

HOUSE BILL NO. 507

INTRODUCED BY B. BENNETT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE SAFE MONTANA HIGHWAYS ACT; REQUIRING
5 A SPECIAL USE PERMIT FOR MEGALoadS TRAVELING OVER THE HIGHWAYS OF THE STATE;
6 PROVIDING REQUIREMENTS FOR INFORMATION TO BE PROVIDED WITH AN APPLICATION FOR A
7 SPECIAL USE PERMIT; REQUIRING PUBLIC HEARINGS BEFORE THE DEPARTMENT OF
8 TRANSPORTATION MAY ISSUE SPECIAL USE PERMITS; REQUIRING THE APPLICANT TO BEAR CERTAIN
9 COSTS AND LIABILITIES; REQUIRING THE APPLICANT TO POST A BOND; PROHIBITING THE
10 DEPARTMENT OF TRANSPORTATION FROM ISSUING A PERMIT IF CERTAIN CONDITIONS ARE NOT
11 MET; PROVIDING FOR FEES AND PENALTIES; AMENDING SECTIONS 61-10-101, 61-10-109, 61-10-128,
12 61-10-142, AND 61-10-145, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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14 WHEREAS, safety is a primary concern for Montana motorists, recreationists, and residents that use
15 Montana highways; and

16 WHEREAS, costs of damage to Montana roadways, bridges, and other transportation infrastructure is
17 borne by state taxpayers; and

18 WHEREAS, Montanans do not want to have to pay more taxes than absolutely necessary; and

19 WHEREAS, Montanans' hard-earned money should not be taken by the government and given away to
20 benefit private special interests; and

21 WHEREAS, Montanans believe in the Preamble to our state Constitution; and

22 WHEREAS, Montanans understand that we need to drive our economy to be the best in the country.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25
26 NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Safe Montana
27 Highways Act".

28
29 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 8], the following definitions
30 apply:

1 (1) "Cumulative impacts" means the collective impacts on the human environment of a proposed action
2 when the action is considered in conjunction with other past, present, and future actions related by location or
3 generic type to the proposed action.

4 (2) "Department" means the department of transportation.

5 (3) "Highway" has the meaning provided in 60-1-103(18).

6 (4) "Interstate system" means interstate 94, interstate 90, and interstate 15.

7 (5) "Megaload" means a load transported by a vehicle or combination of vehicles operating over the
8 highways of the state that exceeds:

9 (a) the limitations on vehicle width, height, length, or gross weight provided in 61-10-102 through
10 61-10-104 and 61-10-107; and

11 (b) a total weight of 250,000 pounds.

12 (6) "Transportation plan" means the information required to be provided under [section 3(3)].

13

14 **NEW SECTION. Section 3. Megaload special use permit -- transportation plan.** (1) The
15 transportation of a megaload over the highways of this state is permitted only if authorized by a special use permit
16 issued by the department.

17 (2) The department must receive the application for a special use permit at least 1 year in advance of
18 a proposed move involving a megaload.

19 (3) An application for a special use permit must include a transportation plan that provides:

20 (a) documentation that the move is in the public interest, including the interests of the communities most
21 directly impacted by the move and the Montana taxpayers;

22 (b) documentation that alternative methods of transport, including routes that do not pass through the
23 state, are not feasible;

24 (c) for sections of the route that do not follow the interstate system, documentation on why the interstate
25 system cannot be used;

26 (d) a schematic or photograph of the item or items to be moved as part of the megaload;

27 (e) an explanation of why the megaload cannot be divided;

28 (f) a schematic of the configuration of the loaded vehicle or vehicles, including axle loadings, axle
29 spacings as measured from the center of each axle, tire sizes, the number of tires per axle, and the proposed
30 height, length, and width of the configuration;

- 1 (g) a list of the components of the shipment, including any harmful or hazardous materials;
- 2 (h) for applicants applying for more than one permit, an economic analysis that includes analysis of the
3 cumulative impacts of the entire project being permitted, the costs and benefits associated with the use of the
4 proposed route, including but not limited to potential accident and clean-up scenarios, long-term road impacts,
5 benefits to the applicant from using the proposed route, and costs to surrounding communities and businesses;
6 and
- 7 (i) a traffic control plan and map depicting the route and specific proceedings to be followed to provide
8 safe movement along the route, including:
- 9 (i) identified locations where traffic delays might occur and where those delays can be mitigated by
10 allowing following traffic to disperse;
- 11 (ii) a description of any lane restrictions;
- 12 (iii) provisions for emergency vehicles to navigate around the megaload or, if the megaload will not permit
13 vehicles to pass, a description of the arrangements that will be made for onsite emergency services both in front
14 of and behind the load;
- 15 (iv) a detailed description of how pilot or escort vehicles and flag persons will be used;
- 16 (v) arrangements for the movement of overhead obstacles;
- 17 (vi) identification of railroad crossings and contact information for the railroad companies, including a
18 pretrip analysis of each crossing to ensure that the megaload will clear the grade;
- 19 (vii) contact information for all on-call services in case of mechanical failure;
- 20 (viii) an accident prevention and safety plan detailing measures being taken to prevent accidents, as well
21 as a comprehensive plan should an accident occur, including but not limited to provisions for removal of the
22 megaload from the scene of an accident;
- 23 (ix) a detailed description and map of any pullouts that will be utilized to allow traffic to pass during the
24 movement of the megaload or for overnight parking for the megaload; and
- 25 (x) a detailed description and map containing the locations, weight limits, and most recent inspection
26 records for all bridges that the megaload will cross.
- 27 (4) The application, including the transportation plan, must be available on the department's website
28 immediately after the department receives the application. The department shall provide copies of the application
29 and required information to public libraries in the communities through which the megaload will pass. The
30 application, required information, and any amended material must remain accessible on the website throughout

1 the public hearing process provided for in [section 5].

2

3 **NEW SECTION. Section 4. Bridge inspection reports.** When a bridge inspection report required by
4 [section 3(3)(i)(x)] is more than 1 year old at the time of a permit application, the department shall inspect the
5 bridge and provide copies of the new inspection report with the transportation plan.

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7 **NEW SECTION. Section 5. Public hearings.** (1) An applicant for a special use permit required by
8 [section 3] shall hold public hearings on the proposed megaload move in the largest town through which the
9 megaload will pass and shall make a good faith effort to hold hearings in a geographic sampling of all
10 communities along the route.

11 (2) Public hearings must be held at least 6 months before the move will take place.

12 (3) Notification of a public hearing must be published at least 2 weeks prior to the hearing in at least two
13 of the most widely circulated newspapers in each of the communities in which a hearing will be held.

14 (4) The applicant shall provide copies of the transportation plan free of charge to the public at each
15 hearing.

16 (5) The applicant shall make a good faith effort to contact all interested parties adjacent to the megaload
17 route, including but not limited to counties, municipalities, tribal governments, state and federal agencies,
18 residents, and business owners.

19 (6) The department may not issue a special use permit unless the applicant has fulfilled the public
20 hearing requirements of this section.

21

22 **NEW SECTION. Section 6. Cost of megaload move -- liability -- bond.** (1) The applicant for a special
23 use permit required by [section 3] shall pay all costs associated with the transportation of the megaload, including
24 but not limited to bridge enhancement and repairs, movement of powerlines, road enhancement and repairs,
25 weed mitigation, and the time spent by municipal, county, and state employees in analyzing and processing the
26 permit application.

27 (2) When additional analysis by state agencies, counties, or municipalities is required, including the
28 bridge inspection under [section 4], the applicant shall pay all additional costs.

29 (3) The applicant is liable for all potential impacts and shall post a bond in the amount required by the
30 department to cover all potential impacts to the highways and bridges of the state.

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2 **NEW SECTION. Section 7. Denial of permit.** The department may not issue a special use permit if
3 any of the following conditions exist:

4 (1) highways and bridges on the proposed route are found to be inadequate to accommodate the
5 movement of the megaload;

6 (2) the megaload cannot be moved without undue risk to public safety;

7 (3) the megaload cannot be moved without causing significant impacts to existing economic uses of the
8 highways involved; or

9 (4) the applicant has not fully complied with all the requirements of [sections 1 through 8].
10

11 **NEW SECTION. Section 8. Fees for permit.** An applicant for a special use permit under [section 3]
12 is subject to the fees provided in 61-10-124 and 61-10-125. The fees collected pursuant to this section must be
13 deposited in the highway nonrestricted account in the state special revenue fund.
14

15 **Section 9.** Section 61-10-101, MCA, is amended to read:

16 **"61-10-101. Standards of maximum dimensions, weights, etc.** ~~The~~ Except as provided in [sections
17 1 through 8], the standards provided for in 61-10-102 through 61-10-104 and 61-10-106 through 61-10-110
18 govern the maximum dimensions, weights, and other characteristics of motor vehicles operating over the
19 highways in the state to the exclusion of other standards or other requirements respecting the subject matter."
20

21 **Section 10.** Section 61-10-109, MCA, is amended to read:

22 **"61-10-109. Operation without special permits prohibited.** The operation of vehicles or combinations
23 of vehicles having dimensions or weights in excess of the maximum limits specified in 61-10-101 through
24 61-10-104 and 61-10-106 through 61-10-108 is permitted only if authorized by special permit issued under
25 61-10-121 through 61-10-125 by the department of transportation or its agents or the highway patrol or issued
26 under [section 3] by the department of transportation."
27

28 **Section 11.** Section 61-10-128, MCA, is amended to read:

29 **"61-10-128. When authorities may restrict right to use roadway.** (1) A local authority may not alter
30 the limitations provided in 61-10-101 through 61-10-104, ~~and~~ 61-10-106 through 61-10-110, and [sections 1

1 through 8] or substitute other limitations or requirements, except as provided in this section.

2 (2) The department of transportation by order, or a local road authority by ordinance or resolution, may
 3 prohibit the operation of or impose restrictions on the weight and speed of a vehicle traveling on a public highway
 4 under its respective jurisdiction and for which it is responsible for maintenance whenever the highway will be
 5 seriously damaged or destroyed by deterioration, rain, snow, or other climatic conditions, unless the use of
 6 vehicles on the highway is prohibited or the permissible vehicle weights and speed are reduced. The department
 7 of transportation or the authority that enacts the ordinance or resolution shall erect signs designating the
 8 department's order or the authority's ordinance or resolution at each end of that portion of the highway affected,
 9 and the order, ordinance, or resolution is not effective until the signs are erected. The department of
 10 transportation or the authority by ordinance or resolution may prohibit the operation of trucks or other commercial
 11 vehicles or impose limitations on their weight on designated highways, subject to the provisions of subsection
 12 (3). These prohibitions and limitations must be designated by appropriate signs placed on the highways.

13 (3) Neither the department of transportation nor a local authority may prohibit the operation of or impose
 14 a restriction on the weight of a vehicle loaded with perishable seed potatoes that is traveling on a public highway
 15 if:

- 16 (a) the vehicle is being operated within its legal licensed gross vehicle weight;
- 17 (b) the driver possesses a federal-state inspection certificate issued for the load; and
- 18 (c) the vehicle takes the most direct route from the point of loading to the nearest nonrestricted road.
- 19 (4) Hay grinders and their towing units are exempt from weight limits imposed by the department of
 20 transportation under this section."

21
 22 **Section 12.** Section 61-10-142, MCA, is amended to read:
 23 **"61-10-142. Display of permit.** A special permit issued under 61-10-121 or [sections 1 through 8] ~~shall~~
 24 must be carried in the vehicle or combination of vehicles to which it refers and ~~shall~~ must be open to inspection
 25 by any peace officer, officer of the highway patrol, or employee of the department of transportation."
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27 **Section 13.** Section 61-10-145, MCA, is amended to read:
 28 **"61-10-145. Penalties.** (1) A person, firm, or corporation convicted of violating any of the provisions of
 29 61-10-101 through 61-10-104, ~~and~~ 61-10-106 through 61-10-110, and [sections 1 through 8] shall be punished
 30 by a fine of not less than \$30 or more than \$100. A person, firm, or corporation convicted of operating a motor

1 vehicle upon the public highways of this state with weight upon a wheel, axle, or group of axles greater than the
2 maximum permitted by 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 shall be fined, in addition
3 to other penalties provided by law for the offense, the following amounts:

- 4 (a) \$30 for any excess weight up to and including 2,000 pounds;
5 (b) \$75 for any excess weight more than 2,000 pounds and less than 4,001 pounds;
6 (c) \$125 for any excess weight more than 4,000 pounds and less than 6,001 pounds;
7 (d) \$175 for any excess weight more than 6,000 pounds and less than 8,001 pounds;
8 (e) \$250 for any excess weight more than 8,000 pounds and less than 10,001 pounds;
9 (f) \$275 for any excess weight more than 10,000 pounds and less than 12,001 pounds;
10 (g) \$300 for any excess weight more than 12,000 pounds and less than 14,001 pounds;
11 (h) \$400 for any excess weight more than 14,000 pounds and less than 16,001 pounds;
12 (i) \$500 for any excess weight more than 16,000 pounds and less than 18,001 pounds;
13 (j) \$600 for any excess weight more than 18,000 pounds and less than 20,001 pounds;
14 (k) \$1,000 for any excess weight more than 20,000 pounds and less than 25,001 pounds;
15 (l) \$2,000 for any excess weight more than 25,000 pounds.

16 (2) If a motor vehicle is equipped with a retractable axle that is not fully extended and carrying its
17 proportionate share of the load while the motor vehicle is operated upon the highways of this state, the weight
18 penalties in subsection (1) apply to all weight over the legal maximum allowed by the fixed axles regardless of
19 whether the axle is extended at the time of weighing. In addition to the penalties in subsection (1), the owner or
20 operator shall be fined \$100 for failure to have the retractable axle fully extended while the gross weight of the
21 vehicle exceeds the legal maximum allowed by the fixed axles.

22 (3) A complaint filed and a summons or notice to appear issued pertaining to a violation of the gross
23 weight regulations in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 must specify the amount
24 of the excess weight that the defendant is alleged to have had upon the vehicle or combination of vehicles.

25 (4) It is a misdemeanor, punishable as provided in 46-18-212, for a person, firm, or corporation to violate
26 any of the provisions of 61-10-123, 61-10-141, or 61-10-142."
27

28 **NEW SECTION. Section 14. Codification instruction.** [Sections 1 through 8] are intended to be
29 codified as an integral part of Title 61, chapter 10, and the provisions of Title 61, chapter 10, apply to [sections
30 1 through 8].

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2 NEW SECTION. **Section 15. Effective date.** [This act] is effective on passage and approval.

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