EXHIBIT 1
DATE 4/6/11
SB 81

MONTANA DEPARTMENT OF JUSTICE
SB 81: Commercial Driver Licensing Changes Related to Medical Certificates

Background
The Motor Vehicle Division of the Montana Department of Justice administers Montana's commercial driver licensing program. The program must meet the standards and requirements set forth in federal regulations adopted by the Federal Motor Carrier Safety Administration (FMCSA) of the federal Department of Transportation. These regulations are based on laws passed by Congress.

When changes are made to the federal laws or regulations governing commercial driver licensing or an FMSCA audit uncovers discrepancies between our program and federal requirements, the Division requests legislation to bring Montana's program into (or back into) compliance.

Medical Certificates
SB 81 implements new federal requirements for recording and tracking of information from, and expiration dates of, medical certificates for certain commercial drivers licensed for interstate operations by a state driver licensing agency. These commercial drivers are already required by federal and state law to have a medical certificate, provide a copy of the certificate to their employing carrier, and carry a copy of the certificate with them whenever driving.

Montana has approximately 54,000 active CDL holders and approximately 49,000 of these drivers hold interstate licenses.

The recording and tracking of medical certificate information by state licensing agencies will:

- help prevent medically unqualified drivers from operating on Montana's and the nation's highways, by providing the Motor Vehicle Division a ready means of identifying interstate CDL holders who are unable to obtain or maintain physical qualifications for operating a commercial motor vehicle in interstate commerce (which is what medical certificate shows)
- serve as a deterrent to use of false or fraudulent medical certificates by drivers
- be more convenient for drivers. Once the medical certificate information is recorded, a driver will no longer need to carry his or her medical certificate while driving.

Access to medical certificate information from agency records will be limited to the authorized state and federal enforcement officials, the driver and the driver's employer (or prospective employer).

Since a commercial driver license term may not exceed five years and medical certificates expire after two years, an interstate driver will have to submit a new medical certificate to the state licensing agency every two years so the pertinent information can be updated on the commercial driver's record.

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If a driver cannot present a current medical certificate, the state licensing agency will downgrade the license, which means remove or withdraw the privilege to operate a commercial motor vehicle in interstate commerce. The individual will still have authority to drive a noncommercial motor vehicle and, depending on whether the driver certifies to a change in operation status, may be limited to excepted interstate (a category of driver that is not required to have a medical certificate under current law) or intrastate operation of a commercial vehicle. A driver may regain his or her non-excepted interstate privilege upon submission of a current medical certificate to the state licensing agency.

The state driver licensing agency must send a "reminder notice" – similar to a license renewal post card – to the driver within 30 to 60 days of the expiration date of the current medical certificate.

Other Required Changes

SB 81 also:

- amends 61-8-803(2) MCA so the speeding threshold meets federal requirements (the difference between "in excess of 15 miles an hour above a posted speed limit" and "15 or more miles an hour...")
- adds the new serious traffic offense of texting while driving a commercial vehicle
- changes the suspension period for a second conviction for an out-of-service violation from 1 to 2 years
- revises the definition of "hazardous material" to include materials listed as a "select agent or toxin" in federal regulations

Senate Amendments

SB 81 originally required CDL holders to get a new license whenever a downgrade or upgrade of a CDL occurred due to lapse of the holder's required medical certificate. That requirement generated revenue in the form of fees for the replacement license.

The requirement for a replacement license was eliminated in Senate Highways and thus all driver license fees associated with this bill (revenue in the fiscal notes) were eliminated.

Consequences of Noncompliance with Federal Requirements

If Montana's commercial driver licensing program is not brought into substantial compliance with federal standards, the state risks:

- loss of the ability to issue CDLs to Montana drivers;
- withholding of federal funding for the state's motor carrier safety assistance program (MCSAP), and
- withholding of five percent of its federal aid highway funds in the fiscal year following the state's first year of noncompliance and 10 percent of the funds in each year following the state's second or subsequent year of noncompliance.

March 23, 2011