles and not
18 so constructed as to carry a load other than a part of the
19 weight of the vehicle and load so drawn. "

20 Section 2. Section 66-7-411 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 482, as amended) is amended to read:

22 "66-7-411. AUTHORIZED REPRESENTATIVE MAY WEIGH VEHICLES
23 AND REQUIRE REMOVAL OF EXCESS LOADS--GRADUATED PENALTIES. --

24 A. Any ~~[New Mexico state police officer or~~
25 ~~enforcement employee of the motor transportation division]~~

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1 police officer with the motor transportation division or New
2 Mexico state police division of the department of public
3 safety, having reason to believe that the weight of a vehicle
4 and load is unlawful, may require the driver to stop and
5 submit to weighing of the vehicle and load by means of either
6 portable or stationary scales and may require the vehicle to
7 be driven to the nearest scales approved by the department if
8 the scales are within five miles.

9 B. When [~~the officer or employee~~] a police officer
10 with the motor transportation division or New Mexico state
11 police division of the department of public safety or a
12 transportation inspector, upon weighing a vehicle or
13 combination, determines that the gross vehicle weight or
14 combination gross vehicle weight exceeds the maximum
15 authorized by Sections 66-7-409 and 66-7-410 NMSA 1978, the
16 officer or [~~employee~~] inspector shall require the driver or
17 owner of the vehicle or combination to unload that portion of
18 the load necessary to decrease the gross vehicle weight or
19 combination gross vehicle weight to the authorized maximum.

20 C. Any driver of a vehicle who fails or refuses to
21 stop and submit the vehicle and load to weighing or who fails
22 or refuses, when directed by a duly authorized [~~officer or~~
23 ~~employee~~] police officer with the motor transportation
24 division or New Mexico state police division of the department
25 of public safety or a transportation inspector upon a weighing

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1 of the vehicle, to unload the vehicle and otherwise comply
2 with the provisions of this section is guilty of a
3 misdemeanor.

4 D. Any shipper or any other person loading the
5 vehicle who intentionally overloads a vehicle which he has
6 reason to believe will travel in that condition upon a public
7 highway is guilty of a misdemeanor and shall be fined in
8 accordance with Subsection E of this section.

9 E. In all cases of violations of weight
10 limitations, the penalties shall be assessed and imposed in
11 accordance with the following schedule:

12 WEIGHT OF EXCESS

13 LOAD IN POUNDS

AMOUNT OF FINE

14 1 to 3,000	twenty-five dollars (\$25.00)
15 3,001 to 4,000	forty dollars (\$40.00)
16 4,001 to 5,000	seventy-five dollars (\$75.00)
17 5,001 to 6,000	one hundred twenty-five dollars (\$125)
18 6,001 to 7,000	two hundred dollars (\$200)
19 7,001 to 8,000	two hundred seventy-five dollars (\$275)
20 8,001 to 9,000	three hundred fifty dollars (\$350)
21 9,001 to 10,000	four hundred twenty-five dollars (\$425)
22 over 10,000	five hundred dollars (\$500). "

23 Section 3. Section 66-7-412 NMSA 1978 (being Laws 1959,
24 Chapter 247, Section 1, as amended) is amended to read:

25 "66-7-412. SPECIAL FARM PERMITS. --The motor

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1 transportation division of the department of public safety
2 shall have the authority to issue special permits at all ports
3 of entry where registration stations or places where
4 inspection and registration services are maintained by the
5 motor transportation division of the department of public
6 safety to all implements of husbandry using the highways,
7 including farm tractors, and to the instrumentalities or
8 vehicles which may be carrying the [~~instrumentalities~~]
9 implements of husbandry, including farm tractors, when the
10 securing of these permits is required by law. "

11 Section 4. Section 66-7-413 NMSA 1978 (being Laws 1978,
12 Chapter 35, Section 484, as amended) is amended to read:

13 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--
14 SPECIAL NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED
15 HOMES. --

16 A. The department of public safety and local
17 highway authorities may, in their discretion, upon application
18 in writing and good cause being shown, issue a special permit
19 in writing authorizing the applicant to operate or move a
20 vehicle or load of a size or weight exceeding the maximum
21 specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on
22 any highway under the jurisdiction of the state highway
23 commission or local authorities. Except for the movement of
24 manufactured homes, a permit may be granted, in cases of
25 emergency, for the transportation of loads on a certain unit

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1 or combination of equipment for a specified period of time not
2 to exceed one year, and the permit shall contain the route to
3 be traversed, the type of load to be transported and any other
4 restrictions or conditions deemed necessary by the body
5 granting the permit. In every other case, the permit shall be
6 issued for a single trip and may designate the route to be
7 traversed and contain any other restrictions or conditions
8 deemed necessary by the body granting the permit. Every
9 permit shall be carried in the vehicle to which it refers and
10 shall be opened for inspection to any peace officer. It is a
11 misdemeanor for any person to violate any of the conditions or
12 terms of the special permit.

13 B. The department of public safety shall charge
14 and collect, when the movement consists of any load of a width
15 of twenty feet or greater for a distance of five miles or
16 more, the sum of three hundred dollars (\$300) a day or
17 fraction thereof to defray the cost of state or local police
18 escort. The permit issued and the fee charged shall be based
19 upon the entire movement at one time requiring police escort
20 and not upon the number of vehicles involved.

21 C. The department of public safety shall
22 promulgate regulations in accordance with the State Rules Act
23 pertaining to safety practices, liability insurance and
24 equipment for escort vehicles provided by the motor carrier
25 himself and for escort vehicles provided by a private business

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1 in this state.

2 (1) If a motor carrier provides his own
3 escort vehicles and personnel, the department of public safety
4 shall not charge an escort fee but shall provide the motor
5 carrier escort personnel with a copy of applicable regulations
6 and shall inspect the escort vehicles for the safety equipment
7 required by the regulations. If the escort vehicles and
8 personnel meet the requirements set forth in the regulations
9 and if the motor carrier holds a valid certificate of public
10 convenience and necessity or permit, as applicable, issued
11 pursuant to Chapter 65, Article 2 NMSA 1978, the department of
12 public safety shall issue the special permit.

13 (2) If the escort service is a private
14 business, the business shall have applied to the [~~state~~
15 ~~corporation~~] public regulation commission for and been issued
16 a permit or certificate to operate as a contract or common
17 motor carrier pursuant to Chapter 65, Article 2 NMSA 1978.
18 The [~~state corporation~~] public regulation commission shall
19 supply copies of applicable regulations to the business by
20 mail and shall supply additional copies upon request. If the
21 escort vehicles and personnel meet the requirements set forth
22 in the regulations and if the escort service holds a
23 certificate, the special permit shall be issued and the
24 department of public safety shall not charge an escort fee.

25 (3) The movement of vehicles upon the

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1 highways of this state requiring a special permit and required
2 to use an escort of the type noted in Paragraphs (1) and (2)
3 of this subsection is subject to the department of public
4 safety authority and inspection at all times.

5 (4) The state highway and transportation
6 department shall conduct engineering investigations and
7 engineering inspections to determine which four-lane highways
8 are safe for the operation or movement of manufactured homes
9 without an escort. After making that determination, the state
10 highway and transportation department shall hold public
11 hearings in the area of the state affected by the
12 determination, after which it may adopt regulations
13 designating those four-lane highways as being safe for the
14 operation or movement of manufactured homes without an escort.
15 If any portion of such a four-lane highway lies within the
16 boundaries of a municipality, the state highway and
17 transportation department, after obtaining the approval of the
18 municipal governing body, shall include such portions in its
19 regulations.

20 D. Except for the movement of manufactured homes,
21 special permits may be issued for a single vehicle or
22 combination of vehicles by the department of public safety for
23 a period not to exceed one year for a fee of [~~sixty dollars~~
24 ~~(\$60.00)~~] one hundred twenty dollars (\$120). The permits may
25 allow excessive height, length and width for a vehicle or

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1 combination of vehicles or load thereon and may include a
2 provision for excessive weight if the operation is to be
3 within the vicinity of a municipality.

4 E. Special permits for a single trip for a vehicle
5 or combination of vehicles or load thereon of excessive
6 weight, width, length and height may be issued by the
7 department of public safety for a single vehicle for a fee of
8 [~~fifteen dollars (\$15.00)~~] thirty dollars (\$30.00).

9 F. If the vehicle for which a permit is issued
10 under this section is a manufactured home, the department of
11 public safety or local highway authority issuing the permit
12 shall furnish the following information to the property tax
13 division of the taxation and revenue department, which shall
14 then forward the information:

15 (1) to the county assessor of any county from
16 which a manufactured home is being moved, the date the permit
17 was issued, the location being moved from, the location being
18 moved to if within the same county, the name of the owner of
19 the manufactured home and the identification and registration
20 numbers of the manufactured home;

21 (2) to the county assessor of any county in
22 this state to which a manufactured home is being moved, the
23 date the permit was issued, the location being moved from, the
24 location being moved to, the name of the owner of the
25 manufactured home and the registration and identification

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1 numbers of the manufactured home; and

2 (3) to the owner of a manufactured home
3 having a destination in this state, notification that the
4 information required in Paragraphs (1) and (2) of this
5 subsection is being given to the respective county assessors
6 and that manufactured homes are subject to property taxation.

7 G. Except as provided in Subsection H of this
8 section, if the movement of a manufactured home originates in
9 this state, no permit shall be issued under Subsection F of
10 this section until the owner of the manufactured home or his
11 authorized agent obtains and presents to the department of
12 public safety proof that a certificate has been issued by the
13 county assessor or treasurer of the county in which the
14 manufactured home movement originates showing that either:

15 (1) all property taxes due or to become due
16 on the manufactured home for the current tax year or any past
17 tax years have been paid, except for manufactured homes
18 located on an Indian reservation; or

19 (2) no liability for property taxes on the
20 manufactured home exists for the current tax year or any past
21 tax years, except for manufactured homes located on an Indian
22 reservation.

23 H. The movement of a manufactured home from the
24 lot or business location of a manufactured home dealer to its
25 destination designated by an owner-purchaser is not subject to

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1 the requirements of Subsection G of this section if the
2 manufactured home movement originates from the lot or business
3 location of the dealer and the manufactured home was part of
4 his inventory prior to the sale to the owner-purchaser;
5 however, the movement of a manufactured home by a dealer or
6 his authorized agent as a result of a sale or trade-in from a
7 nondealer-owner is subject to the requirements of Subsection G
8 of this section whether the destination is the business
9 location of a dealer or some other destination.

10 I. No permit shall be issued under this section
11 for movement of a manufactured home whose width exceeds
12 eighteen feet with no more than a six-inch roof overhang on
13 the left side or twelve inches on the right side in addition
14 to the eighteen-foot width of the manufactured home.
15 Manufactured homes exceeding the limitations of this section
16 shall only be moved on dollies placed on the front and the
17 rear of the structure.

18 J. The secretary of public safety may by
19 regulation provide for movers of manufactured homes to self-
20 issue permits for certain sizes of manufactured homes over
21 specific routes; however, in no case may the cost of each
22 permit be less than [~~fifteen dollars (\$15.00)~~] thirty dollars
23 (\$30.00).

24 K. The secretary of public safety may provide by
25 regulation for dealers of implements of husbandry to self-

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1 issue permits for the movement of certain sizes of implements
2 of husbandry from the lot or business location of the dealer
3 over specific routes with specific escort requirements, if
4 necessary, to a destination designated by an owner-purchaser
5 or for purposes of a working demonstration on the property of
6 a proposed owner-purchaser. The department of public safety
7 shall charge a fee for each self-issued permit not to exceed
8 [~~fifteen dollars (\$15.00)~~] thirty dollars (\$30.00).

9 L. Any private motor carrier requesting an
10 oversize or overweight permit shall provide proof of insurance
11 in at least the following amounts:

12 (1) bodily injury liability, providing:

13 (a) fifty thousand dollars (\$50,000)

14 for each person; and

15 (b) one hundred thousand dollars

16 (\$100,000) for each accident; and

17 (2) property damage liability, providing
18 twenty-five thousand dollars (\$25,000) for each accident.

19 M. Any common motor carrier requesting an oversize
20 permit shall produce a copy of a form "e" or other acceptable
21 evidence that the common motor carrier maintains the insurance
22 minimums prescribed by the [~~state corporation~~] public
23 regulation commission.

24 N. The department of public safety may provide by
25 regulation the time periods during which a vehicle or load of

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1 a size or weight exceeding the maximum specified in Sections
2 66-7-401 through 66-7-416 NMSA 1978 may be operated or moved
3 by a motor carrier on a highway under the jurisdiction of the
4 state highway commission or local authorities.

5 0. One-half of the fees collected from special
6 permits issued pursuant to Subsections D, E, J and K of this
7 section shall be used by the motor transportation division of
8 the department of public safety for the implementation,
9 operation and maintenance of the New Mexico commercial vehicle
10 information systems and network. The remainder of the fees
11 shall be deposited in the state road fund."

12 Section 5. Section 66-7-413.2 NMSA 1978 (being Laws
13 1989, Chapter 291, Section 1) is amended to read:

14 "66-7-413.2. ENGINEERING INVESTIGATIONS FOR VEHICLES IN
15 EXCESS OF ONE HUNDRED SEVENTY THOUSAND POUNDS. --

16 A. All vehicles with a gross vehicle weight in
17 excess of one hundred seventy thousand pounds shall require a
18 special permit as provided for in Section 66-7-413 NMSA 1978
19 and no such permit shall be issued unless:

20 (1) an engineering investigation and review
21 have been conducted to:

22 (a) establish whether the move could be
23 made without visible or documented damages to the portion of
24 road or bridges upon which the move is to be made;

25 (b) establish whether the move could be

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1 made without visible or documented damages to any private
2 facilities along the road upon which the move is to be made;
3 and

4 (c) estimate the cost for any necessary
5 modifications the move may cause; and

6 (2) when required, the applicant [~~shall~~
7 ~~submit~~] has submitted to the motor transportation division of
8 the department of public safety and the local highway
9 authorities all pertinent information requested of the
10 applicant by the motor transportation division of the
11 department of public safety. If the submitted data is not
12 acceptable to the state highway and transportation department,
13 the applicant will be advised by the motor transportation
14 division of the department of public safety that engineering
15 investigations will be conducted by the state highway and
16 transportation department and the cost incurred by the state
17 highway and transportation department will be paid by the
18 applicant as an added cost to his permit fee.

19 B. The motor transportation division of the
20 department of public safety shall adopt the necessary rules
21 and regulations for the development of data for an
22 investigation to determine whether to issue any special permit
23 pursuant to Section 66-7-413 NMSA 1978.

24 C. The applicant or the applicant's employer shall
25 pay the costs for any [~~modification~~] modifications to the

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1 road, bridges or private facilities along the road that the
2 motor transportation division of the department of public
3 safety has determined are necessary for the issuance of the
4 special permit and the costs for any damages to the road or
5 bridges that are the result of the move and the fault of the
6 mover and not the motor transportation division of the
7 department of public safety.

8 D. Any person who violates the provisions of
9 Subsection A of this section shall be guilty of a misdemeanor
10 and punished by a fine of not more than one thousand dollars
11 (\$1,000) or imprisonment for a definite term not to exceed six
12 months, or both.

13 E. Nothing contained in this section shall limit
14 in any manner the authority of the state, a county, a
15 municipality or a political subdivision thereof to collect
16 damages for any unlawful use of highways as provided by law. "