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SENATE BILL 201

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Steven P. Neville and Peter Wirth

AN ACT

RELATING TO TRANSPORTATION; CLARIFYING DUTIES FOR THE DEPARTMENT OF TRANSPORTATION RELATED TO THE REGULATION OF RAILWAY COMPANIES, TRANSPORTATION NETWORK COMPANIES AND MOTOR CARRIERS; CHANGING THE APPEALS PROCESS BY MAKING DEPARTMENT DECISIONS APPEALABLE TO DISTRICT COURT; UPDATING DEFINITIONS AND OTHER PROVISIONS OF THE MOTOR CARRIER ACT; REPEALING SECTIONS OF THE NMSA 1978 RELATING TO CARRIER INSPECTION FEES.

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) 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

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1 application or its operating authority in the territory
2 authorized or sought to be authorized;

3 B. "ambulance service" means the intrastate
4 transportation of sick or injured persons in an ambulance
5 meeting the standards established by the department under the
6 Ambulance Standards Act;

7 C. "amendment of a certificate" means a permanent
8 change in the type or nature of service, territory or terms of
9 service authorized by an existing certificate;

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

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

17 F. "cancellation of an operating authority" means
18 the voluntary, permanent termination of all or part of an
19 operating authority;

20 G. "certificate" means the authority issued by the
21 department to a person that authorizes the person to offer and
22 provide a certificated service as a motor carrier;

23 H. "certificated service" means one of the
24 following transportation services:

25 (1) an ambulance service;

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- 1 (2) a household goods service;
- 2 (3) a shuttle service;
- 3 (4) a specialized passenger service; or
- 4 (5) a taxicab service;

5 I. "change in a certificate" means the voluntary
6 amendment, cancellation, change in form of legal entity of the
7 holder, lease, reinstatement, transfer or voluntary suspension
8 of a certificate;

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

16 K. "commuter service" means the intrastate
17 transportation of passengers in motor vehicles having a
18 capacity of seven to fifteen persons, including the driver,
19 provided to a volunteer-driver commuter group that shares rides
20 to and from the workplace or training site, where participation
21 is incidental to the primary work or training-related purposes
22 of the commuter group, and where the fees paid by the
23 participants do not exceed the costs for transportation,
24 including gas and other trip-related expenses;

25 L. "compliance unit" means the designated unit

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1 within the department tasked with conducting administrative
2 activities necessary to implement and enforce the provisions of
3 the Motor Carrier Act;

4 ~~[E.]~~ M. "continuous and adequate service" means:

5 (1) for full-service carriers, reasonably
6 continuous availability, offering and provision of
7 transportation services through motor vehicles, equipment and
8 resources satisfying safety and financial responsibility
9 requirements under the Motor Carrier Act and department rule,
10 that are reasonably adequate to serve the entire full-service
11 territory authorized in the certificate, with reasonable
12 response to all requests for service for the nature of
13 passenger service authorized, based on the nature of public
14 need, expense and volume of demand for the type of service
15 authorized during seasonal periods; and

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

22 ~~[M.]~~ N. "contract driver" means a person who
23 contracts with a motor carrier as an independent contractor to
24 drive a vehicle pursuant to an operating authority issued to
25 the motor carrier;

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1 ~~[N.]~~ O. "department" means the department of
2 transportation;

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

9 ~~[P.]~~ Q. "fare" means the full compensation charged
10 for transportation by a tariffed passenger service;

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

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

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

23 ~~[T.]~~ U. "full service" means one of the following
24 certificated passenger services that are endorsed and required
25 to meet specific standards for the provision of service to or

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1 throughout a community:

2 (1) an ambulance service;

3 (2) a scheduled shuttle service; or

4 (3) a municipal taxicab service;

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

9 (1) a general shuttle service;

10 (2) a general taxicab service;

11 (3) a specialized passenger service; or

12 (4) a household goods service;

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

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

22 [~~X.~~] Y. "household goods" means personal effects
23 and property used or to be used in a dwelling when a part of
24 the equipment or supply of the dwelling and other similar
25 property as the federal motor carrier safety administration may

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1 provide by regulation, but shall not include property moving to
2 or from a factory or store, other than property the householder
3 has purchased to use in the householder's dwelling that is
4 transported at the request of, and the transportation charges
5 are paid to the carrier by, the householder;

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

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

15 ~~[AA.]~~ BB. "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.]~~ CC. "intrastate motor carrier" means a motor
20 carrier offering or providing transportation for hire by motor
21 vehicle between points and places in the state;

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

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

7 ~~[EE-]~~ FF. "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 between~~
11 ~~a motor carrier and its contract driver;~~

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

16 ~~[GG-]~~ HH. "motor carrier organization" means an
17 organization approved by the department 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-]~~ II. "motor vehicle" or "vehicle" means a
22 vehicle, machine, tractor, trailer or semitrailer propelled or
23 drawn 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

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1 exclusively on rails;

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

11 ~~[KK-]~~ LL. "notice period" means the period of time
12 specified in Section 65-2A-6 NMSA 1978; ~~[following publication~~
13 ~~of notice during which the department may not act;~~

14 ~~[LL-]~~ MM. "objection" means a document filed with
15 the department by an interested person or a member of the
16 public during the notice period for an application for a
17 certificate, or for amendment, lease or transfer of a
18 certificate, that expresses an objection to, or provides
19 information concerning, the matter before the department;

20 ~~[MM-]~~ NN. "operating authority" means a
21 certificate, warrant, unified carrier registration or temporary
22 authority issued by the department to a motor carrier;

23 ~~[NN-]~~ OO. "passenger" means a person other than the
24 driver of a motor vehicle transported in a motor vehicle;

25 ~~[OO-]~~ PP. "passenger service" means a

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1 transportation service offered or provided for the
2 transportation of passengers by motor vehicle;

3 ~~[PP-]~~ QQ. "predatory rate or practice" means the
4 knowing and willful requirement by a carrier that a passenger
5 or shipper pay a rate, fare or other charge in excess of the
6 rates and charges or in a manner other than in accordance with
7 terms of service as provided by law, as provided in a tariff
8 governing the carrier or as provided in a preexisting written
9 contract regarding the carriage, when such charge is made:

10 (1) by a passenger carrier as a prior
11 condition for the provision of transportation or continued
12 transportation of a passenger; or

13 (2) as a prior condition by a towing service
14 carrier performing nonconsensual tows or a household goods
15 service carrier for delivery of, release of or access to
16 vehicles or household goods by the shipper or registered owner;

17 ~~[QQ-]~~ RR. "process" means, in the context of legal
18 process, an order, subpoena or notice issued by the department
19 or an order, subpoena, notice, writ or summons issued by a
20 court;

21 ~~[RR-]~~ SS. "property" means movable articles of
22 value, including ~~[cadavers]~~ hazardous matter, farm products,
23 livestock feed, stock salt, manure, wire, posts, dairy
24 products, livestock hauled in lots of twenty-five thousand
25 pounds or more, farm or ranch machinery and the items

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1 transported by a towing service, but does not include household
2 goods or unprocessed farm products transported by a farmer from
3 the place of harvesting to market, storage or a processing
4 plant;

5 ~~[SS.]~~ TT. "protest" means a document in the form of
6 a pleading filed with the department by a full-service carrier
7 that expresses an objection to an application before the
8 department for a certificate for passenger service, for
9 ambulance service ~~[or for passenger service pursuant to a~~
10 ~~public-charge contract]~~ or for amendment, lease or transfer of
11 such a certificate:

12 (1) when the territory involved in the
13 application includes all or a portion of the full-service
14 territory of the protesting carrier; and

15 (2) for a carrier other than an ambulance
16 service carrier, when the grant of the application will, or
17 presents a reasonable potential to, impair, diminish or
18 otherwise adversely affect its existing provision of full-
19 service passenger service to the public within its full-service
20 territory;

21 ~~[TT. "public-charge contract" means a contract or~~
22 ~~contractual arrangement between a motor carrier and a third~~
23 ~~party for passenger service that requires or allows the motor~~
24 ~~carrier to charge passengers a fare for the transportation~~
25 ~~service to be provided pursuant to the contract;]~~

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1 UU. "rate" means a form of compensation charged,
2 whether directly or indirectly, by a person for a
3 transportation service subject to the jurisdiction of the
4 department;

5 VV. "record of a motor carrier" means an account,
6 correspondence, memorandum, tape, disc, paper, book or
7 transcribed information, or electronic data information,
8 including the electronic hardware or software necessary to
9 access the electronic data information in its document form,
10 regarding the operation of a motor carrier;

11 WW. "registration year" means a calendar year;

12 XX. "revocation" means the involuntary, permanent
13 termination of all or part of an operating authority ordered by
14 the department for cause;

15 YY. "shipper" means a person who consigns or
16 receives property or household goods for transportation;

17 ZZ. "shuttle service" means the intrastate
18 transportation of passengers for hire pursuant to a set fare
19 for each passenger between two or more specified terminal
20 points or areas and includes both scheduled shuttle service and
21 general shuttle service as follows:

22 (1) "scheduled shuttle service" means a
23 shuttle service that transports passengers to and from an
24 airport both through prior arrangement and through presentment
25 at terminal locations, on the basis of a daily time schedule

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1 filed with the department, that must be met in a timely fashion
2 with a vehicle present at the terminal location regardless of
3 the number of passengers carried on any run, if any, and that
4 includes general shuttle service; and

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

10 AAA. "specialized passenger service" means the
11 intrastate transportation for hire of passengers with special
12 physical needs by specialized types of vehicles, or for
13 specialized types of service to the public or community, as the
14 department may by rule provide;

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

21 CCC. "tariffed service" means one of the following
22 transportation services authorized by the department for the
23 provision of service on the basis of rates and terms of service
24 contained in a tariff approved by the department:

25 (1) an ambulance service;

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- 1 (2) a household goods service;
2 (3) a shuttle service;
3 (4) a specialized passenger service;
4 (5) a taxicab service; or
5 (6) a towing service performing nonconsensual
6 tows;

7 ~~[DDD. "taxicab association" means an association,~~
8 ~~cooperative or other legal entity whose members are taxicab~~
9 ~~drivers, which shall be treated in the same manner as any other~~
10 ~~applicant with regard to applications for a certificate for~~
11 ~~general taxicab service or for full-service municipal taxicab~~
12 ~~service and which shall be subject in the same manner to all~~
13 ~~other provisions, requirements and limitations of the Motor~~
14 ~~Carrier Act;~~

15 ~~EEE.]~~ DDD. "taxicab service" means intrastate
16 transportation of passengers for hire in a motor vehicle having
17 a capacity of not more than eight persons, including the
18 driver, for which the passenger or other person engaging the
19 vehicle is allowed to specify not only the origin and
20 destination points of the trip but also, within reason, the
21 route taken by the vehicle, any intermediate stop, any optional
22 waiting at a stop and any other passengers transported during
23 the trip and that charges a fare for use of the vehicle
24 primarily on the basis of a drop-flag fee, cumulative mileage
25 and cumulative wait time through a taxicab meter used to

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1 cumulate and display the fare to the passenger and includes
2 both municipal taxicab service and general taxicab service, as
3 follows:

4 (1) "municipal taxicab service" means a
5 taxicab service that deploys vehicles at all times of the day
6 and year, is centrally dispatched and reasonably responds to
7 all calls for service within its endorsed full-service
8 territory regardless of profitability of the individual trip,
9 in addition to the transportation service provided by a general
10 taxicab service; and

11 (2) "general taxicab service" means a taxicab
12 service that need not be dispatched, that may pick up on-demand
13 passengers through flagging or at a taxicab stand or queue,
14 that need not deploy vehicles in any particular manner and that
15 may charge for trips to destination points or places outside of
16 the taxicab service's certificated territories on the basis of
17 a set fare;

18 ~~[FFF.]~~ EEE. "terms of service" means all terms,
19 aspects, practices, limitations, conditions and schedules of
20 service other than specific rate amounts pertaining to a
21 tariffed service;

22 ~~[GGG.]~~ FFF. "towing service" means the use of
23 specialized equipment, including repossession services using
24 towing equipment, to transport or store:

25 (1) a damaged, disabled or abandoned motor

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1 vehicle and its cargo;

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

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

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

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

10 (6) a motor vehicle repossessed or seized
11 pursuant to lawful authority;

12 [~~HHH.~~] GGG. "transfer of a certificate" means a
13 permanent conveyance of all or part of a certificate;

14 [~~HH.~~] HHH. "transfer by operation of law" means
15 that all or a part of a grantee's interest in an operating
16 authority passes to a fiduciary or other person by application
17 of established rules of law;

18 [~~JJJ.~~] III. "transportation service" means
19 transportation subject to the jurisdiction of the department,
20 offered or provided by a motor carrier, that requires the
21 carrier to obtain an operating authority from the department
22 under the Motor Carrier Act, regardless of whether the motor
23 carrier has obtained appropriate operating authority from the
24 department;

25 [~~KKK.~~] JJJ. "verification" means a notarized

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1 signature verifying the contents of the document or other
2 filing or a signature verifying the contents of the document or
3 other filing under penalty of perjury, expressly providing that
4 the signatory swears or affirms the contents under penalty of
5 perjury as provided in Subsection A of Section 65-2A-33 NMSA
6 1978;

7 ~~[LLL.]~~ KKK. "voluntary suspension" means the
8 department-authorized cessation of use of all or part of a
9 certificate at the request of the holder for a specified period
10 of time, not to exceed twelve consecutive months;

11 ~~[MMM.]~~ LLL. "warrant" means the authority issued by
12 the department to a person that authorizes the person to offer
13 and provide a warranted service as a motor carrier;

14 ~~[NNN.]~~ MMM. "warranted service" means one of the
15 following intrastate transportation services offered or
16 provided for hire:

- 17 (1) a charter service;
- 18 (2) a property transportation service; or
- 19 (3) a towing service; and

20 ~~[OOO.]~~ NNN. "weight-bumping" means the knowing and
21 willful statement of a fraudulent weight on a shipment of
22 household goods."

23 SECTION 2. Section 65-2A-4 NMSA 1978 (being Laws 2003,
24 Chapter 359, Section 4, as amended) is amended to read:

25 "65-2A-4. POWERS AND DUTIES OF THE DEPARTMENT.--

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1 A. In accordance with the Motor Carrier Act, the
2 department shall:

3 (1) issue operating authorities for a motor
4 carrier operating in New Mexico;

5 (2) establish minimum requirements for
6 financial responsibility for motor carriers; provided that the
7 financial responsibility standards required shall not be
8 inconsistent with applicable federal standards;

9 (3) establish safety requirements for
10 intrastate motor carrier motor vehicles and drivers subject to
11 the jurisdiction of the department; provided that the safety
12 requirements shall not be inconsistent with or more stringent
13 than applicable federal safety standards;

14 (4) establish reasonable requirements with
15 respect to continuous and adequate service to be provided under
16 an operating authority;

17 (5) regulate the rates of tariffed service
18 carriers to the extent provided in the Motor Carrier Act,
19 including rates and terms of service for storing household
20 goods and motor vehicles;

21 (6) determine matters of public interest and
22 other matters relating to authorities, rates, territories,
23 nature of service and other terms of service of motor carriers;

24 (7) have jurisdiction to determine any matter
25 under the Motor Carrier Act relating to any transportation

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1 service carrier that has not obtained an appropriate operating
2 authority from the department;

3 (8) subpoena witnesses and records, enforce
4 its subpoenas through a court and, through the court, seek a
5 remedy for contempt;

6 (9) hold a public hearing [~~specific to a~~
7 ~~protest or a request by the traffic safety bureau of the~~
8 ~~department that has been filed within the notice period in~~
9 ~~opposition to or in consideration of an application~~] as
10 permitted by the Motor Carrier Act;

11 (10) create a statewide tariff for household
12 goods service carriers establishing maximum rates that may be
13 charged by carriers; and

14 (11) adopt rules, issue orders and conduct
15 activities necessary to implement and enforce the Motor Carrier
16 Act.

17 B. The department may:

18 (1) designate inspectors who may inspect the
19 records, facilities and equipment of a motor carrier subject to
20 the Motor Carrier Act [~~and who shall have the powers of peace~~
21 ~~officers in the state's political subdivisions with respect to~~
22 ~~a law or rule that the department is empowered to enforce~~
23 ~~pursuant to Section 65-1-6 NMSA 1978, excluding the enforcement~~
24 ~~authority granted to the New Mexico state police division of~~
25 ~~the department of public safety~~];

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

5 (3) from time to time, modify the type and
6 nature of service, territory and terms of service of operating
7 authorities previously issued, and change or rescind rates
8 previously approved;

9 (4) establish statewide tariffs as needed for
10 voluntary and optional use by tariffed service carriers; and

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

12 SECTION 3. Section 65-2A-5 NMSA 1978 (being Laws 2003,
13 Chapter 359, Section 5, as amended) is amended to read:

14 "65-2A-5. APPLICATIONS IN GENERAL--MINISTERIAL GRANTS OF
15 AUTHORITY--WHEN PUBLIC HEARINGS REQUIRED.--

16 A. A person shall file an application for any
17 matter for which department approval is required. An
18 application shall be made in writing, verified and in a form
19 that contains information and is accompanied by proof of
20 service upon interested persons as required by the department.

21 B. The department shall simplify to the extent
22 possible the process for approving applications. The
23 department may hold a public hearing on its own initiative or
24 specific to an objection that has been filed within the notice
25 period in opposition to or in consideration of an application.

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1 C. The department shall hold a public hearing on an
2 application whenever a protest is filed concerning the
3 application during the notice period or the [~~traffic safety~~
4 ~~bureau~~] compliance unit of the department requests a hearing
5 during the notice period.

6 D. The department may approve or deny an
7 application in whole or in part, or allow or require particular
8 terms of service as it may find reasonable and appropriate. If
9 no objection, protest or request for hearing by the [~~traffic~~
10 ~~safety bureau~~] compliance unit of the department is filed
11 during the notice period, the department may grant the
12 application by ministerial action, if the application complies
13 with the provisions of the Motor Carrier Act and the rules of
14 the department regarding fitness, ability, financial
15 responsibility and safety."

16 SECTION 4. Section 65-2A-6 NMSA 1978 (being Laws 2003,
17 Chapter 359, Section 6, as amended) is amended to read:

18 "65-2A-6. NOTICE.--

19 A. The department shall electronically [~~publish~~]
20 notice [~~regarding~~] an application [~~before the department~~] for a
21 certificate or for a change in a certificate, regarding
22 proposed rulemaking, or regarding other orders of [~~the~~
23 ~~department of~~] general application, by posting a copy of the
24 notice or document on the department's [~~internet~~] website and
25 sending electronic mail to all motor carriers, public officials

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1 or agencies, or other persons or entities who have previously
2 supplied electronic mail addresses to the department for the
3 purpose of publication, advising such persons of the filing and
4 posting. If the department in its discretion should also
5 require publication by newspaper, the requirement is met if
6 notice is published once in a newspaper of general circulation
7 in the state. The department shall not act on an application
8 for a certificate or for an amendment, lease or transfer of a
9 certificate less than twenty days after the date notice was
10 published.

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

17 SECTION 5. Section 65-2A-8 NMSA 1978 (being Laws 2003,
18 Chapter 359, Section 8, as amended) is amended to read:

19 "65-2A-8. CERTIFICATES FOR PASSENGER SERVICE.--

20 A. The department may issue a certificate for a
21 passenger service as follows:

- 22 (1) a certificate for an ambulance service;
23 (2) a certificate for a shuttle service shall
24 be endorsed for nature of service as a scheduled shuttle
25 service or as a general shuttle service;

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1 (3) a certificate for a specialized passenger
2 service shall be endorsed for nature of service as provided by
3 department rule; and

4 (4) a certificate for a taxicab service shall
5 be endorsed for nature of service as a municipal taxicab
6 service or as a general taxicab service.

7 B. Except as provided in this section and in
8 Section 65-2A-13 NMSA 1978, the department shall issue a
9 certificate allowing a person to provide passenger service
10 after notice and public hearing requirements are met, if:

11 (1) the applicant is fit and able to provide
12 the transportation service to be authorized by the certificate;

13 (2) the applicant is in compliance with the
14 safety and financial responsibility requirements of the Motor
15 Carrier Act, the rules of the department and other applicable
16 federal and state laws and rules; and

17 ~~[(3) for an application for ambulance service,~~
18 ~~the transportation service to be provided under the certificate~~
19 ~~is or will serve a useful public purpose that is responsive to~~
20 ~~a public demand or need; and~~

21 ~~(4)]~~ (3) the applicant has filed a tariff as
22 provided in Section 65-2A-20 NMSA 1978.

23 C. Before granting a certificate for passenger
24 service, the department shall consider any objections or
25 protests that were filed within the notice period.

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1 D. Before granting a certificate for ambulance
2 service, the department shall also consider the effect that
3 issuance of the certificate would have on existing ambulance
4 service in the territory.

5 E. A certificate issued by the department for
6 provision of passenger service shall contain one or more
7 endorsements, each of which shall specify the:

- 8 (1) nature of service to be rendered;
9 (2) territory authorized to be served; and
10 (3) reasonable terms of service as the
11 department may allow or require for the particular certificate.

12 F. Territorial endorsements to a certificate for
13 passenger service shall:

- 14 (1) be limited to territory sought in the
15 application that will be served in a reasonably continuous and
16 adequate manner beginning within thirty days of the issuance of
17 the certificate or such other definite period or date as the
18 department may provide for a particular application and shall
19 generally be authorized on the basis of county or incorporated
20 municipal boundaries, subject to other specification reasonably
21 allowed or required by the department;

- 22 (2) except for shuttle services, authorize
23 transportation between points and places within the specified
24 territory, and from points and places within the specified
25 territory to all points and places in the state and return,

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1 unless otherwise expressly allowed or specified in the terms of
2 service in the endorsement to the certificate; and

3 (3) for shuttle services, provide for
4 transportation between two or more specified end or
5 intermediate terminal points or areas, and authorize pick-up or
6 drop-off of passengers throughout a terminal area, but shall
7 not authorize transportation between points and places within a
8 single terminal area or the provision of transportation
9 services in any other areas of the state."

10 SECTION 6. Section 65-2A-11 NMSA 1978 (being Laws 2003,
11 Chapter 359, Section 11, as amended) is amended to read:

12 "65-2A-11. TEMPORARY AUTHORITY.--

13 A. The department may without notice grant
14 temporary authority to an applicant for a certificate or for
15 amendment, lease or transfer of all or part of a certificate
16 for a period not to exceed the duration of the application
17 process, if it finds that:

18 (1) the notice period for such application has
19 not yet expired, the application is one directly involving
20 public safety, a governmental program or a specific public
21 event, there is an urgent and immediate public need for such
22 service and the public may be harmed by waiting for the notice
23 period to expire;

24 (2) the applicant for temporary authority has
25 a complete application for a certificate or for amendment,

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1 lease or transfer of all or part of a certificate pending
2 before the department;

3 (3) the applicant is fit to provide the
4 transportation service requested, is able to provide any
5 certificated service requested and is in compliance with the
6 safety and financial responsibility requirements of the Motor
7 Carrier Act and the rules of the department; and

8 (4) satisfactory proof of urgent and immediate
9 need has been made by verified proof as the department shall by
10 rule prescribe.

11 B. An applicant for temporary authority as a
12 tariffed service carrier shall file tariffs covering the
13 transportation services for which temporary authority is being
14 sought.

15 C. If a hearing is held before a hearing examiner
16 for any reason on an application for a certificate or for
17 amendment, lease or transfer of all or part of a certificate or
18 for a tariff rate increase, the applicant may ~~[move in such~~
19 ~~proceeding for]~~ request without payment of fees or additional
20 proceedings a grant of temporary authority or rate ~~[approval]~~
21 increase for a period not to exceed the duration of the
22 application process. ~~[and any protesting carrier or the~~
23 ~~traffic safety bureau of the department may move in such~~
24 ~~proceeding for reconsideration or modification of any grant of~~
25 ~~temporary authority previously granted by the department or the~~

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1 ~~hearing examiner. The hearing examiner in the proceeding shall~~
2 ~~hold an expedited preliminary public hearing on the grant of~~
3 ~~temporary authority on the issues in the proceeding and the~~
4 ~~testimony evidence presented in the hearing on such procedural~~
5 ~~basis as the department shall by rule prescribe]~~ The department
6 may modify or condition the grant of temporary authority as to
7 the contested terms or rates of service.

8 D. Motor carriers operating under temporary
9 authority shall comply with the requirements of the Motor
10 Carrier Act and the rules of the department.

11 E. A grant of temporary authority shall not create
12 a presumption that permanent authority will be granted."

13 SECTION 7. Section 65-2A-12 NMSA 1978 (being Laws 2003,
14 Chapter 359, Section 12, as amended) is amended to read:

15 "65-2A-12. WARRANTS.--

16 A. The department shall issue a warrant that allows
17 a person to provide warranted service as a charter service,
18 towing service or motor carrier of property if the department
19 finds that the applicant is in compliance with the financial
20 responsibility and safety requirements of the Motor Carrier Act
21 and the rules of the department.

22 B. A towing service carrier performing
23 nonconsensual tows is subject to tariff rates and terms of
24 service. A towing service carrier performing nonconsensual
25 tows shall not use the same motor vehicles, equipment and

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1 facilities used by another warranted towing service carrier
2 performing nonconsensual tows.

3 C. A warrant shall not be transferred or leased to
4 another person.

5 D. The department may without notice or a public
6 hearing [~~cancel~~] revoke a warrant if the owner fails to operate
7 under the warrant for twelve consecutive months or fails to
8 provide proof of financial responsibility as required by the
9 department for four consecutive months."

10 SECTION 8. Section 65-2A-13 NMSA 1978 (being Laws 2003,
11 Chapter 359, Section 13, as amended) is amended to read:

12 "65-2A-13. PROTESTS, OBJECTIONS AND HEARINGS.--

13 A. Any interested person or any member of the
14 public may provide information to the department or express an
15 objection to any application for a certificate, or for
16 amendment, lease or transfer of a certificate, during the
17 notice period for the application by filing a written objection
18 in regard to the application. The department shall consider
19 any objections filed in regard to determining whether to hold a
20 hearing on the application. The department is not required to
21 hold a hearing pursuant to any objection but may, in its
22 discretion or on its own motion for any reason, hold a hearing
23 on any application for a certificate or for an amendment, lease
24 or transfer of a certificate.

25 B. The department shall hold a hearing on an

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1 application whenever a protest is filed within the notice
2 period or the [~~traffic safety bureau~~] compliance unit of the
3 department files a request for a hearing relative to an
4 application within the notice period. The department shall
5 allow a protesting carrier to proceed as an intervenor in the
6 application proceeding.

7 C. In any hearing held on an application:

8 (1) the applicant has the burden of proving
9 that the applicant meets the requirements of the Motor Carrier
10 Act and the rules of the department for the application at
11 issue, the burden of demonstrating with reasonable specificity
12 the nature and scope of its proposed transportation service,
13 the burden of proving any particular factual matters that the
14 department [~~or the traffic safety bureau of the department~~] may
15 identify and require, the burden of proving any additional
16 allegations and matters of public interest that it may raise
17 and, if the application pertains to ambulance service, the
18 burden of proving that the ambulance service that currently
19 exists in the territory sought in the application is inadequate
20 and that the proposed service is directly responsive to a
21 public need and demand for the service proposed;

22 (2) a protesting carrier has the burden of
23 proving all matters of fact pertaining to its full-service
24 operation within its certificated full-service territory, the
25 burden of proving the potential impairment or adverse impact on

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1 its existing full-service operation by the transportation
2 service proposed by the applicant and the burden of proving all
3 other allegations and matters of public interest that it may
4 raise. The protesting carrier's proof should include, without
5 limitation, a demonstration with reasonable specificity of the
6 nature of the existing full service being provided, the volume
7 of passengers transported, economic analysis related to
8 expenses and revenues of the full-service operation and the
9 anticipated economic, business or functional effect of the
10 proposed service on the existing provision of, or rates for,
11 full-service transportation within the full-service territory;

12 (3) the department may allow other interested
13 persons to intervene, either generally or on the basis of
14 specific facts or issues. A permissive intervenor has the
15 burden of proof for its position on all factual matters and
16 legal issues that it alleges and on which it is permitted to
17 intervene; and

18 (4) all parties to a hearing may base their
19 demonstration and proof on business data, experienced persons
20 and mathematical calculations. Expert testimony shall not be
21 required of any party but may be provided at the option of a
22 party.

23 D. The department shall not grant an application:

24 (1) for a certificate for ambulance service,
25 or for amendment, lease or transfer of such a certificate, if

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1 it finds after hearing that the existing ambulance service is
2 provided on a reasonably continuous and adequate basis in the
3 territory in which the new service is sought or that the holder
4 of the certificate or lessee providing the existing ambulance
5 service in such territory is willing and able to provide, and
6 does subsequently provide, reasonably continuous and adequate
7 service within such territory, as specified by department
8 order;

9 (2) for a new certificate for general taxicab
10 service within the full-service territory of a protesting
11 municipal taxicab service carrier; or

12 (3) for a certificate for any passenger
13 service other than those identified in Paragraphs (1) and (2)
14 of this subsection, or for amendment, lease or transfer of such
15 a certificate, within a protesting full-service carrier's full-
16 service territory, if it finds after hearing that the grant of
17 the application presents a reasonable potential to impair,
18 diminish or otherwise adversely affect the existing provision
19 of full-service passenger service to the public in the full-
20 service territory or if the application is otherwise contrary
21 to the public interest in the full-service territory. In
22 considering the potential effect on provision of transportation
23 services to the public in regard to such an application, the
24 department shall consider all evidence presented pertaining to
25 such potential effect, including evidence of the effect that

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1 diversion of revenue or traffic may have on the provision of
2 full-service passenger service to the community. Diversion of
3 revenue or traffic from an existing motor carrier shall not,
4 however, be sufficient grounds for denying the application
5 without a showing that the diversion presents a reasonable
6 potential to affect the provision of full-service passenger
7 service to the community."

8 SECTION 9. Section 65-2A-15 NMSA 1978 (being Laws 2003,
9 Chapter 359, Section 15, as amended) is amended to read:

10 "65-2A-15. MULTIPLE OPERATING AUTHORITIES AND BUSINESS
11 TRADE NAMES ALLOWED.--

12 A. A person may simultaneously hold certificates
13 for different kinds of certificated services and warrants for
14 different kinds of warranted service within the same territory.

15 B. Any motor carrier that holds more than one
16 certificate for the same kind and nature of certificated
17 service in the same territory shall file an application with
18 the department to consolidate the operating authorities.

19 C. The department shall not grant any new operating
20 authority to a motor carrier that duplicates the operating
21 authority of the same kind and for the same territory already
22 held by that motor carrier.

23 D. Certificated service carriers holding both a
24 certificate and warrant for related services may use the same
25 vehicles and may transport passengers and property, or mixed

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1 loads of household goods and property, pursuant to those
2 authorities in the same vehicles and on the same trip.

3 E. Every certificated or warranted service carrier
4 shall file with [~~the traffic safety bureau of~~] the department
5 all business trade names under which the carrier operates its
6 service or services authorized and shall provide [~~the traffic~~
7 ~~safety bureau of~~] the department with proof of financial
8 responsibility for all business trade names in addition to its
9 legal name. The department shall accept business trade names
10 as submitted by a carrier. Filing with [~~the traffic safety~~
11 ~~bureau of~~] the department shall not, by itself, establish or
12 otherwise affect the ownership or right to use a business trade
13 name under the intellectual property laws of the state of New
14 Mexico."

15 SECTION 10. Section 65-2A-20 NMSA 1978 (being Laws 2003,
16 Chapter 359, Section 20, as amended) is amended to read:

17 "65-2A-20. TARIFFS.--

18 A. A tariffed service carrier shall not commence
19 operations or perform a new service under its operating
20 authority without having an approved tariff on file with the
21 department.

22 B. A tariffed service carrier shall file with the
23 department proposed tariffs showing the rates for
24 transportation and all related activities and containing a
25 description of the type and nature of the service, territory

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1 and all terms of service for transportation and related
2 services. The rates shall be stated in terms of United States
3 currency. Tariffs for individual carriers shall also include
4 the carrier's legal name, all business trade names used by the
5 carrier, contact information, information for service of
6 process, the territory authorized for each transportation
7 service listed in the tariff and any terms of service contained
8 in the operating authorities for that particular carrier. Each
9 tariff service carrier operating pursuant to a statewide
10 tariff shall file with the department a tariff statement
11 referencing the statewide tariff being used and include the
12 carrier's legal name, all business trade names used by the
13 carrier, contact information, information for service of
14 process, the territory authorized for that carrier and any
15 terms of service contained in the operating authority for that
16 particular carrier.

17 C. A tariff service carrier shall not charge, or
18 permit its agents, employees or contract drivers to charge, a
19 different or additional rate, or to use different or additional
20 practices or terms of service, for transportation or for a
21 service rendered to or for the user of the service other than
22 the rates and terms of service specified in approved tariffs in
23 effect at the time, except:

24 (1) for ambulance and household goods service
25 carriers, in accordance with rates and terms of service

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1 established by federal or state law for federal or state
2 governmental programs or operations; and

3 (2) for tariffed passenger service carriers
4 other than ambulance service carriers, in accordance with the
5 rates and terms of service established by governmental programs
6 or operations in which they voluntarily participate.

7 D. A tariffed service carrier shall not pay or
8 refund, directly or indirectly to any person, a portion of the
9 rate specified in its approved tariff, offer to a person
10 privileges or facilities, perform a service or remit anything
11 of value, except:

12 (1) in accordance with tariffs approved by the
13 department;

14 (2) for ambulance and household goods service
15 carriers, in accordance with rates and terms of service
16 established by federal and state law for federal and state
17 governmental entities, programs or operations;

18 (3) for tariffed passenger service carriers
19 other than ambulance service carriers, in accordance with the
20 rates and terms of service established by governmental programs
21 or operations in which they voluntarily participate; or

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

24 E. The department shall post on its [~~internet~~]
25 website electronic copies of all currently approved individual

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1 and statewide tariffs, and all tariff statements filed by
2 carriers using statewide tariffs, in a manner to facilitate
3 public access, review and comparison of rates and terms of
4 service. A certificated passenger service carrier other than
5 an ambulance service carrier shall post its tariff rates in
6 each vehicle used in the provision of its transportation
7 service.

8 F. A tariffed service carrier shall file an
9 application with the department for any change in the tariff,
10 accompanied by the proposed tariff, at least twenty days prior
11 to implementation of the amended rates and terms of service
12 contained in the tariff. Except as provided in this section,
13 an amended tariff shall be approved and become effective twenty
14 days after filing of the application for a change in the
15 tariff. The department shall post notice of each application
16 for a change in a tariff along with a copy of the proposed
17 tariff on ~~[the department]~~ its website.

18 G. No ~~[changes in]~~ proposed terms of service
19 ~~[disapproved by the traffic safety bureau of]~~ shall become
20 effective if the department identifies a change as inconsistent
21 with the Motor Carrier Act ~~[rule of the]~~ or other law,
22 department rules or the ~~[individual]~~ operating authority of the
23 carrier ~~[or otherwise in violation of law shall become~~
24 ~~effective or be part of the approved tariff]~~. The following
25 terms of service contained in a tariff shall not be considered

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1 inconsistent with, or predatory or discriminatory in nature
2 under the Motor Carrier Act or department rule:

3 (1) a carrier may decline or terminate service
4 under circumstances that reasonably appear to present a
5 physical danger to the driver, to another employee of the
6 carrier or to passengers or, for carriers other than ambulance
7 service carriers, a danger to the condition of the motor
8 vehicle or cargo;

9 (2) a carrier is not responsible for
10 cancellations or delays due to weather or road conditions when
11 reasonably required for safety or when due to road
12 construction, road closures, law enforcement stops or similar
13 matters beyond the control of the carrier;

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

19 (4) a passenger service carrier other than an
20 ambulance service carrier may decline or terminate service when
21 the passenger cannot give an adequate description of, or
22 direction to, the destination or cannot transfer into or out of
23 the motor vehicle without requiring physical assistance from
24 the driver.

25 H. An application for amendment of tariff rates

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1 that increases any tariff rate to a level greater than that
2 previously approved by the department for a full-service
3 carrier or a towing service providing nonconsensual tows shall
4 not become effective until approved by the department as
5 reasonable under Section 65-2A-21 NMSA 1978. The department
6 shall hold a hearing appropriate to the type of transportation
7 service provided by the carrier for any such application, if
8 requested by the applicant or by the [~~traffic safety bureau~~
9 compliance unit] of the department, or if ordered in the
10 discretion of the department. The department may provide for
11 reasonable periodic rate increases for full-service carriers or
12 towing services providing nonconsensual tows pursuant to a rate
13 escalator or adjustment clause for any or all rates of a
14 carrier on such basis as the department finds reasonable.

15 I. A person may make a complaint in writing to the
16 department that a rate or term of service [~~contained in a~~
17 ~~tariff, or a rate otherwise charged or practice otherwise~~
18 ~~effected~~] is inconsistent with or in violation of the Motor
19 Carrier Act, department rule or the operating authority or
20 current tariff of the motor carrier. The department may
21 suspend the operation of a rate, term of service or practice
22 for a period not to exceed sixty days to investigate its
23 reasonableness. If the department finds that a rate charged by
24 a tariffed carrier, or a term of service or practice effected
25 by a tariffed carrier, is unauthorized, predatory or

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1 discriminatory, the department shall prescribe the rate or the
2 maximum or minimum rate to be observed or the terms of service
3 to be made effective."

4 SECTION 11. Section 65-2A-23 NMSA 1978 (being Laws 2003,
5 Chapter 359, Section 23, as amended) is amended to read:

6 "65-2A-23. MOTOR CARRIER ORGANIZATIONS.--

7 A. A tariffed service carrier may enter into
8 discussions with another tariffed service carrier to establish
9 a motor carrier organization. The organization shall obtain
10 authorization from the department before its members enter into
11 any discussions concerning the rates contained in a statewide
12 tariff. The department may authorize the creation of a motor
13 carrier organization to discuss and promote industry matters,
14 other than the rates of individual carriers, if the
15 organization:

16 (1) allows any intrastate motor carrier
17 authorized to provide the same type of service to become a
18 member of the organization and allows a member carrier to
19 discuss matters before the organization and to vote upon any
20 proposal;

21 (2) does not interfere with a member carrier's
22 right to establish its own tariff [~~and does not change or~~
23 ~~cancel an independently established tariff~~];

24 (3) does not file an objection, protest or
25 complaint with the department against a tariff item

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1 [~~independently~~] published by or for [~~the account of~~] a member
2 carrier;

3 (4) does not permit its employees or an
4 employee committee to file or act upon a proposal effecting a
5 change in a tariff item published by or for the account of a
6 member carrier; and

7 (5) proposes matters concerning statewide
8 tariffs for approval by the department.

9 B. A member carrier of the organization shall file
10 with the department information as the department may by rule
11 prescribe.

12 C. A motor carrier organization approved by the
13 department pursuant to this section shall be subject to
14 accounting, recordkeeping, reporting and inspection
15 requirements as the department may by rule prescribe.

16 D. The department may, upon complaint or upon its
17 own initiative, investigate and determine whether a motor
18 carrier organization previously authorized by it is not in
19 conformity with the requirements of this section or with the
20 terms and conditions upon which the motor carrier organization
21 was granted authorization. The department may modify or
22 terminate its authorization of a motor carrier organization
23 found to be noncompliant with the requirements of this rule.

24 E. The antitrust laws of the state shall not apply
25 to discussions concerning general industry matters, terms of

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1 service or any matters concerning a statewide tariff, including
2 the rates contained in a statewide tariff, by member carriers
3 of a motor carrier organization authorized by the department."

4 SECTION 12. Section 65-2A-24 NMSA 1978 (being Laws 2003,
5 Chapter 359, Section 24, as amended) is amended to read:

6 "65-2A-24. MOTOR VEHICLE LEASES--DRIVER CONTRACTS.--

7 A. An intrastate motor carrier shall not lease a
8 motor vehicle or operate a leased motor vehicle in the course
9 of its transportation service except as provided by department
10 rule. The department may approve a motor vehicle lease without
11 notice or a public hearing.

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

22 C. Motor carriers providing intrastate
23 transportation services that use contract drivers [~~or taxicab~~
24 ~~association member drivers~~] shall maintain, at their principal
25 places of business within the state, a current written

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1 agreement with each such driver. No agreement with any
2 contract driver [~~or taxicab association member driver~~] shall
3 contain any provision contrary to a provision of the Motor
4 Carrier Act or a rule of the department. Each written
5 agreement shall contain a clause that requires the contract
6 driver [~~or taxicab association member driver~~] to adhere to all
7 provisions of the Motor Carrier Act and to all department rules
8 applicable to transportation service carriers."

9 SECTION 13. Section 65-2A-27 NMSA 1978 (being Laws 2003,
10 Chapter 359, Section 27, as amended) is amended to read:

11 "65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR
12 AMENDMENT OF OPERATING AUTHORITIES--REINSTATEMENT.--

13 A. The department shall immediately suspend,
14 without notice or a public hearing, the operating authority of
15 a motor carrier for failure to continuously maintain the forms
16 and amounts of financial responsibility prescribed by
17 department rule.

18 B. The department may immediately suspend, without
19 notice or a public hearing, the operating authority of a motor
20 carrier for violation of a safety requirement of the Motor
21 Carrier Act, the department's rules or the rules of the New
22 Mexico state police division of the department of public
23 safety, if the violation [~~endangers~~] creates an immediate
24 danger to the public health or safety.

25 C. The department may, upon complaint or the

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1 department's own initiative and after notice and a public
2 hearing, if required, order involuntary suspension, revocation
3 or amendment, in whole or in part, of an operating authority
4 for failure to:

5 (1) comply with a provision of the Motor
6 Carrier Act;

7 (2) comply with a lawful order or rule of the
8 department;

9 (3) comply with a term of service of an
10 operating authority or tariff; or

11 (4) render reasonably continuous and adequate
12 service under a certificate.

13 D. The department may approve an application for
14 reinstatement of an operating authority following involuntary
15 suspension if it finds, after notice and public hearing
16 requirements are met, that:

17 (1) the reasons for the involuntary suspension
18 no longer pertain; and

19 (2) the holder of the operating authority is
20 fit, and a certificate holder is able, to provide the
21 authorized transportation services, and the holder will comply
22 with the Motor Carrier Act and the rules of the department."

23 SECTION 14. Section 65-2A-35 NMSA 1978 (being Laws 2003,
24 Chapter 359, Section 35, as amended) is amended to read:

25 "65-2A-35. APPEAL TO [~~SUPREME~~] DISTRICT COURT.--

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1 A. A ~~[motor carrier or other interested]~~ person
2 aggrieved by a final ~~[order or determination]~~ decision of the
3 department issued pursuant to the Motor Carrier Act may appeal
4 to the ~~[supreme]~~ district court pursuant to Section 39-3-1.1
5 NMSA 1978 within thirty days ~~[The appellant shall pay to the~~
6 ~~department the costs of preparing and transmitting the record~~
7 ~~to the court]~~ of the final decision.

8 B. The pendency of an appeal shall not
9 automatically stay the order appealed from. ~~[The appellant may~~
10 ~~petition the department or the supreme court for a stay of the~~
11 ~~order.~~

12 C. ~~The appeal shall be on the record of the hearing~~
13 ~~before the department and shall be governed by the appellate~~
14 ~~rules applicable to administrative appeals. The supreme court~~
15 ~~shall affirm the department's order unless it is:~~

16 ~~(1) arbitrary, capricious or an abuse of~~
17 ~~discretion;~~

18 ~~(2) not supported by substantial evidence in~~
19 ~~the record; or~~

20 ~~(3) otherwise not in accordance with law.]~~

21 C. The appellant shall pay to the department the
22 costs of preparing and transmitting the record to the court."

23 SECTION 15. Section 67-3-6.1 NMSA 1978 (being Laws 2023,
24 Chapter 100, Section 1) is amended to read:

25 "67-3-6.1. DEPARTMENT OF TRANSPORTATION--POWERS AND
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1 DUTIES--~~[COMMON]~~ RAILWAY COMPANIES--TRANSPORTATION NETWORK
2 COMPANIES--MOTOR CARRIERS.--

3 A. ~~[With respect to common carriers]~~ The department
4 of transportation shall:

5 (1) ~~[fix, determine, supervise]~~ regulate ~~[and~~
6 ~~control all charges and rates of]~~ railway ~~[express, sleeping~~
7 ~~car and other]~~ companies, transportation network companies and
8 ~~[common]~~ motor carriers within the state;

9 (2) determine any matters of public
10 ~~[convenience and necessity with respect to matters]~~ interest
11 subject to its regulatory authority over railway companies,
12 transportation network companies or motor carriers as provided
13 by law;

14 (3) require railway companies and ~~[other~~
15 ~~common]~~ motor carriers to provide and maintain adequate
16 equipment, depots, stock pens, station buildings, agents and
17 facilities for the accommodation of shippers and passengers and
18 for receiving and delivering freight and express and to provide
19 and maintain necessary crossings, culverts, sidings and other
20 facilities for convenience and safety whenever in the
21 department's judgment the public interest demands;

22 (4) require railway companies ~~[transportation~~
23 ~~companies]~~ and ~~[common]~~ motor carriers to provide such
24 reasonable safety appliances and use such reasonable safety
25 practices as may be necessary and proper for the safety of

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1 employees and the public as required by federal or state laws
2 and rules;

3 (5) change, amend and rescind rates;

4 (6) enforce its rules through administrative
5 sanctions and in the courts; and

6 (7) carry out all other duties and have all
7 other powers provided by law.

8 B. The department of transportation may subpoena
9 witnesses and documents, enforce its subpoenas through any
10 court and, through the court, punish for contempt.

11 C. The department of transportation has the power,
12 after notice and hearing of record, to determine and decide any
13 question and to issue orders relating to its powers and duties.

14 D. An interested party may appeal from a final
15 ~~[order]~~ decision of the department of transportation by filing
16 a notice of appeal with the ~~[supreme]~~ district court ~~[asking~~
17 ~~for review of the order]~~ pursuant to Section 39-3-1.1 NMSA 1978
18 within thirty days of the final ~~[order]~~ decision. The
19 appellant shall pay to the department any costs of preparing
20 and transmitting the record to the court.

21 E. The pendency of an appeal shall not
22 automatically stay the ~~[order]~~ decision appealed. ~~[from. The~~
23 ~~appellant may seek to obtain a stay from the department of~~
24 ~~transportation or the supreme court.~~

25 F. ~~The appeal shall be on the record of the hearing~~

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1 ~~before the department of transportation and shall be governed~~
2 ~~by the appellate rules applicable to administrative appeals.~~
3 ~~The supreme court shall affirm the department's order unless it~~
4 ~~is:~~

5 ~~(1) arbitrary, capricious or an abuse of~~
6 ~~discretion;~~

7 ~~(2) not supported by substantial evidence in~~
8 ~~the record; or~~

9 ~~(3) otherwise not in accordance with law.~~

10 G.] F. In the case of a failure or refusal of a
11 person to comply with [~~an order~~] a decision of the department
12 of transportation within the time prescribed in the [~~order~~]
13 decision or within thirty days after the [~~order~~] decision is
14 entered, whichever is later, unless a stay has been granted,
15 the department shall seek enforcement of the [~~order~~] decision
16 in the district court. The enforcement hearing shall be held
17 on an expedited basis. At the hearing, the sole question shall
18 be whether the person has failed to comply with or violated the
19 [~~order~~] decision."

20 SECTION 16. Section 67-3-6.2 NMSA 1978 (being Laws 2023,
21 Chapter 100, Section 2) is amended to read:

22 "67-3-6.2. DEPARTMENT OF TRANSPORTATION MAY INSPECT BOOKS
23 AND RECORDS.--The department of transportation or person
24 authorized by the department in writing under its seal to make
25 an examination shall have the right at all times to inspect the

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1 books, papers and records of [~~all such~~] railway companies,
2 transportation network companies [~~and common~~] or motor carriers
3 doing business in this state relating to any matter pending
4 before or being investigated by the department. Any officer,
5 agent or employee of any such company or corporation or any
6 person in charge of such books, papers and records who refuses
7 to permit examination or who conceals, destroys or mutilates or
8 attempts to conceal, destroy or mutilate any such books, papers
9 or records or remove the same beyond the limits of the state
10 for the purpose of preventing examination shall be deemed
11 guilty of a misdemeanor and upon conviction may be fined not to
12 exceed five hundred dollars (\$500) or imprisoned in the county
13 jail not more than six months."

14 SECTION 17. REPEAL.--Sections 67-3-6.3 through 67-3-6.5
15 NMSA 1978 (being Laws 2023, Chapter 100, Sections 3 through 5)
16 are repealed.

17 SECTION 18. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2024.