

1 SENATE BILL NO. 192

2 INTRODUCED BY R. ERICKSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO MOTOR CARRIER CLASSES;
5 CREATING A CLASS F MOTOR CARRIER; REQUIRING THE PUBLIC SERVICE COMMISSION TO REISSUE
6 CLASS B AND ISSUE CLASS F MOTOR CARRIER CERTIFICATES OF PUBLIC CONVENIENCE AND
7 NECESSITY; DEFINING "CHARTER SERVICE"; MODIFYING THE ANNUAL REPORT DEADLINE; AMENDING
8 SECTIONS 69-12-101, 69-12-205, 69-12-301, 69-12-321, 69-12-322, 69-12-406, 69-12-407, AND 69-12-611,
9 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 NEW SECTION. **Section 1. Class F motor carrier certificate.** (1) Except for motor carriers affected
14 by [section 2(2)], no Class F motor carrier shall operate for hire for the transportation of persons on any public
15 highway in this state without first having obtained from the commission, under the provisions of this chapter, a
16 certificate that public convenience and necessity require the operation.

17 (2) A motor carrier making application for a Class F permit shall do so in writing separately for each
18 locality for which consideration is desired. The application must be verified and must specify the following:

- 19 (a) the name and address of the applicant and the names and addresses of its officers, if any;
20 (b) a full description of the character of the vehicle or vehicles to be used, including the seating capacity;
21 (c) the locality and character of operations to be conducted;
22 (d) a detailed description of the property proposed to be devoted to the public service;
23 (e) a detailed statement showing the assets and liabilities of the applicant; and
24 (f) other or additional information as required by order of the commission.

25 (3) The application must be accompanied by a filing fee to be set by rule of the commission.

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27 NEW SECTION. **Section 2. Reissuance of Class B and issuance of Class F motor carrier**
28 **certificates of public convenience and necessity.** (1) The commission shall reissue a Class B certificate of
29 public convenience and necessity to each holder of a current Class B certificate of public convenience and
30 necessity that allows the carrier to transport passengers with rates regulated by the commission.

1 (2) The commission shall issue to each motor carrier currently holding a Class B certificate a Class F
2 certificate of public convenience and necessity that authorizes the transportation of passengers with rates not
3 regulated by the commission on [the effective date of this act].

4 (3) In addition to issuance under subsection (2), the commission shall issue a Class F certificate of public
5 convenience and necessity to each motor carrier currently holding a Class B certificate that:

6 (a) does not prohibit the transportation of passengers with rates not regulated by the commission; and

7 (b) provides written documentation or business records demonstrating the motor carrier operated a
8 transportation service with rates not regulated by the commission during the 1-year period prior to [the effective
9 date of this act]. The written documentation or business records must be submitted to the commission within 4
10 months following [the effective date of this act].

11 (4) The commission shall reissue all Class B and issue all Class F certificates of public convenience and
12 necessity by October 1, 2013.

13 (5) After October 1, 2013, a motor carrier subject to regulation by the commission may not transport
14 passengers in charter service without a Class F certificate.

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16 **Section 3.** Section 69-12-101, MCA, is amended to read:

17 **"69-12-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions
18 apply:

19 (1) "Between fixed termini" or "over a regular route" means the termini or route between or over which
20 a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular
21 departures from the termini or route.

22 (2) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

23 (3) "Charter service" means a service used for the transportation of passengers by a motor carrier with
24 rates not subject to approval by the commission if:

25 (a) the transportation of passengers is based on a single contract;

26 (b) the contract is entered into in advance of the transportation and does not result from a spontaneous,
27 curbside agreement;

28 (c) the contract includes a single fixed charge and fares are not assessed per passenger;

29 (d) the passenger or group of passengers acquires exclusive use of the motor vehicle through the
30 contract; and

1 (e) when applied to a group of passengers being transported, the group of passengers travels together
2 to a specified destination.

3 ~~(3)~~(4) "Compensation" means the charge imposed on motor carriers for the use of the highways in this
4 state by motor carriers under 69-12-421.

5 ~~(4)~~(5) "Corporation" means a corporation, company, association, or joint-stock association.

6 ~~(5)~~(6) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or
7 received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is
8 obtained or derived for transportation service.

9 ~~(6)~~(7) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is
10 transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, or licensed
11 disposal well. The term does not include wastewater and waste tires.

12 ~~(7)~~(8) "Household goods" means any of the following:

13 (a) personal effects and property used or to be used in a dwelling when they are a part of the equipment
14 or supply of the dwelling. The term does not include property moving from a factory or store unless the property
15 is purchased by a householder for use in a dwelling and is transported at the request of the householder.

16 (b) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals,
17 or other establishments when those items are a part of the stock, equipment, or supply of the stores, offices,
18 museums, institutions, hospitals, or other establishments. The term does not include the stock-in-trade of an
19 establishment, whether consignor or consignee, other than used furniture and used fixtures, except when
20 transported as incidental to moving of the establishment or a portion of the establishment from one location to
21 another.

22 (c) articles, including objects of art, displays, and exhibitions that because of their unusual nature or
23 value, require the specialized handling and equipment usually employed in moving household goods and other
24 similar articles.

25 ~~(8)~~(9) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by
26 a court, operating motor vehicles upon a public highway in this state for the transportation of passengers,
27 household goods, or garbage for hire on a commercial basis, either as a common carrier or under private
28 contract, agreement, charter, or undertaking.

29 ~~(9)~~(10) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled
30 vehicles used for the transportation of property or persons over the public highways of the state.

1 ~~(10)~~(11) "Person" means an individual, firm, or partnership.

2 ~~(11)~~(12) "Public highway" means a public street, road, highway, or way in this state.

3 ~~(12)~~(13) "Railroad" means the movement of cars on rails, regardless of the motive power used.

4 ~~(13)~~(14) "Recyclable" means any material diverted from the solid waste stream that can be reused in the
5 production of heat or energy or as raw material for new products and for which markets exist."

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7 **Section 4.** Section 69-12-205, MCA, is amended to read:

8 **"69-12-205. Rules to reflect differences between carrier classes.** All rules in relation to schedules,
9 service, tariffs, rates, facilities, accounts, and reports must have due regard for the differences existing between
10 Class A, Class B, Class C, ~~and Class D,~~ and Class F motor carriers, as defined in this chapter, and must be just,
11 fair, and reasonable to the classes of motor carriers in their relations to each other and to the public. In fixing the
12 tariff or rates to be charged by Class A and Class B motor carriers for the carrying of persons or property, or both,
13 the commission shall take into consideration the kind and character of service to be performed, the public
14 necessity of the service, and the effect of the tariff and rates upon other transportation agencies, if any, and shall,
15 as far as possible, avoid detrimental or unreasonable competition with existing railroad service or service
16 furnished by a motor carrier."

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18 **Section 5.** Section 69-12-301, MCA, is amended to read:

19 **"69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into ~~four~~ five classes to be
20 known as:

21 (a) Class A motor carriers;

22 (b) Class B motor carriers;

23 (c) Class C motor carriers; ~~and~~

24 (d) Class D motor carriers; and

25 (e) Class F motor carriers.

26 (2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular
27 route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or
28 scale.

29 (3) Class B motor carriers include all motor carriers operating under regular rates or charges based upon
30 either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular

1 route.

2 (4) Class C motor carriers include all motor carriers where the remuneration is fixed in and the
3 transportation service furnished under a contract, charter, agreement, or undertaking.

4 (5) Class D motor carriers include all motor carriers operating motor vehicles transporting garbage.

5 (6) Class F motor carriers include all motor carriers operating motor vehicles transporting passengers
6 in charter service."

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8 **Section 6.** Section 69-12-321, MCA, is amended to read:

9 **"69-12-321. Hearing on application for motor carrier certificate.** (1) Upon the filing of an application
10 by a Class A, Class B, Class C, ~~or~~ Class D, or Class F motor carrier, except a Class C motor carrier authorized
11 to operate under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer
12 of authority, the commission shall give notice of the filing of the application to any interested party. The
13 commission shall fix a time and place for a hearing on the application whenever a protest or a request for a
14 hearing is received. The hearing must be set for a date not later than 60 days after receipt of a protest or a
15 hearing request by the commission. Whenever no protests or hearing requests are received, the commission may
16 act on the application without a hearing as prescribed by commission rules.

17 (2) A motor carrier referred to in 69-12-322, the department of transportation, the governing board or
18 boards of any county, town, or city into or through which the route or service as proposed may extend, and any
19 person or corporation concerned are interested parties to the proceedings and may offer testimony for or against
20 the granting of the certificate.

21 (3) The contracting parties referred to in 69-12-313(4) must appear and offer testimony in support of the
22 applicant.

23 (4) However, an application by a Class A, Class B, Class C, ~~or~~ Class D, or Class F motor carrier for a
24 certificate may be disallowed without a public hearing when it appears from the records of the commission that
25 the route or territory sought to be served by the applicant has previously been made the basis of a public
26 investigation and finding by the commission that public convenience and necessity do not require the proposed
27 motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that
28 conditions obtaining over the route or in the territory and affecting transportation facilities have materially changed
29 since the previous public investigation and finding and that public convenience and necessity now require the
30 motor carrier operation."

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Section 7. Section 69-12-322, MCA, is amended to read:

"69-12-322. Notice of hearing. (1) Whenever a hearing is scheduled, whether as a result of a protest or request or upon the commission's own motion, the commission shall cause a copy of the petition and notice of hearing to be served upon an officer or owner of any motor carrier that in the opinion of the commission might be affected by the granting of the certificate and shall notify any other affected party at least 10 days before the date of hearing.

(2) Notice of the hearing must be published:

(a) in the legal advertising section of a local newspaper or newspapers determined by the commission to have a circulation sufficient to reach the consuming public in the area under consideration for applications for Class C authority and geographically limited Class B or Class F authority; and

(b) in appropriate newspapers determined by the commission to have sufficient statewide circulation in the case of applications for Class A authority and geographically broad contemplated Class B or Class F authority."

Section 8. Section 69-12-406, MCA, is amended to read:

"69-12-406. Restriction on transportation of certain waste. Except as provided in 69-12-324, a Class A, Class B, or Class C, or Class F carrier may not be authorized or permitted to transport garbage within the state. This restriction does not apply to recyclables."

Section 9. Section 69-12-407, MCA, is amended to read:

"69-12-407. Records and reports. (1) All records, books, accounts, and files of every Class A, Class B, Class C, ~~and Class D,~~ and Class F motor carrier in this state, so far as they relate to the business of transportation conducted by the motor carrier, must at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of Class A, Class B, Class C, ~~and Class D,~~ and Class F motor carriers, and every motor carrier authorized to operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according to the uniform system, insofar as possible.

(2) Before ~~April~~ May 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in business shall file with the commission a report, under

1 oath, on a form prescribed and furnished by the commission. Those carriers filing an annual report with the
 2 interstate commerce commission shall, in addition to filing the report prescribed by the public service commission,
 3 submit to the public service commission a copy of the annual report filed with the interstate commerce
 4 commission. In addition to annual reports every motor carrier shall prepare and file with the commission, at the
 5 time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements
 6 giving to the commission information it requires in order to perform its duties under this chapter.

7 (3) In addition to other reporting requirements, the commission shall require the holder of a Class D
 8 motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class
 9 D motor carrier certificate under the requirements of 69-12-314."

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11 **Section 10.** Section 69-12-611, MCA, is amended to read:

12 **"69-12-611. Leasing of power equipment.** (1) All Class A, Class B, Class C, ~~and Class D, and Class~~
 13 E motor carriers subject to the jurisdiction of the commission may lease power equipment for the purpose of
 14 performing transportation movements within the state. The leasing of power units must be in writing.

15 (2) All leases must contain:

16 (a) the full names and addresses of negotiating parties;

17 (b) a complete description of each vehicle involved;

18 (c) a provision that the sole possession, responsibility, control, and direction of each vehicle resides with
 19 the lessee for the entire term of the lease;

20 (d) a provision that the lessee assumes full responsibility for all regulatory fees;

21 (e) the amount of compensation to be paid for use of the vehicle while under the lease and the method
 22 by which the compensation is determined;

23 (f) the renewal conditions of the lease, if any; and

24 (g) the term length of the lease.

25 (3) A copy of the lease must be maintained in each leased vehicle at all times. Each leased power unit
 26 must display in a conspicuous place on both sides of the vehicle the identity and address of the lessor and lessee
 27 and the certificate number under which the power unit is operating.

28 (4) The leasing of power units by an authorized carrier to a noncertificated carrier is prohibited."

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30 NEW SECTION. **Section 11. Codification instruction.** [Sections 1 and 2] are intended to be codified

1 as an integral part of Title 69, chapter 12, part 3, and the provisions of Title 69, chapter 12, part 3, apply to
2 [sections 1 and 2].

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4 NEW SECTION. **Section 12. Severability.** If a part of [this act] is invalid, all valid parts that are
5 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
6 the part remains in effect in all valid applications that are severable from the invalid applications.

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8 NEW SECTION. **Section 13. Effective date.** [This act] is effective on passage and approval.

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