

HOUSE BILL NO. 525

INTRODUCED BY A. KNUDSEN

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MOTOR CARRIER LAWS; ELIMINATING THE REQUIREMENT THAT CLASS A, CLASS B, AND CLASS C MOTOR CARRIERS MEET CERTAIN REQUIREMENTS TO ACQUIRE A CERTIFICATE FROM THE PUBLIC SERVICE COMMISSION; PROVIDING A TRANSITION FOR MOTOR CARRIERS OPERATING WITH A CERTIFICATE; AMENDING SECTIONS 69-12-101, 69-12-205, 69-12-210, 69-12-311, 69-12-312, 69-12-313, 69-12-314, 69-12-321, 69-12-323, 69-12-324, 69-12-328, 69-12-404, AND 69-12-415, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 69-12-101, MCA, is amended to read:

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

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

(2) "Certificate" means the ~~certificate of public convenience and necessity issued under this chapter~~ written authorization from the commission required for operation as a motor carrier as applicable to the classes of motor carriers established under this part.

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

- (a) the transportation of passengers is based on a single contract;
- (b) the contract is entered into in advance of the transportation and does not result from a spontaneous, curbside agreement;
- (c) the contract includes a single fixed charge and fares are not assessed per passenger;
- (d) the passenger or group of passengers acquires exclusive use of the motor vehicle through the contract; and
- (e) when applied to a group of passengers being transported, the group of passengers travels together



1 to a specified destination.

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

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

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

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

11 (8) "Household goods" means any of the following:

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

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

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

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

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

30 (11) "Person" means an individual, firm, or partnership.

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

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

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

5

6 **Section 2.** Section 69-12-205, MCA, is amended to read:

7 **"69-12-205. Rules to reflect differences between carrier classes.** ~~All rules in relation~~ Rules related
8 to schedules, service, tariffs, rates, facilities, accounts, and reports must ~~have due regard for~~ recognize the
9 differences ~~existing~~ between Class A, Class B, Class C, and Class D motor carriers, as defined in this chapter,
10 and must be just, fair, and reasonable to the classes of motor carriers in ~~their relations~~ relation to each other and
11 to the public. In ~~fixing~~ establishing the tariff or rates to be charged by Class A and Class B motor carriers for the
12 carrying of persons or property, or both, the commission shall take into consideration the kind and character of
13 service to be performed, ~~the public necessity of the service, and the effect of the tariff and rates upon other~~
14 ~~transportation agencies, if any, and shall, as far as possible, avoid detrimental or unreasonable competition with~~
15 ~~existing railroad service or service furnished by a motor carrier."~~

16

17 **Section 3.** Section 69-12-210, MCA, is amended to read:

18 **"69-12-210. Complaints.** (1) The commission ~~has jurisdiction to conduct investigations~~ may investigate
19 and hear complaints to determine whether a motor carrier has violated ~~any of the commission's~~ commission rules
20 or orders or any provision of this chapter.

21 (2) Following an opportunity for hearing and ~~upon a~~ after finding that a motor carrier has violated ~~any~~
22 ~~of the commission's~~ commission rules or orders or any provision of this chapter, the commission may suspend
23 or revoke the motor carrier's certificate ~~of operating authority~~ or impose any penalty provided for under
24 69-12-108."

25

26 **Section 4.** Section 69-12-311, MCA, is amended to read:

27 **"69-12-311. Class A motor carrier certificate authorization to operate.** (1) ~~No~~ A Class A motor carrier
28 ~~shall operate for the transportation of~~ may not transport persons, ~~and/or~~ or property, or both for hire on any public
29 highway in this state without ~~first having obtained from the commission, under the provisions of~~ obtaining a
30 certificate pursuant to this chapter, ~~a certificate declaring that public convenience and necessity require such~~

1 operation.

2 (2) A motor carrier ~~making application for such certificate~~ shall ~~do so~~ apply for a certificate in writing;
3 separately for each route, ~~which petition shall~~. The application must be verified by the applicant and ~~shall~~ specify
4 the following matters:

5 (a) the name and address of the applicant ~~and the names and addresses of its officers, if any;~~

6 (b) the public highway or highways over which and the fixed termini between which or the regular route
7 or routes over which it the applicant intends to operate;

8 (c) the kind of transportation, ~~whether passenger, freight, or both, together with~~ a full and complete
9 description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle
10 to be used for passenger traffic, and the tonnage capacity of any vehicle to be used in freight traffic;

11 (d) the proposed time schedule;

12 (e) a proposed schedule of the tariff or rates ~~desired to be charged for the transportation of freight and/or~~
13 ~~passengers;~~

14 (f) a complete and detailed description of the property proposed to be devoted to the public service;

15 (g) a detailed statement showing the assets and liabilities of ~~such~~ the applicant; and

16 (h) ~~such other or additional information as required by the commission may by order require.~~

17 (3) ~~Such~~ The application ~~shall~~ must be accompanied by a filing fee ~~to be set by rule of the commission."~~

18

19 **Section 5.** Section 69-12-312, MCA, is amended to read:

20 "**69-12-312. Class B motor carrier certificate authorization to operate.** (1) ~~No~~ A Class B motor carrier
21 ~~shall operate for the transportation of~~ may not transport persons, ~~and/or property, or both~~ for hire on any public
22 highway in this state without ~~first having obtained from the commission, under the provisions of~~ obtaining a
23 certificate pursuant to this chapter, ~~a certificate that public convenience and necessity require such operations.~~

24 (2) A motor carrier ~~making application for such permit~~ shall ~~do so~~ apply for a certificate in writing;
25 separately for each locality ~~for which consideration is desired, which petition shall~~ under consideration. The
26 application must be verified by the applicant and ~~shall~~ specify the following matters:

27 (a) the name and address of the applicant ~~and the names and addresses of its officers, if any;~~

28 (b) the kind of transportation, whether passenger, freight, or both, together with a full and complete
29 description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle
30 to be used for passenger traffic and the tonnage capacity of any vehicle to be used in freight traffic;

- 1 (c) the locality and character of operations to be conducted;
- 2 (d) a proposed schedule of the tariff ~~of or~~ rates ~~desired~~ to be charged for the transportation of freight,
3 ~~and/or~~ passengers, or both;
- 4 (e) a complete and detailed description of the property proposed to be devoted to the public service;
- 5 (f) a detailed statement showing the assets and liabilities of ~~such~~ the applicant; and
- 6 (g) ~~such other or additional~~ information ~~as the~~ required by the commission ~~may by order require~~.
- 7 (3) ~~Such~~ The application ~~shall~~ must be accompanied by a filing fee ~~to be~~ set by rule of the commission."
8

9 **Section 6.** Section 69-12-313, MCA, is amended to read:

10 "**69-12-313. Class C motor carrier certificate authorization to operate.** (1) ~~No~~ A Class C motor
11 carrier, except any Class C motor carrier operating pursuant to the terms and conditions of a contract as provided
12 in 69-12-324, ~~shall~~ may not operate for the distribution, delivery, or collection of goods, wares, merchandise, or
13 commodities or for the transportation of persons on any public highway in this state without ~~first having obtained~~
14 ~~from the commission,~~ obtaining a certificate under the provisions of this chapter, ~~a certificate that public~~
15 ~~convenience and necessity require such operation.~~

16 (2) A motor carrier ~~making application for such permit shall do so~~ apply for a certificate in writing;
17 separately for each route or locality ~~for which consideration is desired, which petition shall be verified by the~~
18 ~~applicant and shall specify the following matters.~~ The application must be verified by the applicant and include:

- 19 (a) the name and address of the applicant and ~~the names and addresses of its officers, if any;~~
- 20 (b) the public highways or highways over which and the fixed termini between which or the route or
21 routes over which ~~it~~ the applicant intends to operate, if the ~~same~~ routes are fixed, or the particular city, town,
22 station, or locality from ~~and/or~~ or to which, or both, where the applicant intends to operate;

23 (c) the kind of transportation and the character of the goods, wares, merchandise, or commodities to be
24 distributed, delivered, or collected, together with a full and complete description of the character of the vehicle
25 or vehicles, including the rated tonnage capacity of ~~such~~ the vehicles, to be used in ~~such service of the~~
26 distribution, delivery, or collection; and

27 (d) ~~such other or additional~~ information ~~as the~~ required by the commission ~~may by order require~~.

28 (3) ~~Such~~ The application ~~shall~~ must be accompanied by a fee ~~to be~~ set by rule of the commission.

29 (4) The submission of a Class C motor carrier application ~~must be accompanied by~~ include the names
30 and addresses of any person, corporation, or other legal entity with whom the applicant has executed a contract

1 for the distribution, delivery, or collection of wares, merchandise, or commodities or transporting persons. ~~Such~~
 2 The contracts must be in writing, executed by the parties, and submitted to the commission for examination."

3

4 **Section 7.** Section 69-12-314, MCA, is amended to read:

5 **"69-12-314. Class D motor carrier certificate.** (1) Class D carriers shall conduct operations pursuant
 6 to a certificate ~~of public convenience and necessity~~ issued by the commission, upon a finding that the public
 7 convenience and necessity require the issuance of the certificate, authorizing the transportation of the
 8 commodities described in 69-12-301(5). Class D carriers, when applying for a new or additional authority, shall
 9 file an application with the commission in accordance with the requirements of this chapter and the rules of the
 10 commission.

11 (2) A motor carrier may not possess a Class D motor carrier certificate or operate as a Class D motor
 12 carrier unless the motor carrier actually engages in the transportation of garbage on a regular basis as part of
 13 the motor carrier's usual business operation."

14

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

16 **"69-12-321. Hearing on application for motor carrier certificate.** (1) (a) Upon the filing of an
 17 application by a Class A, Class B, Class C, or Class D motor carrier, except a Class C motor carrier authorized
 18 to operate under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer
 19 of authority, the commission shall ~~give~~ provide notice of the ~~filing of the~~ application to any interested party.

20 (b) ~~The~~ Except as provided in subsection (1)(c), if a protest or a request for hearing is received, the
 21 commission shall fix a time and place for a hearing on the application ~~whenever a protest or a request for a~~
 22 ~~hearing is received.~~ The hearing must be set ~~for a date~~ not later than 60 days after receipt of a protest or a
 23 hearing request ~~by the commission. Whenever no protests or hearing requests are received;~~ if a protest or a
 24 request for hearing is not received, the commission may act on the application without a hearing as prescribed
 25 by commission rules.

26 (c) A protest related to an application by a Class A, Class B, or Class C motor carrier is limited to a
 27 protest of the motor carrier's ability to meet the requirements of 69-12-323(5).

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

1 the granting of the certificate.

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

4 (4) ~~However, an application by a Class A, Class B, Class C, or An application by a Class D motor carrier~~
5 for a certificate may be ~~disallowed~~ denied without a public hearing when it ~~appears from~~ the records of the
6 commission demonstrate that the route or territory sought to be served by the applicant has previously been
7 made the basis of a public investigation and finding by the commission that public convenience and necessity
8 do not require the proposed motor carrier service, ~~unless it is made to affirmatively appear in the application by~~
9 ~~a recital of the~~ A hearing must be held if the applicant presents facts demonstrating that conditions ~~obtaining over~~
10 the route or in the territory and affecting transportation facilities have materially changed since the previous public
11 investigation and finding and that public convenience and necessity now require the motor carrier operation."
12

13 **Section 9.** Section 69-12-323, MCA, is amended to read:

14 **"69-12-323. Decision on application.** (1) (a) ~~The commission must issue, within~~ Except as provided
15 in subsection (1)(b), within 180 days from ~~and after~~ the date of the completed filing of ~~said an~~ application, the
16 commission shall issue its finding, order, or decision on ~~said the~~ application and the evidence presented in
17 support ~~thereof of the application~~ at the time of said the hearing.

18 (b) The commission may extend the ~~foregoing~~ time for making a decision to a date requested by the
19 applicant.

20 (2) (a) If after a hearing ~~upon application for~~ on the request for a certificate by a Class D motor carrier,
21 the commission finds from the evidence that public convenience and necessity require the authorization of the
22 service proposed or any part ~~thereof of the service proposed,~~ as the commission shall determine, a certificate
23 ~~therefor shall must~~ be issued. In determining whether a certificate should be issued, the commission shall give
24 ~~reasonable consideration to consider:~~

25 (i) the transportation service being furnished or that will be furnished by any railroad or other existing
26 transportation agency; ~~and shall give due consideration to~~

27 (ii) the likelihood of the proposed service being permanent and continuous throughout 12 months of the
28 year; and

29 (iii) the effect ~~which that~~ the proposed transportation service may have ~~upon~~ on other forms of
30 transportation service ~~which that~~ are essential and indispensable to the communities to be affected by such the

1 proposed transportation service or that might be affected ~~thereby~~ by the proposed transportation service.

2 (b) For ~~the purposes of Class D certificates~~ issuing a certificate to a Class D motor carrier, a
3 determination of public convenience and necessity may include a consideration of competition.

4 (3) The commission may issue the certificate as ~~prayed for or issue it for the partial exercise only of the~~
5 privilege sought requested in the application or in part and may attach ~~to the exercise of the rights granted by~~
6 such certificate such terms and conditions to a Class D certificate as that in its judgment the public convenience
7 and necessity may require. ~~When~~

8 (4) ~~If a certificate has once been~~ is issued to a motor carrier as provided in this part, ~~such the~~ certificate
9 ~~shall continue in force~~ is in effect until terminated by the commission for cause ~~as herein provided~~ or until
10 terminated by the owner's failure to comply with 69-12-402.

11 (5) (a) In determining whether to approve a Class A, Class B, or Class C motor carrier's application, the
12 commission shall consider only whether the applicant meets the requirements of 69-12-415. The commission may
13 still provide notice and require a hearing in accordance with 69-12-321.

14 (b) An applicant establishes a prima facie assumption that it meets the requirements of 69-12-415 by
15 demonstrating compliance with insurance, bonding, and security requirements established by the commission
16 in accordance with 69-12-402."

17

18 **Section 10.** Section 69-12-324, MCA, is amended to read:

19 **"69-12-324. Special provisions when federal or state contract involved.** (1) ~~The presentation of the~~
20 A written contract presented to the commission shall be deemed is sufficient proof that a motor carrier meets the
21 requirements of 69-12-323(5) or, for a Class D motor carrier, of public convenience and necessity in accordance
22 with the terms and conditions contained within the United States government or state government contracts.
23 Subject to the provisions of this section, a transportation movement is considered to be:

24 (a) the transportation for hire of persons between two points within the state by a motor carrier pursuant
25 to the terms of a written contract between the carrier and the United States government or an agency or
26 department ~~thereof~~ of the United States; or

27 (b) the transportation for hire of solid waste between two points within the state by a motor carrier
28 pursuant to the terms of a written contract between the carrier and the state government or an agency or
29 department ~~thereof~~ of the state.

30 (2) The Class C certificate ~~of public convenience and necessity~~ issued pursuant to the terms and

1 conditions of the United States government or state government contract may be issued by the commission upon
 2 receipt of an executed copy of the United States government or state government contract. The certificate of
 3 ~~public convenience and necessity~~ may be issued thereafter without requiring the commission to fix a time and
 4 ~~place for a~~ public hearing.

5 (3) The certificate of ~~public convenience and necessity~~, issued pursuant to the terms of the United States
 6 government or state government contract, is authorized only for the duration of the United States government or
 7 state government contract concerned. The certificate may be renewed for another definite term if the ~~same~~ motor
 8 carrier is the motor carrier authorized to operate under the United States government or state government
 9 contract."

10

11 **Section 11.** Section 69-12-328, MCA, is amended to read:

12 **"69-12-328. Certificate for charter service.** (1) The commission shall issue a certificate of ~~public~~
 13 ~~convenience and necessity~~ that authorizes a motor carrier to provide charter service if the motor carrier provides
 14 written documentation or business records to the commission that demonstrate that during the 1-year period prior
 15 to January 1, 2011, the motor carrier:

- 16 (a) provided charter service;
 17 (b) transported passengers with a motor vehicle designed to carry more than 10 passengers; and
 18 (c) obtained a USDOT number from the U.S. department of transportation as provided in 49 CFR 390.19.

19 (2) The written documentation or business records must be submitted to the commission within 6 months
 20 following April 18, 2011.

21 (3) The commission shall issue all certificates of public convenience and necessity under subsection (1)
 22 by July 1, 2012.

23 (4) After July 1, 2012, a motor carrier subject to regulation by the commission may not transport
 24 passengers in charter service without a certificate of ~~public convenience and necessity~~."

25

26 **Section 12.** Section 69-12-404, MCA, is amended to read:

27 **"69-12-404. Suspension of intrastate operating authority by petition.** (1) ~~(a) Every~~ (a) ~~A~~ motor carrier
 28 ~~as defined within this chapter~~ may petition the commission in writing to suspend its intrastate operating authority
 29 for a period not to exceed 6 months. ~~An~~ Only one additional 6 months' suspension may be requested and
 30 granted, ~~but no other~~. Such

1 (b) ~~The suspension requested by a Class D motor carrier~~ may be granted by ~~the commission~~ upon a
2 showing ~~of present absence of that~~ public convenience and necessity ~~no longer require the service~~ or other
3 showing of matters affecting motor carrier transportation.

4 (2) The suspension of any intrastate operating authority of ~~any a Class D motor carrier~~ as provided for
5 in subsection (1) for a period of 12 consecutive months ~~shall be deemed to establish~~ establishes a prima facie
6 presumption of absence of public convenience and necessity. If after notice and hearing the Class D motor carrier
7 is unable to prove the existence of public convenience and necessity or existing demand for the transportation
8 service, the commission ~~is authorized to~~ may cancel such ~~a certificate of public convenience and necessity.~~"

9

10 **Section 13.** Section 69-12-415, MCA, is amended to read:

11 "**69-12-415. Carrier fitness.** A certificate ~~of operating authority~~ may not be issued or remain in force
12 unless the ~~holder of the~~ certificate holder is fit, willing, and able to perform the authorized service and conforms
13 to the provisions of this chapter and the rules and orders of the commission."

14

15 NEW SECTION. **Section 14. Grandfather clause -- transition.** A motor carrier that possesses a
16 certificate issued by the commission on or before June 30, 2012, must be considered to possess a valid
17 certificate.

18

19 NEW SECTION. **Section 15. Saving clause.** [This act] does not affect rights and duties that matured,
20 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

21

22 NEW SECTION. **Section 16. Effective date.** [This act] is effective July 1, 2013.

23

- END -