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AN ACT  
RELATING TO MOTOR CARRIERS; AMENDING AND ENACTING SECTIONS OF  
THE MOTOR CARRIER ACT; PROVIDING REQUIREMENTS AND PROVISIONS  
FOR MOTOR CARRIERS USING SMALL PASSENGER VEHICLES SIMILAR TO  
THOSE CONTAINED IN THE TRANSPORTATION NETWORK COMPANY  
SERVICES ACT TO PROVIDE FOR COMPETITION; SIMPLIFYING AND  
CLARIFYING ADMINISTRATIVE PROCEDURES; PROVIDING FOR A  
SIMPLIFIED WARRANT AUTHORITY FOR NON-EMERGENCY MEDICAL  
TRANSPORT SERVICES.

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

SECTION 1. Section 65-2A-3 NMSA 1978 (being Laws 2003,  
Chapter 359, Section 3, as amended by Laws 2013, Chapter 73,  
Section 2 and by Laws 2013, Chapter 77, Section 2) is amended  
to read:

"65-2A-3. DEFINITIONS.--As used in the Motor Carrier  
Act:

A. "ability to provide certificated service" means  
that an applicant or carrier can provide reasonably  
continuous and adequate transportation service of the type  
required by its application or its operating authority in the  
territory authorized or sought to be authorized;

B. "ambulance service" means the intrastate  
transportation of sick or injured persons in an ambulance  
meeting the standards established by the commission under the

1 Ambulance Standards Act;

2 C. "amendment of a certificate or permit" means a  
3 permanent change in the type or nature of service, territory  
4 or terms of service authorized by an existing certificate or  
5 permit;

6 D. "antitrust laws" means the laws of this state  
7 relating to combinations in restraint of trade;

8 E. "base state" means the registration state for  
9 an interstate motor carrier that either is subject to  
10 regulation or is transporting commodities exempt from  
11 regulation by the federal motor carrier safety administration  
12 pursuant to the unified carrier registration system;

13 F. "cancellation of an operating authority" means  
14 the voluntary, permanent termination of all or part of an  
15 operating authority;

16 G. "certificate" means the authority issued by the  
17 commission to a person that authorizes the person to offer  
18 and provide a certificated service as a motor carrier;

19 H. "certificated service" means one of the  
20 following transportation services:

21 (1) an ambulance service;

22 (2) a household goods service;

23 (3) a shuttle service;

24 (4) a specialized passenger service; or

25 (5) a taxicab service;

1 I. "change in a certificate or permit" means the  
2 voluntary amendment, cancellation, change in form of legal  
3 entity of the holder, lease, reinstatement, transfer or  
4 voluntary suspension of a certificate or permit;

5 J. "charter service" means the compensated  
6 transportation of a group of persons in a motor vehicle who,  
7 pursuant to a common purpose, under a single contract, at a  
8 fixed charge for the motor vehicle and driver, have acquired  
9 the exclusive use of the motor vehicle to travel together  
10 under an itinerary either specified in advance or modified  
11 after having left the place of origin;

12 K. "commission" means the public regulation  
13 commission;

14 L. "commuter service" means the intrastate  
15 transportation of passengers in motor vehicles having a  
16 capacity of seven to fifteen persons, including the driver,  
17 provided to a volunteer-driver commuter group that shares  
18 rides to and from the workplace or training site, where  
19 participation is open to the public and incidental to the  
20 primary work or training-related purposes of the commuter  
21 group, and where the volunteer drivers have no  
22 employer-employee relationship with the commuter service;

23 M. "continuous and adequate service" means:

24 (1) for full-service carriers, reasonably  
25 continuous availability, offering and provision of

1 transportation services through motor vehicles, equipment and  
2 resources satisfying safety and financial responsibility  
3 requirements under the Motor Carrier Act and commission rule,  
4 that are reasonably adequate to serve the entire full-service  
5 territory authorized in the certificate, with reasonable  
6 response to all requests for service for the nature of  
7 passenger service authorized, based on the nature of public  
8 need, expense and volume of demand for the type of service  
9 authorized during seasonal periods, competition and  
10 the availability of other transportation and the effects of  
11 competition by both competing transportation services and  
12 competing transportation network company services on the  
13 public need, volume of demand and expense of providing full  
14 service in the full-service territory; and

15 (2) for general-service carriers, reasonably  
16 continuous availability and offering of transportation  
17 services through motor vehicles, equipment and resources  
18 satisfying safety and financial responsibility requirements  
19 under the Motor Carrier Act and commission rule for the  
20 nature of the transportation service authorized in the  
21 certificate;

22 N. "contract driver" means a person who contracts  
23 with a motor carrier as an independent contractor, or one  
24 leased through an employee leasing contractor, to drive a  
25 vehicle pursuant to an operating authority issued to the

1 motor carrier;

2 O. "endorsement" means the specification in a  
3 certificate of the territory in which the carrier is  
4 authorized to operate, the nature of service to be provided  
5 by a certificated passenger service and any additional terms  
6 of service that may be reasonably granted or required by the  
7 commission for the particular authority granted;

8 P. "fare" means the full compensation charged for  
9 transportation by a tariffed passenger service;

10 Q. "financial responsibility" means the ability to  
11 respond in damages for liability arising out of the  
12 ownership, maintenance or use of a motor vehicle in the  
13 provision of transportation services;

14 R. "fitness to provide a transportation service"  
15 means that an applicant or carrier complies with state law as  
16 provided in the Motor Carrier Act or by rule of the  
17 commission;

18 S. "for hire" means that transportation is offered  
19 or provided to the public for remuneration, compensation or  
20 reward of any kind, paid or promised, either directly or  
21 indirectly;

22 T. "full service" means one of the following  
23 certificated passenger services that are endorsed and  
24 required to meet specific standards for the provision of  
25 service to or throughout a community:

1 (1) an ambulance service;

2 (2) a scheduled shuttle service; or

3 (3) a municipal taxicab service;

4 U. "general service" means one of the following  
5 certificated services that provides transportation services  
6 of the type authorized, but is not required to provide  
7 unprofitable or marginally profitable carriage:

8 (1) a general shuttle service;

9 (2) a general taxicab service;

10 (3) a specialized passenger service; or

11 (4) a household goods service;

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

17 W. "holder of an operating authority" means the  
18 grantee of the operating authority or a person that currently  
19 holds all or part of the right to exercise the authority  
20 through a transfer by operation of law;

21 X. "household goods" means personal effects and  
22 property used or to be used in a dwelling when a part of the  
23 equipment or supply of the dwelling and other similar  
24 property as the federal motor carrier safety administration  
25 may provide by regulation, but shall not include property

1 moving to or from a factory or store, other than property the  
2 householder has purchased to use in the householder's  
3 dwelling that is transported at the request of, and the  
4 transportation charges are paid to the carrier by, the  
5 householder;

6 Y. "household goods service" means the intrastate  
7 transportation, packing and storage of household goods for  
8 hire;

9 Z. "interested person" means a motor carrier  
10 operating in the territory involved in an application or  
11 grant of temporary authority, a person affected by an order  
12 of the commission or a rule proposed for adoption by the  
13 commission or a person the commission may deem interested in  
14 a particular matter;

15 AA. "interstate motor carrier" means a person  
16 providing compensated transportation in interstate commerce,  
17 whether or not the person is subject to regulation by the  
18 federal motor carrier safety administration;

19 BB. "intrastate motor carrier" means a motor  
20 carrier offering or providing transportation for hire by  
21 motor vehicle between points and places in the state;

22 CC. "involuntary suspension" means the temporary  
23 cessation of use of all or part of an operating authority  
24 ordered by the commission for cause for a stated period of  
25 time or pending compliance with certain conditions;

1 DD. "lease of a certificate or permit" means an  
2 agreement by which the holder of a certificate or permit  
3 grants to another person the exclusive right to use all or  
4 part of the certificate or permit for a specified period of  
5 time in exchange for consideration, but does not include an  
6 agreement between a motor carrier and its contract driver;

7 EE. "lease of equipment" means an agreement  
8 whereby a motor carrier obtains equipment owned by another  
9 person for use by the motor carrier in the exercise of its  
10 operating authority, but does not include an agreement  
11 between a motor carrier and its contract driver;

12 FF. "motor carrier" or "carrier" means a person  
13 offering or providing transportation of persons, property or  
14 household goods for hire by motor vehicle, whether in  
15 intrastate or interstate commerce;

16 GG. "motor carrier organization" means an  
17 organization approved by the commission to represent motor  
18 carriers and to discuss and propose industry interests and  
19 matters other than rates, as well as discussing and proposing  
20 rates and other matters pertaining to statewide tariffs;

21 HH. "motor vehicle" or "vehicle" means a vehicle,  
22 machine, tractor, trailer or semitrailer propelled or drawn  
23 by mechanical power and used on a highway in the  
24 transportation of property, household goods or persons, but  
25 does not include a vehicle, locomotive or car operated



1 exclusively on rails;

2 II. "nature of service" means the type of  
3 transportation service to be provided by a certificated  
4 passenger service as set forth in Subsection A of Section  
5 65-2A-8 NMSA 1978;

6 JJ. "nonconsensual tow" means the compensated  
7 transportation of a motor vehicle by a towing service, if  
8 such transportation is performed at the request of a law  
9 enforcement officer or without the prior consent or  
10 authorization of the owner or operator of the motor vehicle;

11 KK. "non-emergency medical transport service"  
12 means a person who has been issued and possesses a current  
13 letter of intent by the human services department to perform  
14 as a medicaid fee-for-service provider for non-emergency  
15 medical transportation of passengers, who provides scheduled  
16 medically necessary transportation of passengers not  
17 requiring medical monitoring or medical intervention and who  
18 is compensated for carriage either wholly through a contract  
19 with an authorized medicaid provider or by charging  
20 passengers a fare for transportation, but not both;

21 LL. "notice period" means the period of time  
22 specified in Section 65-2A-6 NMSA 1978 following publication  
23 of notice during which the commission may not act;

24 MM. "objection" means a document filed with the  
25 commission by an interested person or a member of the public

1 during the notice period for an application for a certificate  
2 or a permit, or for amendment, lease or transfer of a  
3 certificate or permit, that expresses an objection to, or  
4 provides information concerning, the matter before the  
5 commission;

6 NN. "operating authority" means a certificate,  
7 permit, warrant, unified carrier registration or temporary  
8 authority issued by the commission to a motor carrier;

9 OO. "passenger" means a person other than the  
10 driver of a motor vehicle transported in a motor vehicle;

11 PP. "passenger service" means a transportation  
12 service offered or provided for the transportation of  
13 passengers by motor vehicle;

14 QQ. "permit" means the authority issued by the  
15 commission to a person that authorizes the person to offer  
16 and provide a permitted service as a motor carrier;

17 RR. "permitted service" means the intrastate  
18 transportation of passengers or household goods for hire  
19 pursuant to a contract between the motor carrier and another  
20 person;

21 SS. "predatory rate or practice" means the knowing  
22 and willful requirement by a carrier that a passenger or  
23 shipper pay a rate, fare or other charge in excess of the  
24 rates and charges or in a manner other than in accordance  
25 with terms of service as provided by law, as provided in a

1 tariff governing the carrier or as provided in a preexisting  
2 written contract regarding the carriage, when such charge is  
3 made:

4 (1) by a passenger carrier as a prior  
5 condition for the provision of transportation or continued  
6 transportation of a passenger; or

7 (2) as a prior condition by a towing service  
8 carrier performing nonconsensual tows or a household goods  
9 service carrier for delivery of, release of or access to  
10 vehicles or household goods by the shipper or registered  
11 owner;

12 TT. "process" means, in the context of legal  
13 process, an order, subpoena or notice issued by the  
14 commission or an order, subpoena, notice, writ or summons  
15 issued by a court;

16 UU. "property" means movable articles of value,  
17 including cadavers, hazardous matter, farm products,  
18 livestock feed, stock salt, manure, wire, posts, dairy  
19 products, livestock hauled in lots of twenty-five thousand  
20 pounds or more, farm or ranch machinery and the items  
21 transported by a towing service, but does not include  
22 household goods or unprocessed farm products transported by a  
23 farmer from the place of harvesting to market, storage or a  
24 processing plant;

25 VV. "protest" means a document in the form of a

1 pleading filed with the commission by a full-service carrier  
2 that expresses an objection to an application before the  
3 commission for a certificate for passenger service or for a  
4 permit for ambulance service or for passenger service  
5 pursuant to a public-charge contract or for amendment, lease  
6 or transfer of such a certificate or permit:

7 (1) when the territory involved in the  
8 application includes all or a portion of the full-service  
9 territory of the protesting carrier; and

10 (2) for a carrier other than an ambulance  
11 service carrier, when the grant of the application will, or  
12 presents a reasonable potential to, impair, diminish or  
13 otherwise adversely affect its existing provision of  
14 full-service passenger service to the public within its  
15 full-service territory;

16 WW. "public-charge contract" means a contract or  
17 contractual arrangement between a motor carrier and a third  
18 party for passenger service that requires or allows the motor  
19 carrier to charge passengers a fare for the transportation  
20 service to be provided pursuant to the contract;

21 XX. "rate" means a form of compensation charged,  
22 whether directly or indirectly, by a person for a  
23 transportation service subject to the jurisdiction of the  
24 commission;

25 YY. "record of a motor carrier" means an account,

1 correspondence, memorandum, tape, disc, paper, book or  
2 transcribed information, or electronic data information,  
3 including the electronic hardware or software necessary to  
4 access the electronic data information in its document form,  
5 regarding the operation of a motor carrier;

6 ZZ. "registration year" means a calendar year;

7 AAA. "revocation" means the involuntary, permanent  
8 termination of all or part of an operating authority ordered  
9 by the commission for cause;

10 BBB. "shipper" means a person who consigns or  
11 receives property or household goods for transportation;

12 CCC. "shuttle service" means the intrastate  
13 transportation of passengers for hire pursuant to a set fare  
14 for each passenger between two or more specified terminal  
15 points or areas and includes both scheduled shuttle service  
16 and general shuttle service as follows:

17 (1) "scheduled shuttle service" means a  
18 shuttle service that transports passengers to and from an  
19 airport both through prior arrangement and through  
20 presentment at terminal locations, on the basis of a daily  
21 time schedule filed with the commission, that must be met in  
22 a timely fashion with a vehicle present at the terminal  
23 location regardless of the number of passengers carried on  
24 any run, if any, and that includes general shuttle service;  
25 and

1                   (2) "general shuttle service" means a  
2 shuttle service that is not required to operate on a set  
3 schedule, that may optionally use a grid map to specify  
4 distant or adjacent terminal areas and that is not required  
5 to accept passengers other than pre-arranged passengers;

6                   DDD. "small passenger vehicle" means a passenger  
7 vehicle used by a passenger service other than an ambulance  
8 service with a carriage capacity of eight or fewer persons,  
9 including the driver, that is typically a sedan, sport  
10 utility vehicle or minivan; provided that a small passenger  
11 vehicle does not include a truck primarily designed to carry  
12 property, a stretcher van, a wheelchair van or an ambulance;

13                   EEE. "specialized passenger service" means a  
14 limousine service, a tour and sightseeing service or a  
15 service providing the intrastate transportation for hire of  
16 passengers with special physical needs by specialized types  
17 of vehicles as the commission may by rule provide;

18                   FFF. "tariff" means a document filed by a tariffed  
19 service carrier that has been approved by the commission and  
20 sets forth the transportation services offered by the motor  
21 carrier to the general public, including the rates, terms of  
22 service and applicable time schedules relating to those  
23 services;

24                   GGG. "tariffed service" means one of the following  
25 transportation services authorized by the commission for the

1 provision of service on the basis of rates and terms of  
2 service contained in a tariff approved by the commission:

- 3 (1) an ambulance service;
- 4 (2) a household goods service;
- 5 (3) a non-emergency medical transport  
6 service that charges passengers a fare for transportation;
- 7 (4) a shuttle service;
- 8 (5) a specialized passenger service;
- 9 (6) a taxicab service; or
- 10 (7) a towing service performing  
11 nonconsensual tows;

12 HHH. "taxicab association" means an association,  
13 cooperative or other legal entity whose members are taxicab  
14 drivers, which shall be treated in the same manner as any  
15 other applicant with regard to applications for a certificate  
16 for general taxicab service or for full-service municipal  
17 taxicab service and which shall be subject in the same manner  
18 to all other provisions, requirements and limitations of the  
19 Motor Carrier Act;

20 III. "taxicab service" means intrastate  
21 transportation of passengers for hire in small passenger  
22 vehicles for which the passenger or other person engaging the  
23 vehicle is allowed to specify not only the origin and  
24 destination points of the trip but also, within reason, the  
25 route taken by the vehicle, any intermediate stop, any

1 optional waiting at a stop and any other passengers  
2 transported during the trip and that charges a fare for use  
3 of the vehicle primarily on the basis of a drop-flag fee,  
4 cumulative mileage and cumulative wait time through a taxicab  
5 meter used to cumulate and display the fare to the passenger,  
6 or, at the passenger's option, carriage to a destination  
7 without passenger direction of route or waiting pursuant to a  
8 predetermined calculated full fare based on a drop-flag fee  
9 and cumulative mileage as provided by tariff, and may use  
10 variable pricing as provided by tariff, and includes both  
11 municipal taxicab service and general taxicab service, as  
12 follows:

13 (1) "municipal taxicab service" means a  
14 taxicab service that deploys vehicles for at least eighteen  
15 hours per day on all days of the year, is centrally  
16 dispatched and reasonably responds to all calls for service  
17 within its endorsed full-service territory regardless of  
18 profitability of the individual trip, in addition to the  
19 transportation service provided by a general taxicab service;  
20 and

21 (2) "general taxicab service" means a  
22 taxicab service that need not be dispatched, that may pick up  
23 on-demand passengers through flagging or at a taxicab stand  
24 or queue, that need not deploy vehicles in any particular  
25 manner and that may charge for trips to destination points or



1 places outside of the taxicab service's certificated  
2 territories on the basis of a set fare;

3 JJJ. "terms of service" means all terms, aspects,  
4 practices, limitations, conditions and schedules of service  
5 other than specific rate amounts pertaining to a tariffed  
6 service;

7 KKK. "towing service" means the use of specialized  
8 equipment, including repossession services using towing  
9 equipment, to transport or store:

10 (1) a damaged, disabled or abandoned motor  
11 vehicle and its cargo;

12 (2) a motor vehicle to replace a damaged,  
13 disabled or abandoned motor vehicle;

14 (3) parts and equipment to repair a damaged,  
15 disabled or abandoned motor vehicle;

16 (4) a motor vehicle whose driver has been  
17 declared unable to drive by a law enforcement officer;

18 (5) a motor vehicle whose driver has been  
19 removed from the scene or is unable to drive; or

20 (6) a motor vehicle repossessed or seized  
21 pursuant to lawful authority;

22 LLL. "transfer of a certificate or permit" means a  
23 permanent conveyance of all or part of a certificate or  
24 permit;

25 MMM. "transfer by operation of law" means that all SB 480  
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1 or a part of a grantee's interest in an operating authority  
2 passes to a fiduciary or other person by application of  
3 established rules of law;

4 NNN. "transportation service" means transportation  
5 subject to the jurisdiction of the commission, offered or  
6 provided by a motor carrier, that requires the carrier to  
7 obtain an operating authority from the commission under the  
8 Motor Carrier Act, regardless of whether the motor carrier  
9 has obtained appropriate operating authority from the  
10 commission;

11 OOO. "verification" means a notarized signature  
12 verifying the contents of the document or other filing or a  
13 signature verifying the contents of the document or other  
14 filing under penalty of perjury, expressly providing that the  
15 signatory swears or affirms the contents under penalty of  
16 perjury as provided in Subsection A of Section 65-2A-33 NMSA  
17 1978;

18 PPP. "voluntary suspension" means the  
19 commission-authorized cessation of use of all or part of a  
20 certificate or permit at the request of the holder for a  
21 specified period of time, not to exceed twelve consecutive  
22 months;

23 QQQ. "warrant" means the authority issued by the  
24 commission to a person that authorizes the person to offer  
25 and provide a warranted service as a motor carrier;

1           RRR. "warranted service" means one of the  
2 following intrastate transportation services offered or  
3 provided for hire:

- 4                   (1) a charter service;
- 5                   (2) a commuter service;
- 6                   (3) a non-emergency medical transport  
7 service;
- 8                   (4) a property transportation service; or
- 9                   (5) a towing service; and

10           SSS. "weight-bumping" means the knowing and  
11 willful statement of a fraudulent weight on a shipment of  
12 household goods."

13           SECTION 2. Section 65-2A-4 NMSA 1978 (being Laws 2003,  
14 Chapter 359, Section 4, as amended by Laws 2013, Chapter 73,  
15 Section 3 and by Laws 2013, Chapter 77, Section 3) is amended  
16 to read:

17           "65-2A-4. POWERS AND DUTIES OF THE COMMISSION.--

18           A. In accordance with the Motor Carrier Act, the  
19 commission shall:

20                   (1) issue operating authorities for a motor  
21 carrier operating in New Mexico;

22                   (2) establish minimum requirements for  
23 financial responsibility for motor carriers; provided that  
24 the financial responsibility standards required shall not be  
25 inconsistent with applicable federal standards;

1 (3) establish safety requirements for  
2 intrastate motor carrier motor vehicles and drivers subject  
3 to the jurisdiction of the commission; provided that the  
4 safety requirements shall not be inconsistent with or more  
5 stringent than applicable federal safety standards;

6 (4) establish reasonable requirements with  
7 respect to continuous and adequate service to be provided  
8 under an operating authority;

9 (5) regulate the rates of tariffed service  
10 carriers to the extent provided in the Motor Carrier Act,  
11 including rates and terms of service for storing household  
12 goods and motor vehicles;

13 (6) determine matters of public interest and  
14 other matters relating to authorities, rates, territories,  
15 nature of service and other terms of service of motor  
16 carriers;

17 (7) have jurisdiction to determine any  
18 matter under the Motor Carrier Act relating to any  
19 transportation service carrier that has not obtained an  
20 appropriate operating authority from the commission;

21 (8) subpoena witnesses and records, enforce  
22 its subpoenas through a court and, through the court, seek a  
23 remedy for contempt;

24 (9) hold a public hearing specific to a  
25 protest or a request by the transportation division of the

1 commission that has been filed within the notice period in  
2 opposition to or in consideration of an application;

3 (10) create a statewide tariff for household  
4 goods service carriers establishing maximum rates that may be  
5 charged by carriers; and

6 (11) adopt rules, issue orders and conduct  
7 activities necessary to implement and enforce the Motor  
8 Carrier Act.

9 B. The commission may:

10 (1) designate inspectors who may inspect the  
11 records of a motor carrier subject to the Motor Carrier Act  
12 and who shall have the powers of peace officers in the  
13 state's political subdivisions with respect to a law or rule  
14 that the commission is empowered to enforce pursuant to  
15 Section 65-1-6 NMSA 1978, excluding the enforcement authority  
16 granted to the motor transportation division of the  
17 department of public safety;

18 (2) institute civil actions in the district  
19 court of Santa Fe county in its own name to enforce the Motor  
20 Carrier Act, its orders and rules, and in the name of the  
21 state to recover assessments of administrative fines;

22 (3) from time to time, modify the type and  
23 nature of service, territory and terms of service of  
24 operating authorities previously issued, and change or  
25 rescind rates previously approved;

1 (4) establish statewide tariffs as needed  
2 for voluntary and optional use by tariffed service carriers  
3 and rates for the provision of medical services or treatment  
4 on scene by an ambulance service when the ambulance service  
5 does not provide transportation of the person treated; and

6 (5) adopt rules to implement these powers."

7 SECTION 3. Section 65-2A-6 NMSA 1978 (being Laws 2003,  
8 Chapter 359, Section 6, as amended by Laws 2013, Chapter 73,  
9 Section 5 and by Laws 2013, Chapter 77, Section 5) is amended  
10 to read:

11 "65-2A-6. NOTICE.--

12 A. The commission shall electronically publish  
13 notice regarding an application before the commission for a  
14 certificate or permit or for a change in a certificate or  
15 permit, regarding proposed rulemaking, or regarding other  
16 orders of the commission of general application, by posting a  
17 copy of the notice or document on the commission's internet  
18 web site and sending electronic mail to all motor carriers,  
19 public officials or agencies, or other persons or entities  
20 who have previously supplied electronic mail addresses to the  
21 commission for the purpose of publication, advising such  
22 persons of the filing and posting. Such notice shall be  
23 sufficient under law, regardless of any notice requirements  
24 under the Public Regulation Commission Act. If the  
25 commission in its discretion should also require publication

1 by newspaper, the requirement is met if notice is published  
2 once in a newspaper of general circulation in the state. The  
3 commission shall not act on an application for a certificate  
4 or permit or for an amendment, lease or transfer of a  
5 certificate or permit less than twenty days after the date  
6 notice was published.

7 B. Whenever the Motor Carrier Act requires  
8 publication of notice regarding any other matter, the  
9 requirement is met if notice is published once in a newspaper  
10 of general circulation in the state. The commission shall  
11 not act on a matter less than ten days after the date notice  
12 was published."

13 SECTION 4. Section 65-2A-12 NMSA 1978 (being Laws 2003,  
14 Chapter 359, Section 12, as amended by Laws 2013, Chapter 73,  
15 Section 11 and by Laws 2013, Chapter 77, Section 11) is  
16 amended to read:

17 "65-2A-12. WARRANTS.--

18 A. The commission shall issue a warrant that  
19 allows a person to provide warranted service as a commuter  
20 service, charter service, non-emergency medical transport  
21 service, towing service or motor carrier of property if the  
22 commission finds that the applicant is in compliance with the  
23 financial responsibility and safety requirements of the Motor  
24 Carrier Act and the rules of the commission.

25 B. In order to be eligible for issuance of a

1 non-emergency medical transport service warrant, an applicant  
2 shall have been issued and possess a currently valid letter  
3 of intent by the human services department to perform as a  
4 medicaid fee-for-service provider for non-emergency medical  
5 transportation of passengers.

6 C. A warranted non-emergency medical transport  
7 service shall be compensated for carriage either wholly  
8 through a contract with an authorized medicaid provider or by  
9 charging passengers a fare for transportation, but not both.  
10 A non-emergency medical transport service that charges  
11 passengers a fare for transportation is a tariffed service,  
12 shall file a warrant and is subject to tariff rates and terms  
13 of service. A warranted non-emergency medical transport  
14 service may add or change medicaid fee-for-service contract  
15 providers and may have multiple contract providers.

16 D. A warranted non-emergency medical transport  
17 service shall only provide scheduled medically or  
18 therapeutically necessary transportation of passengers to or  
19 from a required medical or therapeutic appointment and shall  
20 only provide transportation for passengers not requiring  
21 medical monitoring or medical intervention, including medical  
22 monitoring or medical intervention to maintain the  
23 passenger's level of response, airway, breathing and  
24 circulatory status, with the exception of self-administered  
25 oxygen. The use of self-administered oxygen shall not exceed



1 six liters per minute via a nasal cannula, and the oxygen  
2 container shall be secured in accordance with state and  
3 federal law.

4 E. A towing service carrier performing  
5 nonconsensual tows is subject to tariff rates and terms of  
6 service. A towing service carrier performing nonconsensual  
7 tows shall not use the same motor vehicles, equipment and  
8 facilities used by another warranted towing service carrier  
9 performing nonconsensual tows.

10 F. A warrant shall not be transferred or leased to  
11 another person.

12 G. The commission may without notice or a public  
13 hearing cancel a warrant if the owner fails to operate under  
14 the warrant for twelve consecutive months or fails to provide  
15 proof of financial responsibility as required by the  
16 commission for four consecutive months."

17 SECTION 5. Section 65-2A-18 NMSA 1978 (being Laws 2003,  
18 Chapter 359, Section 18, as amended by Laws 2013, Chapter 73,  
19 Section 16 and by Laws 2013, Chapter 77, Section 16) is  
20 amended to read:

21 "65-2A-18. FINANCIAL RESPONSIBILITY.--

22 A. Passenger services providing service in small  
23 passenger vehicles shall maintain for those vehicles a  
24 combined single-limit public liability insurance policy  
25 providing for a minimum level of coverage per occurrence for

1 bodily injury, death and property damage in at least the  
2 amount required for transportation network companies as  
3 primary automobile liability for death, bodily injury and  
4 property damage while a transportation network company driver  
5 is engaged in a prearranged ride, as provided in the  
6 Transportation Network Company Services Act. The commission  
7 shall prescribe minimum requirements for financial  
8 responsibility for the use of motor vehicles other than small  
9 passenger vehicles by all motor carriers.

10 B. A motor carrier shall not operate on the  
11 highways of this state without having filed with the  
12 commission proof of financial responsibility in the form and  
13 amount as the commission shall by rule prescribe.

14 C. In prescribing minimum requirements for  
15 financial responsibility for motor carriers, the commission  
16 shall adopt the same minimum liability insurance requirements  
17 as those required by the federal motor carrier safety  
18 administration for interstate motor carriers for all motor  
19 vehicles for carriage of property or household goods and for  
20 all passenger motor vehicles with such capacities. The  
21 commission shall adopt reasonable minimum liability insurance  
22 requirements for the use of passenger motor vehicles with  
23 capacities less than those regulated by the federal motor  
24 carrier safety administration and in doing so shall consider  
25 the number of passengers being transported and the nature of

1 the transportation services provided by the motor carriers  
2 using vehicles of those capacities.

3 D. The commission may authorize a motor carrier to  
4 carry its own insurance in lieu of filing a policy of  
5 insurance, certificate showing the issuance of a policy of  
6 insurance or a surety bond. In approving an application to  
7 be self-insured, the commission shall consider:

- 8 (1) the financial stability of the carrier;
- 9 (2) previous loss history of the carrier;
- 10 (3) the safety record of the carrier;
- 11 (4) the size, nature of operations and other  
12 operating characteristics of the carrier; and
- 13 (5) other factors necessary for the  
14 protection of passengers, shippers and the public.

15 E. Notwithstanding any requirement of the  
16 New Mexico Insurance Code to the contrary, the commission may  
17 accept proof of public liability insurance from an insurer  
18 not authorized in New Mexico if:

- 19 (1) the insurance is for an interstate motor  
20 carrier transporting commodities exempt from regulation by  
21 the federal motor carrier safety administration participating  
22 in the unified carrier registration system for those motor  
23 carriers; and

- 24 (2) the insurer is authorized to write  
25 public liability insurance in at least one other state.

1 F. All motor carriers shall carry proof of  
2 financial responsibility in each motor vehicle they operate  
3 in this state."

4 SECTION 6. Section 65-2A-19 NMSA 1978 (being Laws 2003,  
5 Chapter 359, Section 19, as amended by Laws 2013, Chapter 73,  
6 Section 17 and by Laws 2013, Chapter 77, Section 17) is  
7 amended to read:

8 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND  
9 DRIVERS.--

10 A. A motor carrier shall provide safe and adequate  
11 service, equipment and facilities for the rendition of  
12 transportation services in this state.

13 B. The commission shall prescribe safety  
14 requirements for drivers and for motor vehicles weighing  
15 twenty-six thousand pounds or less or carrying fifteen or  
16 fewer persons, including the driver, used by intrastate motor  
17 carriers operating in this state; provided that the  
18 commission shall not require safety standards for small  
19 passenger vehicles and the drivers of small passenger  
20 vehicles greater than those required for transportation  
21 network service drivers and driver vehicles pursuant to the  
22 Transportation Network Company Services Act. The commission  
23 may prescribe additional requirements related to safety for  
24 vehicles and drivers other than small passenger vehicles and  
25 the drivers of small passenger vehicles, including driver

1 safety training programs, vehicle preventive maintenance  
2 programs, inquiries regarding the safety of the motor  
3 vehicles and drivers employed by a motor carrier, and the  
4 appropriateness of the motor vehicles and equipment for the  
5 transportation services to be provided by the motor carrier.

6 C. A commuter service shall certify that it has a  
7 program providing for an initial drug test for a person  
8 seeking to be a commuter service driver. The program shall  
9 use reasonable collection and analysis procedures to ensure  
10 accurate results, require testing only for substances  
11 controlled by federal regulation of commercial motor carriers  
12 and ensure the confidentiality of the test results and  
13 medical information obtained.

14 D. The motor transportation division of the  
15 department of public safety may immediately order, without  
16 notice or a public hearing, a motor vehicle to be taken out  
17 of service for violation of a federal or state law or rule  
18 relating to safety if the violation would endanger the public  
19 health or safety.

20 E. The commission shall implement rules requiring  
21 carriers to obtain criminal background reports for all  
22 employed or contract drivers of certificated service carriers  
23 and for all other persons employed by certificated household  
24 goods service carriers who enter private dwellings in the  
25 course of household goods service."

1 SECTION 7. Section 65-2A-20 NMSA 1978 (being Laws 2003,  
2 Chapter 359, Section 20, as amended by Laws 2013, Chapter 73,  
3 Section 18 and by Laws 2013, Chapter 77, Section 18) is  
4 amended to read:

5 "65-2A-20. TARIFFS.--

6 A. A tariffed service carrier shall not commence  
7 operations or perform a new service under its operating  
8 authority without having an approved tariff on file with the  
9 commission.

10 B. A tariffed service carrier shall file with the  
11 commission proposed tariffs showing the rates for  
12 transportation and all related activities and containing a  
13 description of the type and nature of the service, territory  
14 and all terms of service for transportation and related  
15 services, and all other information required by the  
16 transportation division of the commission. The rates shall  
17 be stated in terms of United States currency. Each tariffed  
18 service carrier operating pursuant to a statewide tariff  
19 shall file with the commission a tariff statement referencing  
20 the statewide tariff being used along with all information  
21 required by the transportation division of the commission.

22 C. A tariffed service carrier shall not charge, or  
23 permit its agents, employees or contract drivers to charge, a  
24 different or additional rate, or to use different or  
25 additional practices or terms of service, for transportation

1 or for a service rendered to or for the user of the service  
2 other than the rates and terms of service specified in  
3 approved tariffs in effect at the time, except:

4 (1) for ambulance and household goods  
5 service carriers, in accordance with rates and terms of  
6 service established by federal or state law for federal or  
7 state governmental programs or operations; and

8 (2) for tariffed passenger service carriers  
9 other than ambulance service carriers, in accordance with the  
10 rates and terms of service established by governmental  
11 programs or operations in which they voluntarily participate.

12 D. A tariffed service carrier shall not pay or  
13 refund, directly or indirectly to any person, a portion of  
14 the rate specified in its approved tariff, offer to a person  
15 privileges or facilities, perform a service or remit anything  
16 of value, except:

17 (1) in accordance with tariffs approved by  
18 the commission;

19 (2) for ambulance and household goods  
20 service carriers, in accordance with rates and terms of  
21 service established by federal and state law for federal and  
22 state governmental entities, programs or operations;

23 (3) for tariffed passenger service carriers  
24 other than ambulance service carriers, in accordance with the  
25 rates and terms of service established by governmental

1 programs or operations in which they voluntarily participate;  
2 or

3 (4) in settling or resolving a claim by a  
4 customer.

5 E. The commission shall post on its internet web  
6 site electronic copies of all currently approved individual  
7 and statewide tariffs, and all tariff statements filed by  
8 carriers using statewide tariffs, in a manner to facilitate  
9 public access, review and comparison of rates and terms of  
10 service. A certificated passenger service carrier other than  
11 an ambulance service carrier shall post its tariff rates in  
12 each vehicle used in the provision of its transportation  
13 service.

14 F. A tariffed service carrier shall file an  
15 application with the commission for any change in the tariff,  
16 accompanied by the proposed tariff, at least ten days prior  
17 to implementation of the amended rates and terms of service  
18 contained in the tariff. Except as provided in this section  
19 for ambulance services and towing services providing  
20 nonconsensual tows, an amended tariff shall be approved and  
21 become effective ten days after filing of the application for  
22 a change in the tariff, except for specific terms of service  
23 as may be disapproved within that period by the  
24 transportation division of the commission.

25 G. No changes in terms of service disapproved by



1 the transportation division of the commission as inconsistent  
2 with the Motor Carrier Act, rule of the commission, the  
3 individual operating authority of the carrier or otherwise in  
4 violation of law shall become effective or be part of the  
5 approved tariff. The following terms of service contained in  
6 a tariff shall not be considered inconsistent with, or  
7 predatory or discriminatory in nature under the Motor Carrier  
8 Act or commission rule:

9 (1) a carrier may decline or terminate  
10 service under circumstances that reasonably appear to present  
11 a physical danger to the driver, to another employee of the  
12 carrier or to passengers or, for carriers other than  
13 ambulance service carriers, a danger to the condition of the  
14 motor vehicle or cargo;

15 (2) a carrier is not responsible for  
16 cancellations or delays due to weather or road conditions  
17 when reasonably required for safety or when due to road  
18 construction, road closures, law enforcement stops or similar  
19 matters beyond the control of the carrier;

20 (3) a passenger service carrier may require  
21 that all firearms carried by any passenger other than an  
22 authorized law enforcement officer be unloaded and placed in  
23 a locked area of the vehicle during transport, along with all  
24 ammunition and any other weapons; or

25 (4) a passenger service carrier other than

1 an ambulance service carrier may decline or terminate service  
2 when the passenger cannot give an adequate description of, or  
3 direction to, the destination or cannot transfer into or out  
4 of the motor vehicle without requiring physical assistance  
5 from the driver.

6 H. An application for amendment of tariff rates by  
7 an ambulance service or a towing service providing  
8 nonconsensual tows shall be submitted to the transportation  
9 division of the commission for review prior to filing and  
10 shall include all materials required by the commission. An  
11 application by an ambulance service or a towing service  
12 providing nonconsensual tows for amendment of tariff rates  
13 that increases any tariff rate to a level greater than that  
14 previously approved by the commission shall not become  
15 effective until approved by the commission as reasonable  
16 under Section 65-2A-21 NMSA 1978. The commission shall hold  
17 a hearing appropriate to the type of transportation service  
18 provided by the carrier for any such application, if  
19 requested by the applicant or by the transportation division  
20 of the commission, or if ordered in the discretion of the  
21 commission. The commission may provide for reasonable  
22 periodic rate increases pursuant to a rate escalator or  
23 adjustment clause for any or all rates of a carrier on such  
24 basis as the commission finds reasonable.

25 I. A person may make a complaint in writing to the SB 480  
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1 commission that a rate or term of service contained in a  
2 tariff, or a rate otherwise charged or practice otherwise  
3 effected, is inconsistent with or in violation of the Motor  
4 Carrier Act, commission rule or the operating authority or  
5 current tariff of the motor carrier. The commission may  
6 suspend the operation of a rate, term of service or practice  
7 for a period not to exceed sixty days to investigate its  
8 reasonableness. If the commission finds that a rate charged  
9 by a tariffed carrier, or a term of service or practice  
10 effected by a tariffed carrier, is unauthorized, predatory or  
11 discriminatory, the commission shall prescribe the rate or  
12 the maximum or minimum rate to be observed or the terms of  
13 service to be made effective."

14 SECTION 8. Section 65-2A-24 NMSA 1978 (being Laws 2003,  
15 Chapter 359, Section 24, as amended by Laws 2013, Chapter 73,  
16 Section 22 and by Laws 2013, Chapter 77, Section 22) is  
17 amended to read:

18 "65-2A-24. MOTOR VEHICLE LEASES--DRIVER CONTRACTS.--

19 A. An intrastate motor carrier may lease a motor  
20 vehicle or operate a leased motor vehicle in the course of  
21 its transportation service by providing notice to the  
22 transportation division of the commission in such form and  
23 manner as may be provided by commission rule and by paying  
24 the fee specified for an equipment lease pursuant to Section  
25 65-2A-36 NMSA 1978. The leased vehicle shall comply with all

1 applicable laws and all safety and financial responsibility  
2 requirements under the Motor Carrier Act and commission rule  
3 for the nature of the transportation service and vehicle  
4 before being placed into service, and the motor carrier  
5 leasing the vehicle shall be and remain responsible at all  
6 times for insuring that the leased vehicle complies with all  
7 applicable laws and all safety and financial responsibility  
8 requirements under the Motor Carrier Act and commission rule.

9 B. A motor carrier may use employed or contract  
10 drivers or taxicab association member drivers in the  
11 provision of a transportation service. Regardless of the  
12 provisions of any written or oral agreement between a motor  
13 carrier and a contract driver or taxicab association member  
14 driver, motor carriers providing transportation services that  
15 use contract drivers or taxicab association member drivers  
16 remain fully responsible to the commission for complying with  
17 all provisions of the Motor Carrier Act and commission rules  
18 applicable to transportation service carriers.

19 C. Motor carriers providing intrastate  
20 transportation services that use contract drivers or taxicab  
21 association member drivers shall maintain, at their principal  
22 places of business within the state, a current written  
23 agreement with each such driver. No agreement with any  
24 contract driver or taxicab association member driver shall  
25 contain any provision contrary to a provision of the Motor

1 Carrier Act or a rule of the commission. Each written  
2 agreement shall contain a clause that requires the contract  
3 driver or taxicab association member driver to adhere to all  
4 provisions of the Motor Carrier Act and to all commission  
5 rules applicable to transportation service carriers."

6 SECTION 9. Section 65-2A-35 NMSA 1978 (being Laws 2003,  
7 Chapter 359, Section 35) is amended to read:

8 "65-2A-35. APPEAL TO SUPREME COURT.--

9 A. A motor carrier or other interested person  
10 aggrieved by a final order or determination of the commission  
11 issued pursuant to the Motor Carrier Act may appeal to the  
12 supreme court within thirty days; provided that, if a motion  
13 to reopen, reconsider or rehear a final order or  
14 determination of the commission is timely filed pursuant to  
15 commission rule, the time for appeal shall be extended until  
16 thirty days after the commission's disposition of such  
17 motion. The appellant shall pay to the commission the costs  
18 of preparing and transmitting the record to the court.

19 B. The pendency of an appeal shall not  
20 automatically stay the order appealed from. The appellant  
21 may petition the commission or the supreme court for a stay  
22 of the order. If a motion to reopen, reconsider or rehear a  
23 final order or determination of the commission is timely  
24 filed pursuant to commission rule, the commission shall  
25 retain jurisdiction to rule on any such motion regardless of

1 the filing of an appeal.

2 C. The appeal shall be on the record of the  
3 hearing before the commission and shall be governed by the  
4 appellate rules applicable to administrative appeals. The  
5 supreme court shall affirm the commission's order unless it  
6 is:

7 (1) arbitrary, capricious or an abuse of  
8 discretion;

9 (2) not supported by substantial evidence in  
10 the record; or

11 (3) otherwise not in accordance with law."

12 SECTION 10. Section 65-2A-39 NMSA 1978 (being Laws  
13 2003, Chapter 359, Section 39) is amended to read:

14 "65-2A-39. EFFECT ON MUNICIPAL POWERS.--

15 A. Nothing contained in the Motor Carrier Act  
16 shall be construed:

17 (1) to limit or restrict the police  
18 jurisdiction or power of a municipality over its streets,  
19 highways and public places except as otherwise provided by  
20 law; and

21 (2) in respect to matters other than rates  
22 and service regulations, to repeal a power of a municipality:

23 (a) to adopt and enforce reasonable  
24 police regulations and ordinances in the interest of the  
25 public safety, morals and convenience; or

1 (b) to protect the public against  
2 fraud, imposition or oppression by motor carriers within  
3 their respective jurisdiction.

4 B. No municipality or other local entity may  
5 impose a tax on or require a license for a transportation  
6 service for the delivery of passenger transportation service,  
7 except for generally applicable business licenses or taxes.

8 C. Nothing in this section prohibits an airport  
9 with more than one million annual enplanements, as reported  
10 by the federal aviation administration in the previous  
11 calendar year, from charging transportation passenger  
12 lane access, parking, booth rental or similar set fees or  
13 from establishing other requirements to operate at that  
14 airport."

15 SECTION 11. A new section of the Motor Carrier Act is  
16 enacted to read:

17 "TRANSITION.--Certificates and permits for specialized  
18 service as a non-emergency medical transport service issued  
19 prior to July 1, 2017 shall, on and after that date, become  
20 warrants for non-emergency medical transport service. The  
21 commission may require holders of such certificates and  
22 permits to exchange their certificates for newly issued  
23 warrants."

24 SECTION 12. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2017. \_\_\_\_\_