

AN ACT

RELATING TO THE PUBLIC REGULATION COMMISSION; CLARIFYING  
TERMS AND DUTIES REGARDING THE OPERATION OF THE PUBLIC  
REGULATION COMMISSION; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 8-8-7 NMSA 1978 (being Laws 1998,  
Chapter 108, Section 7) is amended to read:

"8-8-7. ADMINISTRATIVE SERVICES DIVISION-- CHIEF  
CLERK. --

A. The director of the administrative services  
division of the commission shall record the judgments, rules,  
orders and other proceedings of the commission and make a  
complete index to the judgments, rules, orders and other  
proceedings; issue and attest all processes issuing from the  
commission and affix the seal of the commission to them; and  
preserve the seal and other property belonging to the  
commission.

B. The administrative services division includes  
the "corporations bureau" and shall perform the following  
functions:

- (1) case docketing;
- (2) budget and accounting;
- (3) personnel services;
- (4) procurement; and

(5) information systems services.

C. The corporations bureau shall perform the functions of the corporations department of the former state corporation commission. "

Section 2. Section 63-7-1 NMSA 1978 (being Laws 1912, Chapter 78, Section 1, as amended) is amended to read:

"63-7-1. PUBLIC REGULATION COMMISSION--TERM DEFINED--OFFICE.--The term "commission", as used in Chapter 63, Article 7 NMSA 1978, means the public regulation commission. The office of the commission shall be located in the city of Santa Fe, New Mexico. "

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

C. "certificate" means a certificate of public

convenience and necessity issued under authority of the laws of the state to common motor carriers;

D. "chief of staff" means the chief of staff of the public regulation commission;

E. "commission" means the public regulation commission;

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

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

H. "farm carrier" means a motor vehicle registered in this state being used in the transportation for hire of a cargo consisting of one or several of the following: farm produce, including grains, cotton, cottonseed, vegetables, hay and other farm products; livestock feed; livestock; stock salt; manure; wire; posts;

dairy products; and farm or ranch machinery except tractors weighing more than forty-five thousand pounds;

I. "highway" means the public roads, highways, streets and ways in this state;

J. "household goods" means:

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

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

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

K. "interested parties" shall in all cases include all carriers operating over the routes or any part thereof or in the territory involved in an application for a certificate or permit or an application to file or change a schedule of rates, charges or fares or a rule or practice, and other parties as the commission may deem interested in the particular matter;

L. "irregular route" means that the route to be used by a motor carrier is not restricted to any specific highway within the area the motor carrier is authorized to serve;

M. "lease" means an arrangement whereby a motor carrier augments his equipment by use of equipment owned by others;

N. "license" means a license issued pursuant to the Motor Carrier Act to a broker;

O. "motor carrier" includes common motor carriers, contract motor carriers and any person performing for-hire transportation service without authority from the commission and farm carriers;

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

Q. "permit" means a permit issued under authority of the laws of this state to contract motor carriers;

R. "person" means an individual, firm, partnership, corporation, company, association or organization and includes any trustee, receiver, assignee or personal representative thereof;

S. "regular route" means a fixed, specific and determined course to be traveled by a motor carrier's vehicles rendering service to, from or between various points, localities or municipalities in this state;

T. the "services" and "transportation" to which the Motor Carrier Act applies include all vehicles operated by, for or in the interest of any motor carrier irrespective of ownership or of contract, express or implied, together with all facilities and property controlled by any motor

carrier and used in the transportation of persons or property or in the performance of any service in connection therewith;

U. "shipper" means a person who consigns or receives goods for transportation;

V. "single-line rate" means a rate, charge or allowance proposed by a single common motor carrier of property that is applicable only over its line and for which the transportation can be provided by that common motor carrier;

W. "state" means New Mexico;

X. "towing company" means a common motor carrier engaged in transporting for hire disabled or abandoned motor vehicles by means of a tow truck or flatbed vehicle carrier; and

Y. "weight-bumping" means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods that is subject to the jurisdiction of the commission under the Motor Carrier Act. "

Section 4. Section 65-2-106 NMSA 1978 (being Laws 1981, Chapter 358, Section 27) is amended to read:

"65-2-106. WITNESSES--FEES AND CHARGES--ATTENDANCE AND TESTIMONY REQUIRED--PRODUCTION OF DOCUMENTS REQUIRED-- COMPELLING ATTENDANCE AND TESTIMONY--OATHS--CERTIFICATIONS-- SUBPOENAS--SERVICE--QUORUM--INVESTIGATION--TAKING TESTIMONY.-

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A. Each witness who appears before the commission by its order shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state out of the public regulation commission motor transportation fund upon the presentation of proper vouchers; but no witness subpoenaed at the instance of parties other than the commission is entitled to compensation from the state for attendance and travel.

B. No person shall be excused from attending and testifying or from producing books and papers before the commission or in obedience to the subpoena of the commission, whether the subpoena is signed or issued by one or more of the members of the commission in any investigation held by or before the commission or in any cause or proceeding in any court by or against the commission, relative to matters provided for in the Motor Carrier Act, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; provided that nothing contained in this section shall be construed as requiring any person to produce any books or papers or to testify in response to any inquiry not pertinent to some question lawfully before the commission or court for determination.

No person shall be prosecuted or subjected to any penalty or

forfeiture for or on account of any transaction, matter or thing concerning that he may be required to testify or produce evidence, documentary or otherwise, before the commission or in obedience to its subpoena or in any such cause or proceedings; provided that no person testifying is exempted from prosecution and punishment for perjury committed in so testifying.

C. In case of failure or refusal on the part of any person to comply with any subpoena issued by the commission or any member of the commission or on the refusal of any witness to testify or answer as to any matters regarding which he may be lawfully interrogated, any district court in this state or any judge thereof, on application of a member of the commission, may issue an attachment for the person and compel him to comply with the subpoena and to attend before the commission and produce the documents and give his testimony upon the matters as may be lawfully required, and the court or judge has the power to punish for contempt as in cases of disobedience of a like subpoena issued by or from the court or a refusal to testify therein.

D. Each of the members of the commission, for the purposes mentioned in the Motor Carrier Act and in all hearings before the commission, may administer oaths, certify to official acts, issue subpoenas and compel the attendance of witnesses and the production of books and papers.



