

1 SENATE BILL 486

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Lisa A. Torraco

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10 AN ACT

11 RELATING TO MOTOR TRANSPORTATION; CHANGING TERMS IN THE MOTOR
12 TRANSPORTATION ACT FOR CONSISTENCY WITH FEDERAL LAW; CORRECTING
13 STATUTORY CITATIONS; PROVIDING FOR RULEMAKING TO SET MINIMUM
14 LEVELS OF FINANCIAL RESPONSIBILITY; PROVIDING AUTHORITY TO
15 IMPOSE CERTAIN PENALTY ASSESSMENT MISDEMEANORS; CHANGING THE
16 DEFINITION OF "SPECIAL MOBILE EQUIPMENT" IN THE MOTOR VEHICLE
17 CODE; EXPANDING THE DEFINITION OF "COMMERCE" IN THE NEW MEXICO
18 COMMERCIAL DRIVER'S LICENSE ACT; REORGANIZING CERTAIN MOTOR
19 TRANSPORTATION ACT PENALTY ASSESSMENT MISDEMEANORS; ALLOWING
20 CERTAIN LAW ENFORCEMENT OFFICERS TO MAKE WARRANTLESS ARRESTS;
21 AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

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

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

10 C. "commercial motor ~~carrier~~ vehicle" means a
11 self-propelled or towed vehicle ~~[other than special mobile~~
12 ~~equipment]~~ used on public highways in commerce to transport
13 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 one
18 pounds or more; or is operated only in intrastate commerce and
19 has a gross vehicle weight rating or gross combination weight
20 rating, or gross vehicle weight or gross combination weight, of
21 twenty-six thousand one or more pounds;

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

25 (3) is designed or used to transport more than

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1 fifteen passengers, including the driver [~~and is not used to~~
2 ~~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 but
9 not permanently attached thereto. A "converter gear" shall not
10 be considered a vehicle as that term is used in Chapter 66 NMSA
11 1978, but its weight [~~attributable thereto~~] shall be included
12 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 registration
16 period as declared by the registrant for registration and fee
17 purposes. The vehicle or combination shall have only one
18 "declared gross weight" for all operating considerations;

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

23 G. "director" means the [~~secretary~~] director of the
24 division;

25 H. "division" means the motor transportation

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1 division of the department;

2 I. "evidence of registration" means documentation
3 issued by the taxation and revenue department identifying a
4 commercial motor [~~carrier~~] vehicle as being registered with New
5 Mexico or documentation issued by another state pursuant to the
6 terms of a multistate agreement on registration of vehicles to
7 which this state is a party identifying a commercial motor
8 [~~carrier~~] vehicle as being registered with that state; provided
9 that evidence of payment of the weight distance tax and permits
10 obtained under either the Special Fuels Supplier Tax Act or
11 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, temporary
15 inspection sites and roadblocks for the purpose of checking
16 motor carriers and includes similar activities;

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

25 L. "gross combination weight rating", commonly

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1 referred to as "GCWR", means the value specified by the
2 manufacturer as the loaded weight of a combination or
3 articulated motor vehicle. In the absence of a value specified
4 by the manufacturer, the gross combination weight rating shall
5 be determined by adding the gross vehicle weight rating of the
6 power unit and the total weight of the towed unit and any
7 weight thereon;

8 ~~[E-]~~ M. "gross vehicle weight", means the weight of
9 a vehicle without load plus the weight of any load thereon;

10 N. "gross vehicle weight rating" means the value
11 specified by the manufacturer as the loaded weight of a single
12 motor vehicle;

13 ~~[M-]~~ O. "motor carrier" means any person that owns,
14 controls, operates or manages any motor vehicle ~~[with gross~~
15 ~~vehicle weight of twelve thousand pounds or more]~~ that is used
16 to transport persons or property on the public highways of this
17 state as a for-hire motor carrier or a private motor carrier.

18 "Motor carrier" includes a motor carrier's agents; officers;
19 representatives; employees responsible for hiring, supervising,
20 training, assigning or dispatching drivers; and employees
21 concerned with the installation, inspection and maintenance of
22 motor vehicle equipment or accessories;

23 ~~[N-]~~ P. "motor vehicle" means any vehicle or device
24 that is propelled by an internal combustion engine or electric
25 motor power that is used or may be used on the public highways

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1 for the purpose of transporting persons or property and
2 includes any connected trailer or semitrailer;

3 [Θ-] Q. "one-way rental fleet" means two or more
4 vehicles each having a gross vehicle weight of under twenty-six
5 thousand one pounds and rented to the public without a driver;

6 [P-] R. "person" means any individual, estate,
7 trust, receiver, cooperative association, club, corporation,
8 company, firm, partnership, joint venture, syndicate or other
9 association; "person" also means, to the extent permitted by
10 law, any federal, state or other governmental unit or
11 subdivision or an agency, department or instrumentality
12 [~~thereof~~]; "person" also includes an officer or employee of a
13 corporation, a member or employee of a partnership or any
14 individual who, as such, is under a duty to perform any act in
15 respect of which a violation occurs;

16 [Q-] S. "properly registered" means bearing the
17 lawfully issued and currently valid evidence of registration of
18 this or another jurisdiction, regardless of the owner's
19 residence, except in those cases where the evidence has been
20 procured by misrepresentation or fraud;

21 [R-] T. "public highway" means every way or place
22 generally open to the use of the public as a matter of right
23 for the purpose of vehicular travel, even though it may be
24 temporarily closed or restricted for the purpose of
25 construction, maintenance, repair or reconstruction;

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1 U. "seating capacity" means the number of
2 designated seating positions provided by the manufacturer;

3 ~~[S.]~~ V. "secretary" means the secretary of public
4 safety and, except for the purposes of Section 65-1-33 NMSA
5 1978, also includes ~~[the]~~ a deputy secretary and any division
6 director delegated by the secretary;

7 ~~[T.]~~ W. "state" or "jurisdiction" means a state,
8 territory or possession of the United States, the District of
9 Columbia, the commonwealth of Puerto Rico, a foreign country or
10 a state or province of a foreign country; and

11 ~~[U.]~~ X. "utility trailer" means any trailer,
12 semitrailer or pole trailer and includes house trailers that
13 exceed neither eight feet in width nor forty feet in length,
14 but does not include freight trailers, trailers of less than
15 one-ton carrying capacity used to transport animals or
16 fertilizer trailers of less than three thousand five hundred
17 pounds empty weight."

18 **SECTION 2.** Section 65-1-9 NMSA 1978 (being Laws 1967,
19 Chapter 97, Section 11, as amended) is amended to read:

20 "65-1-9. DEPARTMENT TO ENFORCE LAWS.--The department
21 shall enforce and collect all excise taxes, license fees and
22 other fees and charges of every nature and perform all
23 inspections and collect all information considered necessary to
24 enforce the laws of all departments, commissions and other
25 agencies of state government, in addition to those specifically

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1 assigned to the department, whenever the department is so
2 requested and agrees and the agreement is in writing containing
3 all reasonable detail concerning the responsibilities of the
4 parties to the agreement. The department shall also assist, as
5 far as practicable and in accordance with a proper written
6 agreement, in the enforcement of statutory, administrative and
7 judicial provisions of the [~~federal~~] Motor Carrier Act."

8 SECTION 3. Section 65-1-26 NMSA 1978 (being Laws 1967,
9 Chapter 97, Section 16, as amended) is amended to read:

10 "65-1-26. DOCUMENTS--REQUIRED IN EACH COMMERCIAL MOTOR
11 [~~CARRIER~~] VEHICLE--DETENTION OF VEHICLES.--

12 A. A commercial motor [~~carrier~~] vehicle operated on
13 a New Mexico public highway by a motor carrier required to be
14 registered with the department shall have in it at all times:

15 (1) proof of payment of the trip tax; or

16 (2) both evidence of registration and a tax
17 identification permit issued by the department.

18 B. The driver of the vehicle shall be able to
19 display either proof of payment of the trip tax or both the
20 evidence of registration and the tax identification permit upon
21 request by any law enforcement officer or any employee of the
22 department.

23 C. Upon failure of the driver to display either
24 proof of payment of the trip tax or evidence of registration,
25 it shall be presumed that the vehicle is subject to

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1 registration under the laws of New Mexico unless it can be
2 demonstrated that the vehicle is exempt from registration
3 requirements of the Motor Vehicle Code. A vehicle presumed
4 subject to registration may be detained until registration,
5 including payment of all required fees, is completed.

6 D. Upon failure of the driver to display either
7 proof of payment of the trip tax or a tax identification permit
8 issued by the department, the trip tax shall be presumed due.
9 A vehicle presumed subject to the trip tax may be detained
10 until the trip tax is paid.

11 E. A commercial motor [~~carrier~~] vehicle subject to
12 and not in compliance with the weight distance requirements of
13 the Weight Distance Tax Act may be detained until the tax is
14 paid. A nonfiler or zero-filer status or an inactive weight
15 distance account is proof of failure to pay the weight distance
16 tax."

17 SECTION 4. Section 65-1-36 NMSA 1978 (being Laws 1978,
18 Chapter 16, Section 1, as amended) is amended to read:

19 "65-1-36. PENALTY FOR VIOLATIONS OF ACT.--

20 A. Violation of Section 65-5-1, 65-5-2 or 66-3-1.1
21 NMSA 1978 is a misdemeanor punishable by a fine of not less
22 than one hundred dollars (\$100) or more than five hundred
23 dollars (\$500) or imprisonment not exceeding ninety days or by
24 both the fine and imprisonment.

25 B. Violation of any section of the Motor

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1 Transportation Act other than a violation of Section 65-1-26,
2 65-1-36.1, [~~66-5-1~~] 65-5-1, 65-5-2 or 66-3-1.1 NMSA 1978 or of
3 the Motor Carrier Safety Act is a misdemeanor punishable by a
4 fine of not more than one hundred dollars (\$100) or by
5 imprisonment not exceeding thirty days or by both the fine and
6 imprisonment or is subject to the penalty assessment and fee
7 provisions pursuant to Sections 66-8-116 through 66-8-116.3
8 NMSA 1978.

9 C. The payment of a fine under the provisions of
10 any act under the jurisdiction of the department pursuant to
11 the Motor Transportation Act shall not relieve the offender
12 from the payment of any fees or taxes or from any other of the
13 provisions of the Motor Transportation Act.

14 D. The department may, for the proper enforcement
15 of the duties imposed upon the department pursuant to the Motor
16 Transportation Act, detain any motor vehicle whose operator or
17 owner is in violation of any law the department is empowered
18 under the Motor Transportation Act to administer or enforce."

19 SECTION 5. Section 65-3-1 NMSA 1978 (being Laws 1989,
20 Chapter 201, Section 2) is amended to read:

21 "65-3-1. SHORT TITLE.-- [~~Sections 65-3-1 through 65-3-13~~]
22 Chapter 65, Article 3 NMSA 1978 may be cited as the "Motor
23 Carrier Safety Act"."

24 SECTION 6. Section 65-3-2 NMSA 1978 (being Laws 1989,
25 Chapter 201, Section 3) is amended to read:

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1 "65-3-2. PURPOSE.--The legislature finds that highway
2 safety is of utmost public concern. The purpose of the Motor
3 Carrier Safety Act is to protect the New Mexico traveling
4 public by ensuring the safe operation of commercial motor
5 [~~carrier~~] vehicles on New Mexico's highways."

6 SECTION 7. Section 65-3-3 NMSA 1978 (being Laws 1989,
7 Chapter 201, Section 4, as amended) is amended to read:

8 "65-3-3. APPLICABILITY.--

9 A. Notwithstanding any provision of the Motor
10 Vehicle Code to the contrary, the provisions of the Motor
11 Carrier Safety Act and the [~~regulations~~] rules promulgated
12 under that act shall apply to a commercial motor [~~carrier~~]
13 vehicle operating on the public highways of New Mexico of a
14 type that:

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

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

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

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

7 B. Whenever a commercial motor [~~carrier~~] vehicle of
8 one type is used to perform the functions normally performed by
9 a motor vehicle of another type, the requirements of the Motor
10 Carrier Safety Act shall apply to that motor vehicle and to its
11 operation as if that motor vehicle were actually a motor
12 vehicle of the latter type.

13 C. Whenever a duty is prescribed for a driver or a
14 prohibition is imposed upon the driver pursuant to the
15 provisions of the Motor Carrier Safety Act, it shall be the
16 duty of the motor carrier to require observance of such
17 prescription or prohibition. If the motor carrier is also the
18 driver, the motor carrier shall likewise be bound."

19 SECTION 8. Section 65-3-4 NMSA 1978 (being Laws 1989,
20 Chapter 201, Section 5, as amended) is amended to read:

21 "65-3-4. [~~REGULATIONS~~] RULES--INSPECTIONS.--

22 A. The secretary is directed to adopt in accordance
23 with Section [~~65-1-10~~] 9-19-6 NMSA 1978 necessary rules [~~and~~
24 ~~regulations~~] under the Motor Carrier Safety Act as they apply
25 to motor carrier safety. [~~Such~~] The rules [~~and regulations~~]

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1 shall not be inconsistent with or more stringent than
2 applicable federal safety standards.

3 B. The department is authorized to inspect at the
4 motor carrier's place of business those safety records required
5 to be retained by the motor carrier pursuant to the provisions
6 of the Motor Carrier Safety Act."

7 SECTION 9. Section 65-3-5 NMSA 1978 (being Laws 1989,
8 Chapter 201, Section 6) is amended to read:

9 "65-3-5. VIOLATION OF ACT--PENALTY--PENALTY ASSESSMENT.--

10 A. ~~[Any]~~ A person who violates the provisions of
11 the Motor Carrier Safety Act is guilty of a misdemeanor and
12 shall be punished by a fine not exceeding five hundred dollars
13 (\$500) or thirty days in jail or both.

14 B. ~~[The director may, by regulation, authorize a~~
15 ~~penalty assessment program to impose penalties under the~~
16 ~~provisions of the Motor Carrier Safety Act]~~ Unless a warning
17 notice is given at the time of making an arrest for a violation
18 of the Motor Carrier Safety Act that is included as a penalty
19 assessment misdemeanor in Section 66-8-116.2 NMSA 1978, the
20 officer shall offer the alleged violator the option of
21 accepting a penalty assessment pursuant to Section 66-8-117
22 NMSA 1978."

23 SECTION 10. Section 65-3-7 NMSA 1978 (being Laws 1989,
24 Chapter 201, Section 7, as amended) is amended to read:

25 "65-3-7. QUALIFICATIONS OF DRIVERS.--

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1 A. A person shall not drive a commercial motor
2 vehicle unless the person is qualified to drive a commercial
3 motor vehicle, and a motor carrier shall not require or permit
4 a person to drive a commercial motor vehicle unless that person
5 is qualified to drive a commercial motor vehicle.

6 B. A person is qualified to drive a commercial
7 motor [~~carrier~~] vehicle if the person:

8 (1) is at least:

9 (a) twenty-one years old; or

10 (b) eighteen years old if involved only
11 in intrastate commerce and drives only within the boundaries of
12 the state of New Mexico;

13 (2) is physically qualified to drive a
14 commercial motor vehicle;

15 (3) is not disqualified from driving a
16 commercial motor vehicle;

17 (4) has been issued a currently valid motor
18 vehicle operator's license or permit of the proper class for
19 the vehicle that the person is driving;

20 (5) can, by reason of experience, training or
21 both, safely operate the type of commercial motor vehicle that
22 the person drives; and

23 (6) can, by reason of experience, training or
24 both, determine whether the cargo that the person transports is
25 properly located, distributed and secured in or on the

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1 commercial motor vehicle that the person drives.

2 C. The director shall adopt [~~regulations~~] rules
3 requiring motor carriers to maintain appropriate records
4 pertaining to the qualifications of every commercial motor
5 [~~carrier~~] vehicle driver in its employ, either regularly or
6 casually. [~~Such regulations~~] The rules shall not be
7 inconsistent with or more stringent than applicable federal
8 safety standards.

9 D. The director is authorized to adopt specific
10 exceptions for the qualifications of drivers under the Motor
11 Carrier Safety Act for drivers of articulated farm vehicles and
12 intrastate drivers of commercial motor vehicles transporting
13 combustible liquids."

14 SECTION 11. Section 65-3-9 NMSA 1978 (being Laws 1989,
15 Chapter 201, Section 9) is amended to read:

16 "65-3-9. COMMERCIAL MOTOR VEHICLES--EQUIPMENT--
17 REGULATIONS.--The director shall adopt [~~regulations~~] rules not
18 inconsistent with or more stringent than applicable federal
19 safety standards concerning the following parts and accessories
20 necessary for the safe operation of a commercial motor
21 [~~carrier~~] vehicle:

- 22 A. lighting devices, reflectors and electrical
- 23 equipment;
- 24 B. brake systems and performance;
- 25 C. glazing and window obstructions;

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- 1 D. fuel systems;
2 E. coupling devices and towing methods;
3 F. tires and wheels;
4 G. heaters;
5 H. exhaust systems;
6 I. frames and body components;
7 J. suspension systems;
8 K. steering systems;
9 L. cargo securement;
10 M. emergency safety equipment; and
11 N. any other miscellaneous parts and accessories
12 [he] the director deems necessary."

13 SECTION 12. Section 65-3-10 NMSA 1978 (being Laws 1989,
14 Chapter 201, Section 10) is amended to read:

15 "65-3-10. NOTIFICATION, REPORTING AND RECORDING OF
16 ACCIDENTS.--The director shall adopt rules [~~and regulations~~]
17 not inconsistent with or more stringent than applicable federal
18 safety standards concerning records and reports required to be
19 made and kept by motor carriers of accidents [~~which~~] that occur
20 during their operations. Nothing in this section shall alter
21 the requirements that drivers of commercial motor [~~carrier~~]
22 vehicles report accidents under Section 66-7-201 NMSA 1978."

23 SECTION 13. Section 65-3-12 NMSA 1978 (being Laws 1989,
24 Chapter 201, Section 12) is amended to read:

25 "65-3-12. REPAIR AND MAINTENANCE.--The director shall

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1 adopt rules [~~and regulations~~] concerning the systematic
2 inspection, repair and maintenance of all commercial motor
3 [~~carrier~~] vehicles. The [~~regulations~~] rules shall not be
4 inconsistent with or more stringent than applicable federal
5 safety standards.

6 A. The [~~regulations~~] rules shall provide for:

7 (1) proper lubrication and absence of oil and
8 grease leaks;

9 (2) inspection of motor vehicles in operation
10 by certified inspectors of the division at ports of entry, at
11 suitable locations along the highway and at a motor carrier's
12 place of business;

13 (3) [~~driver's~~] driver or motor vehicle
14 inspection reports;

15 (4) periodic [~~vehicle~~] annual inspection by
16 the motor carrier, by a certified inspector of the division or
17 by another qualified inspector [~~authorized by the director~~]
18 meeting the minimum standards of applicable federal law;

19 (5) inspector qualifications;

20 (6) minimum periodic inspection standards; and

21 (7) recordkeeping associated with these
22 requirements.

23 B. These [~~regulations~~] rules shall authorize the
24 division to declare a commercial motor vehicle [~~to be placed~~]
25 or driver out of service because of an unsafe mechanical or

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1 ~~[operational dysfunction causing a vehicle to be unsafe]~~ driver
2 condition pursuant to standardized out-of-service criteria.

3 The out-of-service condition shall preclude the use or driving
4 of the commercial motor vehicle until the condition for placing
5 the commercial motor vehicle or driver out of service is
6 remedied.

7 C. Motor carriers shall make safety-related records
8 available to division enforcement personnel upon request."

9 SECTION 14. A new section of the Motor Carrier Safety Act
10 is enacted to read:

11 "[NEW MATERIAL] MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY
12 FOR MOTOR CARRIERS.--The director shall adopt rules not
13 inconsistent with or more stringent than applicable federal
14 regulations concerning minimum levels of financial
15 responsibility for commercial motor vehicles. The rules shall
16 apply to for-hire motor carriers of nonhazardous property; for-
17 hire and private motor carriers of hazardous substances, waste
18 or material and oil; and motor carriers of passengers with
19 various seating capacity as prescribed by applicable federal
20 regulations."

21 SECTION 15. Section 65-5-1 NMSA 1978 (being Laws 1943,
22 Chapter 125, Section 8, as amended) is amended to read:

23 "65-5-1. VEHICLES TO STOP AT PORTS OF ENTRY--FIELD
24 ENFORCEMENT--INFORMATION--INSPECTION.--

25 A. All commercial motor [~~carrier~~] vehicles shall

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1 enter, leave or travel through the state on designated highways
2 and shall stop at every port of entry as designated by the
3 division for manifesting and clearance stickers, except as
4 provided in Subsection H of this section.

5 B. An officer may enforce in the field the
6 provisions of the Motor Transportation Act and the Motor
7 Carrier Act and perform inspections as provided in this section
8 whenever the officer stops a commercial motor [~~carrier~~] vehicle
9 [~~after observing that the vehicle is in, or is being operated~~
10 ~~in, violation of those acts, the Motor Vehicle Code or the~~
11 ~~Criminal Code~~].

12 C. The operator of a commercial motor [~~carrier~~]
13 vehicle shall:

14 (1) upon request, make out and deliver to the
15 agent of the division at a port of entry or to an officer
16 conducting field enforcement a manifest showing that part of
17 the following information requested:

18 (a) the point of origin of the shipment;

19 (b) the ultimate destination of the
20 shipment; and

21 (c) the gross vehicle weight of the
22 vehicle and cargo;

23 (2) sign the manifest and present it to the
24 agent at the port of entry or to the officer conducting field
25 enforcement; and

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1 (3) present for inspection to the agent at the
2 port of entry or the officer conducting field enforcement a
3 copy of the billing or invoice describing the contents of the
4 cargo and the weight of the cargo.

5 D. The agent at the port of entry or the officer
6 conducting field enforcement may verify the information
7 contained upon the billing or invoice and shall:

8 (1) check the license, permit, engine and
9 serial numbers, weight and description of the vehicle; and

10 (2) inspect the vehicle and ascertain
11 whether it is in safe and road-worthy condition and properly
12 equipped with all lights, brakes and other appliances required
13 by law.

14 E. The agent at the port of entry or officer
15 conducting field enforcement may confirm the contents and
16 weight of the cargo of a commercial motor [~~carrier~~] vehicle and
17 interview the operator about the cargo and, if in doubt as to
18 the declared gross weight, may order the cargo weighed before
19 issuing any clearance certificate for the vehicle.

20 F. The agent at the port of entry or the officer
21 conducting field enforcement may inspect the contents of a
22 commercial motor [~~carrier~~] vehicle to determine whether all
23 taxes on gasoline and motor fuel and excise taxes on alcoholic
24 liquors and all taxes on any other property have been fully
25 paid.

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1 G. The agent at the port of entry or the officer
2 conducting field enforcement may inspect a commercial motor
3 [~~carrier~~] vehicle and its contents to determine whether they
4 are in compliance with laws and rules regarding public safety,
5 health, welfare and comfort.

6 H. An agricultural product transport vehicle is
7 excluded from the requirements of Subsection A of this section
8 if the agricultural product transport vehicle has cleared the
9 port of entry at least once and has successfully passed a
10 commercial vehicle safety alliance level 1 inspection during
11 the current harvest season.

12 I. As used in this section, "agricultural product
13 transport vehicle" means a motor vehicle, freight trailer or
14 utility trailer or a combination thereof used exclusively for
15 hauling agricultural products harvested by a farmer from the
16 place of harvesting to market, storage or a processing plant."

17 SECTION 16. Section 65-5-1.2 NMSA 1978 (being Laws 1989,
18 Chapter 319, Section 7) is amended to read:

19 "65-5-1.2. JOINT PORTS OF ENTRY--ENFORCEMENT AUTHORITY.--
20 The department may require commercial motor [~~carrier~~] vehicles
21 to stop at a joint port of entry in an adjoining state. The
22 joint port of entry shall be established pursuant to an
23 agreement entered into between the department and another state
24 pursuant to Section 9-11-12 NMSA 1978."

25 SECTION 17. Section 65-5-2 NMSA 1978 (being Laws 1943,

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1 Chapter 125, Section 9, as amended) is amended to read:

2 "65-5-2. PROOF OF COMPLIANCE--SCHEDULE OF PENALTIES.--

3 Except as otherwise provided in this section, a commercial
4 motor [~~carrier~~] vehicle having a gross vehicle weight or
5 combination gross vehicle weight of over twenty-six thousand
6 pounds shall not travel on New Mexico highways without either
7 proof that the trip tax has been paid for the movement of the
8 vehicle or both evidence of registration and a tax
9 identification permit issued by the department, unless that
10 vehicle is exempt from the weight distance tax. The department
11 may, by [~~regulation~~] rule, exempt portions of a highway from
12 the requirements of this section if those portions are prior to
13 reaching a port of entry where the trip tax may be paid."

14 SECTION 18. Section 65-5-3 NMSA 1978 (being Laws 1943,
15 Chapter 125, Section 10, as amended) is amended to read:

16 "65-5-3. CLEARANCE CERTIFICATES--TYPES OF [~~CARRIERS~~]
17 VEHICLES.--After inspection of the vehicle and related
18 documentation and any necessary registration, clearance
19 certificates or special permits may be issued by the department
20 for:

21 A. commercial motor [~~carrier~~] vehicles operating in
22 compliance with the provisions of the Motor Carrier Act when:

23 (1) all taxes and registration fees required
24 by the laws of this state upon the vehicles and contents of the
25 vehicles have been paid and all other laws and rules [~~and~~

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1 ~~regulations~~] of departments of this state applicable to the
2 vehicles and contents have been complied with; and

3 (2) the operator or owner of the vehicle is
4 not in default or delinquent in the payment of any tax, the
5 filing of any report or the observance of any requirements of
6 the Motor Carrier Act;

7 B. commercial motor [~~carrier~~] vehicles classified
8 and designated in law as exempt when:

9 (1) all taxes required by the laws of this
10 state upon the contents of the vehicles have been paid and all
11 other laws and rules [~~and regulations~~] of departments of this
12 state applicable to the contents have been complied with; and

13 (2) the vehicles have been registered in this
14 state or another state and evidence of registration, including
15 proper display of registration plates, required by the laws of
16 this state is provided;

17 C. commercial motor [~~carrier~~] vehicles not
18 registered or licensed in this state that are transporting
19 passengers for hire or property for hire or resale when:

20 (1) all taxes and registration fees required
21 by the laws of this state upon the vehicles and contents of the
22 vehicles have been paid and all other laws and rules [~~and~~
23 ~~regulations~~] of departments of this state applicable to the
24 vehicles and contents have been complied with;

25 (2) the vehicle is properly covered by

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1 liability insurance in accordance with the provisions of the
2 Motor Carrier Act and the [~~regulations~~] rules of the [~~state~~
3 ~~corporation~~] public regulation commission; and

4 (3) the trip tax has been fully paid; and

5 D. commercial motor [~~carrier~~] vehicles not
6 registered or licensed in this state that are transporting
7 property not for hire or resale when:

8 (1) all taxes required by the laws of this
9 state upon the contents of the vehicles have been paid and all
10 other laws and rules [~~and regulations~~] applicable to such
11 contents have been complied with; and

12 (2) the trip tax has been fully paid."

13 SECTION 19. Section 66-1-4.16 NMSA 1978 (being Laws 1990,
14 Chapter 120, Section 17, as amended) is amended to read:

15 "66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle
16 Code:

17 A. "safety glazing materials" means glazing
18 materials constructed, treated or combined with other materials
19 to reduce substantially, in comparison with ordinary sheet
20 glass or plate glass, the likelihood of injury to persons by
21 objects from exterior sources or by these safety glazing
22 materials when they are cracked and broken;

23 B. "safety zone" means the area or space that is
24 officially set apart within a highway for the exclusive use of
25 pedestrians and that is protected or is so marked or indicated

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1 by adequate signs as to be plainly visible at all times while
2 set apart as a safety zone;

3 C. "salvage vehicle" means a vehicle:

4 (1) other than a nonrepairable vehicle, of a
5 type subject to registration that has been wrecked, destroyed
6 or damaged excluding, pursuant to rules issued by the
7 department, hail damage, to the extent that the owner, leasing
8 company, financial institution or the insurance company that
9 insured or is responsible for repair of the vehicle considers
10 it uneconomical to repair the vehicle and that is subsequently
11 not repaired by or for the person who owned the vehicle at the
12 time of the event resulting in damage; or

13 (2) that was determined to be uneconomical to
14 repair and for which a total loss payment is made by an
15 insurer, whether or not the vehicle is subsequently repaired,
16 if, prior to or upon making payment to the claimant, the
17 insurer obtained the agreement of the claimant to the amount of
18 the total loss settlement and informed the claimant that,
19 pursuant to rules of the department, the title must be branded
20 and submitted to the department for issuance of a salvage
21 certificate of title for the vehicle;

22 D. "school bus" means a commercial motor vehicle
23 used to transport preprimary, primary or secondary school
24 students from home to school, from school to home or to and
25 from school-sponsored events, but not including a vehicle:

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1 (1) operated by a common carrier, subject to
2 and meeting all requirements of the public regulation
3 commission but not used exclusively for the transportation of
4 students;

5 (2) operated solely by a government-owned
6 transit authority, if the transit authority meets all safety
7 requirements of the public regulation commission but is not
8 used exclusively for the transportation of students; or

9 (3) operated as a per capita feeder as defined
10 in Section 22-16-6 NMSA 1978;

11 E. "seal" means the official seal of the taxation
12 and revenue department as designated by the secretary;

13 F. "secretary" means the secretary of taxation and
14 revenue, and, except for the purposes of Sections 66-2-3
15 and 66-2-12 NMSA 1978, also includes the deputy secretary and
16 any division director delegated by the secretary;

17 G. "semitrailer" means a vehicle without motive
18 power, other than a pole trailer, designed for carrying persons
19 or property and for being drawn by a motor vehicle and so
20 constructed that some significant part of its weight and that
21 of its load rests upon or is carried by another vehicle;

22 H. "sidewalk" means a portion of street between the
23 curb lines, or the lateral lines of a roadway, and the adjacent
24 property lines, intended for the use of pedestrians;

25 I. "slow-moving vehicle" means a vehicle that is

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1 ordinarily moved, operated or driven at a speed less than
2 twenty-five miles per hour;

3 J. "solid tire" means every tire of rubber or other
4 resilient material that does not depend upon compressed air for
5 the support of the load;

6 K. "special mobile equipment":

7 (1) means a vehicle not designed or used
8 primarily for the transportation of persons or property, [and
9 incidentally operated or moved over the highways, including but
10 not limited to farm tractors, road construction or maintenance
11 machinery, ditch-digging apparatus, well-boring apparatus and
12 concrete mixers] except for tools and parts necessary for the
13 use and maintenance of the vehicle, and only incidentally
14 operated or moved over a highway or a vehicle that has
15 machinery permanently attached and does not carry a load,
16 except for tools and parts necessary for the use and
17 maintenance of the machinery and only incidentally operated or
18 moved over a highway;

19 (2) includes ditch-digging apparatus; well-
20 boring apparatus; and earth-moving, road construction and
21 maintenance machinery, including asphalt spreaders, bituminous
22 mixers, bucket loaders, graders, patchers, finishing machines,
23 road rollers, scarifiers, earth-moving carryalls, scrapers,
24 power shovels, drag lines, self-propelled cranes and tractors,
25 other than truck tractors; and

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1 (3) does not include house trailers, dump
2 trucks or truck-mounted transit mixers, cranes or shovels;

3 L. "specially constructed vehicle" means a vehicle
4 of a type required to be registered under the Motor Vehicle
5 Code not originally constructed under a distinctive name, make,
6 model or type by a generally recognized manufacturer of
7 vehicles and not materially altered from its original
8 construction;

9 M. "state" means a state, territory or possession
10 of the United States, the District of Columbia or any state of
11 the Republic of Mexico or the Federal District of Mexico or a
12 province of the Dominion of Canada;

13 N. "state highway" means a public highway that has
14 been designated as a state highway by the legislature, the
15 state transportation commission or the secretary of
16 transportation;

17 O. "stop", when required, means complete cessation
18 from movement;

19 P. "stop, stopping or standing", when prohibited,
20 means any stopping or standing of a vehicle, whether occupied
21 or not, except when necessary to avoid conflict with other
22 traffic or in compliance with the directions of a police
23 officer or traffic-control sign or signal;

24 Q. "street" or "highway" means a way or place
25 generally open to the use of the public as a matter of right

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1 for the purpose of vehicular travel, even though it may be
2 temporarily closed or restricted for the purpose of
3 construction, maintenance, repair or reconstruction;

4 R. "subsequent offender" means a person who was
5 previously a first offender and who again, under state law,
6 federal law or a municipal ordinance or a tribal law, has been
7 adjudicated guilty of the charge of driving a motor vehicle
8 while under the influence of intoxicating liquor or any drug
9 that rendered the person incapable of safely driving a motor
10 vehicle, regardless of whether the person's sentence was
11 suspended or deferred; and

12 S. "suspension" means that a person's driver's
13 license and privilege to drive a motor vehicle on the public
14 highways are temporarily withdrawn."

15 SECTION 20. Section 66-5-54 NMSA 1978 (being Laws 1989,
16 Chapter 14, Section 3, as amended) is amended to read:

17 "66-5-54. DEFINITIONS.--As used in the New Mexico
18 Commercial Driver's License Act:

19 A. "commerce" means:

20 (1) trade, traffic or transportation within
21 the jurisdiction of the United States between a place in New
22 Mexico and a place outside of New Mexico, including a place
23 outside of the United States; [~~and~~]

24 (2) trade, traffic or transportation in the
25 United States that affects any trade, traffic or transportation

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1 described in Paragraph (1) of this subsection; and

2 (3) trade, traffic or transportation between
3 two places in New Mexico;

4 B. "commercial driver's license holder" means an
5 individual to whom a license has been issued by a state or
6 other jurisdiction, in accordance with the standards found in
7 49 C.F.R. part 383, as amended or renumbered, that authorizes
8 the individual to operate a commercial motor vehicle;

9 C. "commercial driver's license information system"
10 means the information system created pursuant to the federal
11 Commercial Motor Vehicle Safety Act of 1986 that contains
12 information pertaining to operators of commercial motor
13 vehicles;

14 D. "commercial motor vehicle" means a motor vehicle
15 or combination of motor vehicles used in commerce to transport
16 passengers or property if the motor vehicle:

17 (1) has a gross combination weight rating of
18 more than twenty-six thousand pounds inclusive of a towed unit
19 with a gross vehicle weight rating of more than ten thousand
20 pounds;

21 (2) has a gross vehicle weight rating of more
22 than twenty-six thousand pounds;

23 (3) is designed or used to transport more than
24 eight passengers, including the driver;

25 [~~3~~] (4) is designed or used to transport

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1 [sixteen or] more than fifteen passengers, including the
2 driver; or

3 [~~(4)~~] (5) is of any size and is used in the
4 transportation of hazardous materials, as hazardous materials
5 are defined in 49 C.F.R. part 383.5;

6 E. "conviction" means:

7 (1) an unvacated adjudication of guilt or a
8 determination that a person has violated or failed to comply
9 with the law by:

10 (a) a court of original jurisdiction; or

11 (b) an authorized administrative
12 tribunal;

13 (2) an unvacated forfeiture of bail or
14 collateral deposited to secure a person's appearance in court;

15 (3) a plea of guilty or nolo contendere
16 accepted by the court;

17 (4) the payment of a fine or court cost;

18 (5) a violation of a condition of release
19 without bail, regardless of whether the payment is rebated,
20 suspended or probated;

21 (6) an assignment to a diversion program or a
22 driver improvement school; or

23 (7) a conditional discharge as provided in
24 Section 31-20-13 NMSA 1978;

25 F. "director" means the director of the motor

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1 vehicle division of the department;

2 G. "disqualification" means:

3 (1) a suspension, revocation or cancellation
4 of a commercial driver's license by the state or jurisdiction
5 that issued the commercial driver's license;

6 (2) a withdrawal of a person's privileges to
7 drive a commercial motor vehicle by a state or other
8 jurisdiction as the result of a violation of state or local law
9 relating to motor vehicle control other than a parking, vehicle
10 weight or vehicle defect violation; and

11 (3) a determination by the federal motor
12 carrier safety administration that a person is not qualified to
13 operate a motor vehicle;

14 H. "division" means the motor vehicle division of
15 the department;

16 I. "driving a commercial motor vehicle while under
17 the influence of alcohol" means:

18 (1) driving a commercial motor vehicle while
19 the driver has an alcohol concentration in the driver's blood
20 or breath of four one hundredths or more;

21 (2) driving a commercial motor vehicle while
22 the driver is under the influence of intoxicating liquor; or

23 (3) refusal to submit to chemical tests
24 administered pursuant to Section 66-8-107 NMSA 1978;

25 J. "employee" means an operator of a commercial

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1 motor vehicle, including full-time, regularly employed drivers;
2 casual, intermittent or occasional drivers; leased drivers; and
3 independent owner-operator contractors, while in the course of
4 operating a commercial motor vehicle, who is either directly
5 employed by or under lease to an employer;

6 K. "employer" means a person, including the United
7 States, a state and a political subdivision of a state or their
8 agencies or instrumentalities, that owns or leases a commercial
9 motor vehicle or assigns employees to operate such a vehicle;

10 L. "fatality" means the death of a person as a
11 result of a motor vehicle accident;

12 M. "gross combination weight rating" means the
13 value specified by the manufacturer as the loaded weight of a
14 combination vehicle. In the absence of a value specified by
15 the manufacturer, gross combination weight rating shall be
16 determined by adding the gross vehicle weight rating of the
17 power unit and the total weight of the towed unit or units and
18 any load thereon;

19 N. "gross vehicle weight rating" means the value
20 specified by the manufacturer as the loaded weight of a single
21 vehicle;

22 O. "imminent hazard" means a condition that
23 presents a substantial likelihood that death, serious illness,
24 severe personal injury or a substantial endangerment to health,
25 property or the environment will occur before the reasonable

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1 foreseeable completion date of a formal proceeding to lessen
2 the risk of that death, illness, injury or endangerment;

3 P. "noncommercial motor vehicle" means a motor
4 vehicle or combination of motor vehicles that is not a
5 commercial motor vehicle;

6 Q. "nonresident commercial driver's license" means
7 a commercial driver's license issued by another state to a
8 person domiciled in that state or by a foreign country to a
9 person domiciled in that country;

10 R. "out-of-service order" means a declaration by an
11 authorized enforcement officer of a federal, state, Canadian,
12 Mexican or local jurisdiction that a driver, a commercial motor
13 vehicle or a motor carrier operation is temporarily prohibited
14 from operating;

15 S. "railroad-highway grade crossing violation"
16 means a violation of a provision of Section 66-7-341 or
17 66-7-343 NMSA 1978 or a violation of federal or local law or
18 rule pertaining to stopping at or crossing a railroad-highway
19 grade crossing;

20 T. "serious traffic violation" means conviction of
21 any of the following if committed when operating a motor
22 vehicle:

23 (1) speed of fifteen miles or more per hour
24 above the posted limits;

25 (2) reckless driving as defined by Section

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1 66-8-113 NMSA 1978 or a municipal ordinance or the law of
2 another state;

3 (3) homicide by vehicle, as defined in Section
4 66-8-101 NMSA 1978;

5 (4) injury to pregnant woman by vehicle as
6 defined in Section 66-8-101.1 NMSA 1978 or a municipal
7 ordinance or the law of another state;

8 (5) any other violation of law relating to
9 motor vehicle traffic control, other than a parking violation,
10 that the secretary determines by regulation to be a serious
11 traffic violation. "Serious traffic violation" does not
12 include a vehicle weight or vehicle defect violation;

13 (6) improper or erratic lane changes in
14 violation of Section 66-7-317 NMSA 1978;

15 (7) following another vehicle too closely in
16 violation of Section 66-7-318 NMSA 1978;

17 (8) directly or indirectly causing death or
18 great bodily injury to a human being in the unlawful operation
19 of a motor vehicle in violation of Section 66-8-101 NMSA 1978;

20 (9) driving a commercial motor vehicle without
21 possession of a commercial driver's license in violation of
22 Section 66-5-59 NMSA 1978;

23 (10) driving a commercial motor vehicle
24 without the proper class of commercial driver's license and
25 endorsements pursuant to Section 66-5-65 NMSA 1978 and the

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1 Motor Carrier Safety Act for the specific vehicle group
2 operated or for the passengers or type of cargo transported; or
3 (11) driving a commercial motor vehicle
4 without obtaining a commercial driver's license in violation of
5 Section 66-5-59 NMSA 1978; and

6 U. "state of domicile" means the state in which a
7 person has a true, fixed and permanent home and principal
8 residence and to which the person has the intention of
9 returning whenever the person has been absent from that state."

10 SECTION 21. Section 66-8-116.1 NMSA 1978 (being Laws
11 1989, Chapter 319, Section 12, as amended) is amended to read:

12 "66-8-116.1. PENALTY ASSESSMENT MISDEMEANORS--OVERSIZE
13 LOAD.--As used in the Motor Vehicle Code [~~and the Motor Carrier~~
14 ~~Act~~], "penalty assessment misdemeanor" means, in addition to
15 the definition of that term in Section 66-8-116 NMSA 1978,
16 violation of the following listed sections of the NMSA 1978 for
17 which the listed penalty is established:

18	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
19	Oversize load		
20	1,000 to 3,000 pounds	66-7-411	\$ 50.00
21	Oversize load		
22	3,001 to 4,000 pounds	66-7-411	80.00
23	Oversize load		
24	4,001 to 5,000 pounds	66-7-411	150.00
25	Oversize load		

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1	5,001 to 6,000 pounds	66-7-411	250.00
2	Oversize load		
3	6,001 to 7,000 pounds	66-7-411	400.00
4	Oversize load		
5	7,001 to 8,000 pounds	66-7-411	550.00
6	Oversize load		
7	8,001 to 9,000 pounds	66-7-411	700.00
8	Oversize load		
9	9,001 to 10,000 pounds	66-7-411	850.00
10	Oversize load		
11	over 10,000 pounds	66-7-411	1,000.00."

12 SECTION 22. Section 66-8-116.2 NMSA 1978 (being Laws
13 1989, Chapter 319, Section 13, as amended) is amended to
14 read:

15 "66-8-116.2. PENALTY ASSESSMENT MISDEMEANORS--MOTOR
16 TRANSPORTATION ACT AND MOTOR CARRIER ACT.--As used in the
17 Motor Vehicle Code, Motor Transportation Act and the Motor
18 Carrier Act, "penalty assessment misdemeanor" means, in
19 addition to the definitions of that term in Sections 66-8-116
20 and 66-8-116.1 NMSA 1978, violation of the following listed
21 sections of the NMSA 1978 for which, except as provided in
22 Subsection E of this section, the listed penalty is
23 established:

24 A. GENERAL
25 COMMON NAME OF OFFENSE SECTION VIOLATED PENALTY ASSESSMENT

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underscoring material = new
[bracketed material] = delete

1	Failure to register		
2	motor carrier	66-3-1.1	\$300.00
3	Failure to carry tax		
4	identification		
5	permit	65-1-26	300.00
6	Failure of motor carrier		
7	to comply with weight distance		
8	requirements of the Weight		
9	Distance Tax Act	65-1-26	
10	(1) first conviction		300.00
11	(2) second conviction, within		
12	ten years of the first conviction		500.00
13	(3) third or subsequent		
14	conviction, within ten years of the		
15	first conviction		1,000.00
16	Failure to comply with		
17	public regulation		
18	commission rules and		
19	regulations	65-2A-7	50.00
20	Failure to		
21	carry single state		
22	registration receipt issued		
23	by a base state	65-2A-7	50.00
24	Failure to register with		
25	a base state under the federal		

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underscored material = new
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1	Unified Carrier Registration Act		
2	of 2005	65-2A-16	50.00
3	<u>Possession of radar detector in</u>		
4	<u>commercial motor vehicle</u>	<u>65-3-8</u>	<u>100.00</u>
5	Failure to stop at		
6	designated		
7	registration place	65-5-1	100.00
8	Failure to obtain		
9	proper clearance		
10	certificates	65-5-3	100.00.

B. VEHICLE OUT-OF-SERVICE VIOLATIONS

12	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
13	Absence of braking action	65-3-9	\$100.00
14	Damaged brake lining or pads	65-3-9	50.00
15	Loose or missing brake		
16	components	65-3-12	100.00
17	Inoperable breakaway braking		
18	system	65-3-12	50.00
19	Defective or damaged brake		
20	tubing	65-3-12	50.00
21	Inoperative low pressure		
22	warning device	65-3-9	50.00
23	Reservoir pressure not		
24	maintained	65-3-12	100.00
25	Inoperative tractor		

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underscored material = new
[bracketed material] = delete

1	protection valve	65-3-9	100.00
2	Damaged or loose air		
3	compressor	65-3-12	100.00
4	Audible air leak at brake		
5	chamber	65-3-12	50.00
6	Defective safety devices--		
7	chains or hooks	65-3-9	100.00
8	Defective towing or coupling		
9	devices	65-3-9	100.00
10	Defective exhaust systems	65-3-9	30.00
11	Frame defects--trailers	65-3-12	100.00
12	Frame defects--other	65-3-9	100.00
13	Defective fuel systems	65-3-9	50.00
14	Missing or inoperative		
15	lamps	65-3-9	25.00
16	Missing lamps on projecting		
17	loads	65-3-9	50.00
18	Missing or inoperative		
19	turn signal	65-3-9	25.00
20	Unsafe loading	65-3-8	100.00
21	[Possession of radar detector		
22	in commercial motor carrier		
23	vehicle	65-3-8	100.00
24	Possession of alcoholic		
25	beverage in commercial		

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underscored material = new
[bracketed material] = delete

1	motor carrier vehicle	65-3-8	200.00]
2	Excessive steering wheel		
3	play	65-3-9	100.00
4	Steering column defects	65-3-9	100.00
5	Steering box or steering		
6	system defects	65-3-9	100.00
7	Suspension system defects	65-3-9	50.00
8	Defective springs or spring		
9	assembly	65-3-9	50.00
10	Defective tires--steering		
11	axle	65-3-9	100.00
12	Defective tires--other axles	65-3-9	30.00
13	Defective wheels and rims	65-3-9	50.00
14	Defective or missing		
15	windshield wipers	65-3-9	30.00
16	Defective or inoperative		
17	emergency exit--bus	65-3-9	100.00.

C. DRIVER OUT-OF-SERVICE VIOLATIONS

19	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
20	Driver's age	65-3-7	\$30.00
21	Driver not licensed for		
22	type of vehicle being		
23	operated	65-3-7	30.00
24	Failure to have valid		
25	commercial driver's license		

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underscored material = new
[bracketed material] = delete

1	in possession	66-5-59	30.00
2	No waiver of physical		
3	disqualification		
4	in possession	65-3-7	30.00
5	Sickness or fatigue	65-3-8	100.00
6	<u>Possession of alcoholic beverage</u>		
7	<u>in commercial motor vehicle</u>	<u>65-3-8</u>	<u>200.00</u>
8	Driver disqualification	65-3-7	500.00
9	Exceeding the 10-hour		
10	driving rule for		
11	passenger carrier		
12	transportation	65-3-11	100.00
13	Exceeding the 11-hour		
14	driving rule for property		
15	carrier transportation	65-3-11	100.00
16	Exceeding the 14-hour on		
17	duty rule for property		
18	carrier transportation	65-3-11	100.00
19	Exceeding the 15-hour on		
20	duty rule for passenger		
21	carrier transportation	65-3-11	100.00
22	Exceeding the 60 hours in 7		
23	days on duty rule	65-3-11	100.00
24	Exceeding the 70 hours in 8		
25	days on duty rule	65-3-11	100.00

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underscored material = new
[bracketed material] = delete

1	False log book	65-3-11	100.00
2	No log book	65-3-11	100.00
3	No record for previous		
4	7 days	65-3-11	100.00.

D. HAZARDOUS MATERIALS OUT-OF-SERVICE VIOLATIONS

6	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
7	Placarding violations	65-3-13	\$250.00
8	Cargo tank not meeting		
9	specifications	65-3-13	250.00
10	Internal valve operation		
11	violations	65-3-13	250.00
12	Hazardous materials		
13	packaging violations	65-3-13	250.00
14	Insecure load--hazardous		
15	materials	65-3-13	250.00
16	Shipping papers violations	65-3-13	30.00
17	Shipment of forbidden		
18	combination of hazardous		
19	materials	65-3-13	250.00
20	No hazardous waste manifest	65-3-13	30.00
21	Bulk packaging marking		
22	violations	65-3-13	30.00
23	Cargo tank marking violations	65-3-13	30.00.

E. Upon a second conviction for failure to stop at
a port of entry or inspection station pursuant to Section

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underscored material = new
[bracketed material] = delete

1 65-5-1 NMSA 1978, the penalty assessment shall be two hundred
2 fifty dollars (\$250). Upon a third or subsequent conviction,
3 the penalty assessment shall be five hundred dollars (\$500)."

4 SECTION 23. Section 66-8-125 NMSA 1978 (being Laws
5 1978, Chapter 35, Section 533) is amended to read:

6 "66-8-125. ARREST WITHOUT WARRANT.--

7 A. Members of the New Mexico state police, other
8 commissioned state law enforcement officers, sheriffs and
9 their [~~salari~~] deputies and members of any municipal police
10 force may arrest without warrant any person:

11 (1) present at the scene of a motor vehicle
12 accident;

13 (2) on a highway when charged with theft of a
14 motor vehicle; or

15 (3) charged with a crime in another
16 jurisdiction, upon receipt of a message giving the name or a
17 reasonably accurate description of the person wanted, the
18 crime alleged and a statement [~~he~~] that the person is likely
19 to flee the jurisdiction of [~~the~~] this state.

20 B. To arrest without warrant, the arresting officer
21 must have reasonable grounds, based on personal
22 investigation, which may include information from
23 eyewitnesses, to believe the person arrested has committed a
24 crime.

25 C. Members of the New Mexico state police, other

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1 commissioned state law enforcement officers, sheriffs and
2 their [~~salari~~ed] deputies and members of any municipal police
3 force may not make [~~arrest~~] arrests for traffic violations if
4 not in uniform; however, nothing in this section shall be
5 construed to prohibit the arrest, without warrant, by a peace
6 officer of any person when probable cause exists to believe
7 that a felony crime has been committed or in non-traffic
8 cases."

9 SECTION 24. Section 67-7-10 NMSA 1978 (being Laws 1921,
10 Chapter 94, Section 10) is amended to read:

11 "67-7-10. UNLAWFUL USE OF HIGHWAYS--PENALTIES.--The
12 public highways in the state are dedicated to the reasonable
13 use thereof by the public.

14 It [~~shall be~~] is unlawful for any person to injure or
15 damage any public highway or street or any bridge, culvert,
16 sign, signpost or structure upon or used or constructed in
17 connection with any public highway or street for the
18 protection thereof or for protection or regulation of traffic
19 thereon by any unusual, improper or unreasonable use thereof
20 or by the careless driving or use of any vehicle thereon or
21 by [~~wilful~~] willful mutilation, defacing or destruction
22 thereof.

23 It [~~shall be~~] is considered unreasonable use of any
24 bridge or structure to operate or conduct upon or over the
25 same any vehicle, tractor, engine or load of greater weight

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1 than that specified by the state, county or municipal
2 authorities having control of [~~such~~] the bridge or structure
3 in a notice posted at or near each end of [~~such~~] the bridge
4 or structure.

5 It [~~shall be~~] is considered unreasonable use of any
6 improved highway or street to operate, drive or haul thereon
7 any truck, tractor or engine in such manner or at times when
8 the surface thereof is in a soft or plastic condition from
9 moisture so as to cause excessive ruts or excessive
10 deterioration or displacement of the surfacing thereof.

11 It [~~shall be~~] is unlawful to operate, haul or conduct
12 over any public highway or street any vehicle, tractor,
13 engine, truck, load, building or other object, more than
14 eight feet six inches in width, except loads of hay, straw or
15 other farm products, without a permit from the state, county
16 or municipal authority in control of such highway or street,
17 which permit shall specify the manner of operation thereof so
18 as [~~not~~] to prevent as far as possible inconvenience and
19 danger to the traveling public and damage to the surface.

20 It [~~shall be~~] is unlawful to maintain any fence across
21 any public road unless the owner or person in control of such
22 fence [~~shall construct~~] constructs and [~~maintain~~] maintains
23 in good condition a gate and a cattle guard passageway for
24 motor vehicles in accordance with the specifications of the
25 authorities having control of such road. [~~And~~] No fence

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1 shall be maintained across any public road without a written
2 permit from the authorities having control of such road.

3 Any person violating any provision of this section
4 [~~shall be~~] is guilty of a misdemeanor and upon conviction
5 shall be punished by a fine of not less than twenty-five
6 dollars (\$25.00) nor more than five hundred dollars (\$500) or
7 by imprisonment in the county jail not less than five days
8 nor more than thirty days or by both such fine and
9 imprisonment [~~and~~]. The owner and the operator of such
10 vehicle, truck, tractor or engine shall be jointly and
11 severally liable to the state, county or municipality as the
12 case may be for the actual damage caused by the operation,
13 conducting or hauling thereof over any public highway,
14 street, bridge, culvert or structure in violation of any
15 provision of [~~this Act~~] Sections 67-7-10 and 67-7-11 NMSA
16 1978, to be collected by suit brought in the name of the
17 state, county or municipality having control of such highway
18 or street; and such vehicle, truck, tractor or engine may be
19 attached and held to satisfy any judgment for [~~such~~] damages.

20 The proceeds of any such judgment shall be paid to the
21 treasurer of the state or of such county or municipality and
22 placed to the credit of a fund for the construction and
23 improvement of roads or streets."

24 **SECTION 25. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is July 1, 2013.

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