

# Montana State Legislature

2011 Session

**Exhibit** |

**This exhibit is a booklet which can not be scanned, therefore only the front cover/table of content and 10 pages have been scanned to aid in your research.**

**The original exhibits are on file at the Montana Historical Society and may be viewed there.**

**Montana Historical  
Society Archives  
225 N. Roberts  
Helena MT 59620-1201  
2011 Legislative Scanner Susie Hamilton**

EXHIBIT 1  
DATE 2-11-2011  
HB 401



A REPORT  
TO THE  
MONTANA  
LEGISLATURE

PERFORMANCE AUDIT

# Montana Professional Tow Truck Act

Department of Justice

SEPTEMBER 2010

LEGISLATIVE AUDIT  
DIVISION

09P-15

**LEGISLATIVE AUDIT  
COMMITTEE**

**REPRESENTATIVES**

DEE BROWN, VICE CHAIR  
BETSY HANDS  
SCOTT MENDENHALL  
CAROLYN PEASE-LOPEZ  
WAYNE STAHL  
BILL WILSON

**SENATORS**

MITCH TROPILA, CHAIR  
GREG BARKUS  
JOHN BRENDEN  
TAYLOR BROWN  
MIKE COONEY  
CLIFF LARSEN

**AUDIT STAFF**

**PERFORMANCE**

ANGUS K. MACIVER  
JASON MOHR

**FRAUD HOTLINE  
HELP ELIMINATE FRAUD,  
WASTE, AND ABUSE IN  
STATE GOVERNMENT.  
CALL THE FRAUD  
HOTLINE AT:**

**(STATEWIDE)  
1-800-222-4446  
(IN HELENA)  
444-4446**

**PERFORMANCE AUDITS**

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, journalism, accounting, economics, sociology, finance, political science, english, anthropology, computer science, international relations/security, and chemistry.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

Direct comments or inquiries to:  
Legislative Audit Division  
Room 160, State Capitol  
P.O. Box 201705  
Helena, MT 59620-1705  
(406) 444-3122

Reports can be found in electronic format at:  
<http://leg.mt.gov/audit>

# LEGISLATIVE AUDIT DIVISION

Tori Hunthausen, Legislative Auditor  
Monica Huyg, Legal Counsel



Deputy Legislative Auditors  
James Gillett  
Angie Grove

September 2010

The Legislative Audit Committee  
of the Montana State Legislature:

This is our performance audit of the Montana Professional Tow Truck Act managed by the Montana Highway Patrol of the Department of Justice.

This report provides the Legislature information about administration of and compliance with the act. This report includes recommendations for improving compliance and enforcement at the Montana Highway Patrol.

We wish to express our appreciation to Montana Highway Patrol and other Department of Justice personnel for their cooperation and assistance during the audit.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Tori Hunthausen".

Tori Hunthausen, CPA  
Legislative Auditor

# TABLE OF CONTENTS

Figures and Tables.....	iii
Elected and Administrative Officials.....	iv
Report Summary.....	S-1
<b>CHAPTER I – INTRODUCTION.....</b>	<b>1</b>
Introduction.....	1
Audit Objectives.....	1
Audit Scope.....	1
Audit Methodologies.....	2
Report Organization.....	2
<b>CHAPTER II – BACKGROUND.....</b>	<b>5</b>
Introduction.....	5
How the Rotation System Works.....	5
Tow Truck Compliance Standards.....	7
Tow Trucks Classified by Weight.....	8
<b>CHAPTER III – INTEGRITY OF TOW TRUCK ROTATIONAL SYSTEM.....</b>	<b>9</b>
Introduction.....	9
Analysis of Rotational System.....	9
System Appears to Give Fair Consideration to Operators.....	10
Tow Truck Operators Also Impact the System.....	10
Tow Truck Rotation is Administered Equitably.....	11
Correcting Errors: MHP Dispatch Needs Written Policies.....	11
How Dispatchers Assign Calls for Service.....	12
Effectiveness of Answering Services Cannot Be Measured.....	12
Increase MHP Oversight of Answering Services.....	13
Use of Centralized Database to Identify Qualified Operators.....	14
Need Criteria to Design Rotational Areas.....	15
Response Times for Large Tow Trucks.....	18
<b>CHAPTER IV – ENFORCEMENT OF THE TOW TRUCK ACT.....</b>	<b>21</b>
Introduction.....	21
Compliance With Tow Truck Act Provisions Varies.....	21
Develop Procedures, Use Enforcement Powers to Increase Compliance.....	22
Storage and Business Requirements.....	22
Satellite Offices.....	22
Limit Owners to a Single Rotation Spot.....	23
Clarify MHP Enforcement Powers.....	23
Improve Assurances for Driver’s Licensing, Certification and Experience.....	25
Inspection Process Could Be Improved.....	26
Deadline Modifications Would Allow Flexibility, Create Efficiencies.....	27
MHP Relies on Paper Inspection Records.....	27
<b>CHAPTER V – CONSUMER PROTECTION.....</b>	<b>29</b>
Introduction.....	29
Office of Consumer Protection Processes Complaints About Tow Trucks.....	29
Tow Board Can Sanction Tow Truck Operators.....	30

Tow Truck Consumer Complaint Process Is Evolving..... 31  
Consumer Assurances Could Be Improved..... 31  
Tow Truck Rates Should Be Available..... 31

**DEPARTMENT RESPONSE**

Department of Justice ..... A-1

# FIGURES AND TABLES

## Figures

Figure 1	Map of 81 Rotational Areas With Tow Truck Locations .....	6
Figure 2	Qualification for MHP Rotational System Participation .....	8
Figure 3	Use of Central Database.....	15
Figure 4	Average Response Distance by Rotation Area .....	17
Figure 5	Large Tow Truck Response Scenarios .....	19
Figure 6	Compliance Levels for Selected Satellite Operators.....	23
Figure 7	Types of Tow Truck Inspections .....	26
Figure 8	Tow Truck Complaint Process .....	30

## Tables

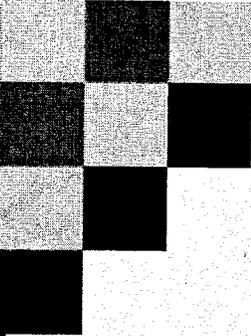
Table 1	Average Calls for Service Response Distances .....	16
Table 2	MHP Enforcement Powers .....	24
Table 3	Tow Truck Charges for Services.....	32
Table 4	Tow Truck Rate Regulation in Nearby States .....	32

**ELECTED AND ADMINISTRATIVE OFFICIALS****Department of Justice**

Steve Bullock, Attorney General

Tim Burton, Chief of Staff, Attorney General's Office

Colonel Michael Tooley, Chief Administrator, Highway Patrol  
Division



# MONTANA LEGISLATIVE AUDIT DIVISION

## PERFORMANCE AUDIT

# Montana Professional Tow Truck Act

Department of Justice

SEPTEMBER 2010

09P-15

REPORT SUMMARY

Because the Montana Highway Patrol dispatched private tow truck companies nearly 6,300 times last year to remove abandoned or damaged cars, SUVs, trucks, semitrailers and other obstructions from state roadways, the agency should ensure participation rules for these companies are followed and consumer assurances are strengthened.

### Context

The Montana Highway Patrol is responsible for administering provisions of the Montana Professional Tow Truck Act, or what is commonly known as the rotational system. The highway patrol often requires companies to respond and work quickly, so the act establishes standards for those participating.

The rotational system includes a series of requirements for approximately 274 participating tow truck companies, including equipment classification, liability insurance, truck inspections and business office and storage yard standards. This audit reviewed how the agency manages the rotational system, how it enforces provisions of the act, and identified potential improvements for consumers.

Audit work included review of highway patrol dispatch records and highway patrol district office records; interviews with highway patrol staff, tow truck drivers and others; observations of tow truck operations; research of applicable laws and regulations; and comparisons with similar systems in other states.

### Results

The Audit work found the Montana Highway Patrol is fairly administering the tow truck rotation system. However, the highway patrol could create further efficiencies and should better enforce rules for participating companies.

Some of this audit's recommendations have been or are being implemented, such as written policies and

procedures for centralized dispatch staff and enhancements to the dispatch staff's incident database. Other recommendations – such as expanded oversight of private answering services (who relay calls from the centralized dispatchers to tow truck drivers in Billings, Butte and Great Falls) or how tow trucks are assigned by area to incidents – may require expanded oversight or development of criteria. Expanded use of dispatch's incident database will create efficiencies.

The highway patrol must also improve its enforcement of rules for participating companies. Compliance falls short of rules for company satellite operations, storage yards or drivers' licensing and experience. The patrol should develop an enforcement strategy to increase compliance.

In addition, the department can improve consumer assurances, specifically regarding rates, by requiring tow truck companies to submit a rate schedule. This may diminish consumer complaints handled by the Office of Consumer Protection. The tow truck complaint process has evolved under an expanded role for the Tow Truck Complaint Resolution Committee.

Recommendation Concurrence	
Concur	8
Partially Concur	1
Do Not Concur	0
Source: Agency audit response included in final report.	

For a complete copy of the report or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to [lad@mt.gov](mailto:lad@mt.gov); or check the website at <http://leg.mt.gov/audit>. Report Fraud, Waste, and Abuse to the Legislative Auditor's FRAUD HOTLINE Call toll-free 1-800-222-4446 or e-mail [lad@mt.gov](mailto:lad@mt.gov).

# Chapter I – Introduction

## Introduction

Every year, thousands of incidents on Montana’s roadways require dispatch of a tow truck to assist in clearing wrecked or disabled vehicles. The Montana Professional Tow Truck Act establishes requirements for tow truck operators and also provides for a rotational system used when tow trucks are dispatched. For many incidents, the Montana Highway Patrol (MHP) is the first agency responding to a scene and the agency administers a rotational system for tow trucks that it dispatches. Working with MHP troopers and dispatchers, tow truck companies responded to nearly 6,300 similar incidents in 2009. Most of these involve passenger cars and trucks.

To be eligible to participate in what is referred to as the tow truck rotational system, 274 participating tow truck companies must meet equipment, inspections, insurance and business standards. These standards are contained in the Montana Professional Tow Truck Act (Title 61, Section 8, Part 9). The act also guides how tow trucks are to be used and how incidents are to be handled. The Tow Truck Act establishes a semi-regulatory system for the state’s tow truck industry through these minimum operational standards, but participation in the rotational system is voluntary. The MHP relies on the cooperation of tow truck operators in clearing hazards from the roads, rather than contracting for this service. After receiving two legislative requests on related tow truck issues, the Legislative Auditor prioritized a subsequent audit of the Montana Professional Tow Truck Act in 2009.

## Audit Objectives

To complete this audit, the following objectives were formed:

1. Does the Montana Highway Patrol administer the tow truck rotational system in accordance with its statutory purpose?
2. Are tow truck operators complying with the requirements of the Montana Professional Tow Truck Act?
3. Can the Montana Professional Tow Truck Act be strengthened to protect public health and safety?

## Audit Scope

This audit focused on compliance with the Professional Tow Truck Act, including how the MHP administers and constructs the rotation, how calls are dispatched, and how the MHP assures compliance with aspects of the act. In addition, we examined some public health and safety issues that result from tow truck activities.

This audit does not examine the administration of all tow truck activity in Montana. The scope of this audit narrowed from activities of all tow trucks to those working with the MHP. The MHP may work with most of the state's tow truck companies, but this excludes many calls for service, including calls within city limits, those called by a city police department or a county sheriff's department, and those that haul only junked vehicles. Local government often provides another level of regulation for tow trucks, such as not allowing tow trucks to be parked on residential streets or allowing tow operators to haul away cars illegally parked on private property ("nonconsent tows"). Such issues are outside the scope of this audit.

### **Audit Methodologies**

To address our audit objectives, we executed the following methodologies:

- ◆ Reviewed applicable statute, administrative rules, policies and procedures and contracts.
- ◆ Interviewed Montana Highway Patrol, Motor Carrier Services and Office of Consumer Protection staff.
- ◆ Interviewed tow truck operators.
- ◆ Reviewed applicable federal rules, national certification requirements.
- ◆ Analyzed dispatch data and data-handling techniques.
- ◆ Assessed training for dispatch staff and Montana Highway Patrol troopers related to tow truck issues.
- ◆ Mapped rotational system calls for service using GIS mapping software and analyzed response distances.
- ◆ Reviewed tow truck regulations and rules and interviewed law enforcement staff in five regional states.
- ◆ Reviewed MHP district office records and record-keeping processes.
- ◆ Observed wrecker operator yards to measure compliance.
- ◆ Analyzed tow truck ownership records.
- ◆ Analyzed agency staffing levels to determine availability of resources.
- ◆ Reviewed and assessed Office of Consumer Protection's complaint resolution process.
- ◆ Reviewed Tow Truck Complaint Resolution Committee membership, minutes and process.

### **Report Organization**

The rest of this report is organized into four additional chapters:

- ◆ Chapter II – Background: This chapter describes the rotational system.

- ◆ Chapter III – Integrity of Tow Truck Rotational System: This chapter analyzes the MHP administration of the rotation and how rotational areas are constructed.
- ◆ Chapter IV – Enforcement of the Tow Truck Act: This chapter analyzes compliance to various aspects of the act.
- ◆ Chapter V – Consumer Protection: This chapter examines the handling of tow truck complaints and proposes additional consumer assurances under the act.