

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 219

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

INTRODUCED BY

Richard D. Vigil

AN ACT

RELATING TO MOTOR VEHICLES; UPDATING THE DEFINITION OF
"COMMERCIAL MOTOR CARRIER VEHICLE" AND "COMMERCIAL MOTOR
VEHICLE" IN CERTAIN SECTIONS OF THE MOTOR TRANSPORTATION ACT
AND THE MOTOR VEHICLE CODE IN ORDER TO COMPLY WITH FEDERAL
REGULATIONS; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1. Section 65-1-2 NMSA 1978 (being Laws 1978,
Chapter 19, Section 1, as amended) is amended to read:

"65-1-2. DEFINITIONS. -- As used in the Motor
Transportation Act:

A. "combination" means any connected assemblage of
a motor vehicle and one or more semitrailers, trailers or
semitrailers converted to trailers by means of a converter
gear;

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 B. "combination gross vehicle weight" means the
2 sum total of the gross vehicle weights of all units of a
3 combination;

4 C. "commercial motor carrier vehicle" means [~~any~~
5 ~~motor vehicle with a gross vehicle weight of twelve thousand~~
6 ~~pounds or more used or reserved for use in the transportation~~
7 ~~of persons or property for hire, compensation or profit or in~~
8 ~~the furtherance of a commercial enterprise or any vehicle~~
9 ~~designed, used or maintained primarily for the transportation~~
10 ~~of property or for drawing other vehicles so designed, used or~~
11 ~~maintained]~~ a self-propelled or towed vehicle, other than
12 special mobile equipment, used on public highways in commerce
13 to transport passengers or property when the vehicle:

14 (1) is operated interstate and has a gross
15 vehicle weight rating or gross combination weight rating, or
16 gross vehicle weight or gross combination weight, of four
17 thousand five hundred thirty-six kilograms, or ten thousand
18 one pounds or more; or is operated only in intrastate commerce
19 and has a gross vehicle weight rating or gross combination
20 weight rating, or gross vehicle weight or gross combination
21 weight, of twenty-six thousand one or more pounds;

22 (2) is designed or used to transport more
23 than eight passengers, including the driver, and is used to
24 transport passengers for compensation;

25 (3) is designed or used to transport more

underscored material = new
[bracketed material] = delete

1 than fifteen passengers, including the driver, and is not used
2 to transport passengers for compensation; or

3 (4) is used to transport hazardous materials
4 of the type or quantity requiring placarding under rules
5 prescribed by applicable federal or state law;

6 D. "converter gear" means any assemblage of one or
7 more axles with a fifth wheel mounted thereon designed for use
8 in a combination to support the front end of a semitrailer,
9 but not permanently attached thereto. A "converter gear"
10 shall not be considered a vehicle as that term is used in
11 Chapter 66 NMSA 1978, but weight attributable thereto shall be
12 included in declared gross weight;

13 E. "declared gross weight" means maximum gross
14 vehicle weight or combination gross vehicle weight at which a
15 vehicle or combination will be operated during the
16 registration period as declared by the registrant for
17 registration and fee purposes. The vehicle or combination
18 shall have only one "declared gross weight" for all operating
19 considerations;

20 F. "department", without modification, means the
21 department of public safety, the secretary of public safety or
22 any employee of the department exercising authority lawfully
23 delegated to that employee by the secretary;

24 G. "director" means the secretary;

25 H. "division" means the motor transportation

underscored material = new
[bracketed material] = delete

1 division of the department;

2 I. "evidence of registration" means [~~any~~]
3 documentation issued by the taxation and revenue department
4 identifying a motor carrier vehicle as being registered with
5 New Mexico or documentation issued by another state pursuant
6 to the terms of a multistate agreement on registration of
7 vehicles to which this state is a party identifying a motor
8 carrier vehicle as being registered with that state; provided
9 that evidence of payment of the weight distance tax and
10 permits obtained under either the Special Fuels Supplier Tax
11 Act or Trip Tax Act are not "evidence of registration";

12 J. "field enforcement" or "in the field" means
13 patrolling of the highway, stopping of commercial motor
14 carrier vehicles or establishing ports of entry and roadblocks
15 for the purpose of checking motor carriers and includes
16 similar activities;

17 K. "freight trailer" means any trailer,
18 semitrailer or pole trailer drawn by a truck tractor or road
19 tractor and any trailer, semitrailer or pole trailer drawn by
20 a truck that has a gross vehicle weight of more than twenty-
21 six thousand pounds, but the term does not include house
22 trailers, trailers of less than one-ton carrying capacity used
23 to transport animals or fertilizer trailers of less than three
24 thousand five hundred pounds empty weight;

25 L. "gross vehicle weight" means the weight of a

underscored material = new
[bracketed material] = delete

1 vehicle without load plus the weight of any load thereon;

2 M. "motor carrier" means any person ~~[or firm]~~ that
3 owns, controls, operates or manages any motor vehicle with
4 gross vehicle weight of twelve thousand pounds or more that is
5 used to transport persons or property on the public highways
6 of this state;

7 N. "motor vehicle" means any vehicle or device
8 that is propelled by an internal combustion engine or electric
9 motor power that is used or may be used on the public highways
10 for the purpose of transporting persons or property and
11 includes any connected trailer or semitrailer;

12 O. "one-way rental fleet" means two or more
13 vehicles each having a gross vehicle weight of under twenty-
14 six thousand one pounds and rented to the public without a
15 driver;

16 P. "person" means any individual, estate, trust,
17 receiver, cooperative association, club, corporation, company,
18 firm, partnership, joint venture, syndicate or other
19 association; "person" also means, to the extent permitted by
20 law, any federal, state or other governmental unit or
21 subdivision or an agency, department or instrumentality
22 thereof; "person" also includes an officer or employee of a
23 corporation, a member or employee of a partnership or any
24 individual who, as such, is under a duty to perform any act in
25 respect of which a violation occurs;

. 139310. 1

underscored material = new
[bracketed material] = delete

1 Q. "properly registered" means bearing the
2 lawfully issued and currently valid evidence of registration
3 of this or another jurisdiction, regardless of the owner's
4 residence, except in those cases where the evidence has been
5 procured by misrepresentation or fraud;

6 R. "public highway" means every way or place
7 generally open to the use of the public as a matter of right
8 for the purpose of vehicular travel, even though it may be
9 temporarily closed or restricted for the purpose of
10 construction, maintenance, repair or reconstruction;

11 S. "secretary" means the secretary of public
12 safety and, except for the purposes of 65-1-33 NMSA 1978, also
13 includes the deputy secretary and any division director
14 delegated by the secretary;

15 T. "state" or "jurisdiction" means a state,
16 territory or possession of the United States, the District of
17 Columbia, the commonwealth of Puerto Rico, a foreign country
18 or a state or province of a foreign country; and

19 U. "utility trailer" means any trailer,
20 semitrailer or pole trailer and includes house trailers that
21 exceed neither eight feet in width nor forty feet in length,
22 but does not include freight trailers, trailers of less than
23 one-ton carrying capacity used to transport animals or
24 fertilizer trailers of less than three thousand five hundred
25 pounds empty weight. "

. 139310. 1

underscored material = new
[bracketed material] = delete

1 Section 2. Section 65-3-3 NMSA 1978 (being Laws 1989,
2 Chapter 201, Section 4, as amended) is amended to read:

3 "65-3-3. APPLICABILITY. --

4 A. Notwithstanding any provision of the Motor
5 Vehicle Code to the contrary, the provisions of the Motor
6 Carrier Safety Act and the regulations promulgated under that
7 act shall apply to ~~[the following motor vehicles]~~ a commercial
8 motor carrier vehicle operating on the public highways of New
9 Mexico of a type that:

10 ~~[(1) interstate commercial motor carrier~~
11 ~~vehicles with a declared gross vehicle weight of over ten~~
12 ~~thousand pounds;~~

13 ~~(2) intrastate commercial motor carrier~~
14 ~~vehicles with a declared gross vehicle weight of over twenty-~~
15 ~~six thousand pounds;~~

16 ~~(3) buses designed to transport sixteen or~~
17 ~~more passengers, including the driver; or~~

18 ~~(4) motor vehicles transporting hazardous~~
19 ~~materials of a type or quantity requiring placarding under~~
20 ~~applicable state or federal law]~~

21 (1) is operated interstate and has a gross
22 vehicle weight rating or gross combination weight rating, or
23 gross vehicle weight or gross combination weight, of four
24 thousand five hundred thirty-six kilograms, or ten thousand
25 one pounds or more; or is operated only in intrastate commerce

. 139310. 1

underscored material = new
[bracketed material] = delete

1 and has a gross vehicle weight rating or gross combination
2 weight rating, or gross vehicle weight or gross combination
3 weight, of twenty-six thousand one or more pounds;

4 (2) is designed or used to transport more
5 than eight passengers, including the driver, and is used to
6 transport passengers for compensation;

7 (3) is designed or used to transport more
8 than fifteen passengers, including the driver, and is not used
9 to transport passengers for compensation; or

10 (4) is used to transport hazardous materials
11 of the type or quantity requiring placarding under rules
12 prescribed by applicable federal or state law.

13 B. Whenever a [~~motor vehicle~~] commercial motor
14 carrier vehicle of one type is used to perform the functions
15 normally performed by a motor vehicle of another type, the
16 requirements of the Motor Carrier Safety Act shall apply to
17 that motor vehicle and to its operation as if that motor
18 vehicle were actually a motor vehicle of the latter type.

19 C. Whenever a duty is prescribed for a driver or a
20 prohibition is imposed upon the driver pursuant to the
21 provisions of the Motor Carrier Safety Act, it shall be the
22 duty of the motor carrier to require observance of such
23 prescription or prohibition. If the motor carrier is also the
24 driver, the motor carrier shall likewise be bound. "

25 Section 3. Section 66-1-4.3 NMSA 1978 (being Laws 1990,

. 139310. 1

underscored material = new
[bracketed material] = delete

1 Chapter 120, Section 4, as amended) is amended to read:

2 "66-1-4.3. DEFINITIONS.--As used in the Motor Vehicle
3 Code:

4 A. "camping body" means a vehicle body primarily
5 designed or converted for use as temporary living quarters for
6 recreational, camping or travel activities;

7 B. "camping trailer" means a camping body, mounted
8 on a chassis, or frame with wheels, designed to be drawn by
9 another vehicle and that has collapsible partial side walls
10 that fold for towing and unfold at the campsite;

11 C. "cancellation" means that a driver's license is
12 annulled and terminated because of some error or defect or
13 because the licensee is no longer entitled to the license, but
14 cancellation of a license is without prejudice, and
15 application for a new license may be made at any time after
16 cancellation;

17 D. "casual sale" means the sale of a motor vehicle
18 by the registered owner of the vehicle if the owner has not
19 sold more than four vehicles in that calendar year;

20 E. "chassis" means the complete motor vehicle,
21 including standard factory equipment, exclusive of the body
22 and cab;

23 F. "collector" means a person who is the owner of
24 one or more vehicles of historic or special interest who
25 collects, purchases, acquires, trades or disposes of these

. 139310. 1

underscored material = new
[bracketed material] = delete

1 vehicles or parts thereof for the person's own use in order to
2 preserve, restore and maintain a similar vehicle for hobby
3 purposes;

4 G. "combination" means any connected assemblage of
5 a motor vehicle and one or more semitrailers, trailers or
6 semitrailers converted to trailers by means of a converter
7 gear;

8 H. "combination gross vehicle weight" means the
9 sum total of the gross vehicle weights of all units of a
10 combination;

11 I. "commerce" means the transportation of persons,
12 property or merchandise for hire, compensation, profit or in
13 the furtherance of a commercial enterprise in this state or
14 between New Mexico and a place outside New Mexico, including a
15 place outside the United States;

16 J. "commercial motor vehicle" means ~~[a motor~~
17 ~~vehicle used in commerce;~~

18 ~~(1) if the vehicle has a declared gross~~
19 ~~vehicle weight rating of twenty-six thousand one or more~~
20 ~~pounds;~~

21 ~~(2) if the vehicle is designed to transport~~
22 ~~sixteen or more passengers, including the driver; or~~

23 ~~(3) if the vehicle is transporting hazardous~~
24 ~~materials and is required to be placarded pursuant to~~
25 ~~applicable law] a self-propelled or towed vehicle, other than~~

underscored material = new
[bracketed material] = delete

1 special mobile equipment, used on public highways in commerce
2 to transport passengers or property when the vehicle:

3 (1) is operated interstate and has a gross
4 vehicle weight rating or gross combination weight rating, or
5 gross vehicle weight or gross combination weight, of four
6 thousand five hundred thirty-six kilograms, or ten thousand
7 one pounds or more; or is operated only in intrastate commerce
8 and has a gross vehicle weight rating or gross combination
9 weight rating, or gross vehicle weight or gross combination
10 weight, of twenty-six thousand one or more pounds;

11 (2) is designed or used to transport more
12 than eight passengers, including the driver, and is used to
13 transport passengers for compensation;

14 (3) is designed or used to transport more
15 than fifteen passengers, including the driver, and is not used
16 to transport passengers for compensation; or

17 (4) is used to transport hazardous materials
18 of the type or quantity requiring placarding under rules
19 prescribed by applicable federal or state law;

20 K. "controlled-access highway" means every
21 highway, street or roadway in respect to which owners or
22 occupants of abutting lands and other persons have no legal
23 right of access to or from the highway, street or roadway
24 except at those points only and in the manner as may be
25 determined by the public authority having jurisdiction over

. 139310. 1

underscored material = new
[bracketed material] = delete

1 the highway, street or roadway;

2 L. "controlled substance" means any substance
3 defined in Section 30-31-2 NMSA 1978 as a controlled
4 substance;

5 M. "converter gear" means any assemblage of one or
6 more axles with a fifth wheel mounted thereon, designed for
7 use in a combination to support the front end of a semitrailer
8 but not permanently attached thereto. A converter gear shall
9 not be considered a vehicle, as that term is defined in
10 Section 66-1-4.19 NMSA 1978, but weight attributable thereto
11 shall be included in declared gross weight;

12 N. "conviction" means the alleged violator has
13 entered a plea of guilty or nolo contendere or has been found
14 guilty in the trial court and has waived or exhausted all
15 rights to an appeal;

16 O. "crosswalk" means:

17 (1) that part of a roadway at an intersection
18 included within the connections of the lateral lines of the
19 sidewalks on opposite sides of the highway measured from the
20 curbs or, in the absence of curbs, from the edges of the
21 traversable roadway; and

22 (2) any portion of a roadway at an
23 intersection or elsewhere distinctly indicated for pedestrian
24 crossing by lines or other markings on the surface; and

25 P. "curb cut" means a short ramp through a curb or

. 139310. 1

underscored material = new
[bracketed material] = delete

1 built up to the curb."

2 Section 4. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2002.

4 - 13 -

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25