

HOUSE BILL NO. 504  
INTRODUCED BY F. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING PUBLIC SERVICE COMMISSION REGULATORY AUTHORITY OVER MOTOR CARRIER TRANSPORTATION; REQUIRING THE DEPARTMENT OF JUSTICE TO ENFORCE MOTOR CARRIER LICENSING, INSURANCE, AND SAFETY LAWS; AMENDING SECTIONS 7-2-4736, 7-13-4107, 61-1-320, 61-3-431, 61-4-301, 61-4-305, 61-6-109, 61-10-141, 61-12-206, 69-1-401, 69-2-101, 69-12-101, 69-12-203, AND 69-12-401, MCA; REPEALING SECTIONS 61-4-304, 69-12-102, 69-12-104, 69-12-105, 69-12-106, 69-12-107, 69-12-108, 69-12-201, 69-12-202, 69-12-204, 69-12-205, 69-12-206, 69-12-207, 69-12-208, 69-12-209, 69-12-210, 69-12-301, 69-12-302, 69-12-311, 69-12-312, 69-12-313, 69-12-314, 69-12-321, 69-12-322, 69-12-323, 69-12-324, 69-12-325, 69-12-326, 69-12-327, 69-12-331, 69-12-402, 69-12-403, 69-12-404, 69-12-406, 69-12-407, 69-12-408, 69-12-415, 69-12-421, 69-12-422, 69-12-423, 69-12-501, 69-12-502, 69-12-503, 69-12-504, 69-12-505, 69-12-511, 69-12-601, 69-12-602, 69-12-603, 69-12-604, 69-12-605, 69-12-611, AND 69-12-612, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 7-2-4736, MCA, is amended to read:

**"7-2-4736. Preservation of existing garbage or solid waste service in the event of annexation.** (1)

A municipality that annexes or incorporates additional area receiving garbage and solid waste disposal service by a motor carrier ~~authorized by the public service commission to conduct such service~~ may not provide competitive or similar garbage and solid waste disposal service to any person or business located in the area for 5 years following annexation except:

(a) upon a proper showing ~~to the public service commission~~ that the existing carrier is unable or refuses to provide adequate service to the annexed or incorporated area; or

(b) after the expiration of 5 years, if a majority of the residents of the annexed or incorporated area sign a petition requesting the municipality to provide the service.

(2) If a proper showing is made that the existing motor carrier is unable or refuses to provide adequate service to the annexed or incorporated area or, after the expiration of 5 years, if a majority of the residents sign a petition requesting service from the municipality, the municipality may provide garbage and solid waste disposal

service to the entire annexed or incorporated area.

(3) For the purposes of determining whether an existing motor carrier provides adequate service, those services provided by the carrier prior to annexation are considered adequate services."

**Section 2.** Section 7-13-4107, MCA, is amended to read:

**"7-13-4107. Protection of private waste disposal service in municipality.** A municipality, as of January 1, 1979, that receives garbage and solid waste disposal services from a private motor carrier ~~authorized by the public service commission to provide such service~~ may not, by ordinance or otherwise, elect to provide exclusive garbage and solid waste service unless the municipality pays the private motor carrier fair market value for ~~his~~ the motor carrier's equipment or unless the municipality delays commencing the public service for a period of 5 years from the date of the decision by the municipality to provide the garbage and solid waste services. The private motor carrier ~~shall~~ must be given notice of the decision by the municipality to provide exclusive garbage and solid waste services no later than 10 days after the decision has been made by the municipality."

**Section 3.** Section 61-1-320, MCA, is amended to read:

**"61-1-320. Motor carrier defined.** "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by a court, operating motor vehicles upon a public highway in this state for the transportation of property for hire on a commercial basis. ~~The term does not include motor carriers regulated under Title 69, chapter 12.~~"

**Section 4.** Section 61-3-431, MCA, is amended to read:

**"61-3-431. Special mobile equipment -- exemption from registration and payment of fees and charges -- identification plate -- special demonstration permit -- publicly owned special mobile equipment.**

(1) A person, firm, partnership, or corporation who owns, leases, or rents special mobile equipment as defined in 61-1-104 and occasionally moves that equipment on, over, or across the highways of the state is not subject to registration of that equipment or required to pay the fees and charges provided for in 61-4-301 through 61-4-303, 61-3-305 through 61-4-308, or part 2 of chapter 10. Prior to movement on the highways:

(a) each piece of equipment must display an equipment identification plate or a dealer's license plate attached to the equipment, except for equipment referred to in 61-1-104(2) that is brought into Montana for demonstration purposes;

(b) each piece of equipment referred to in 61-1-104(2) that is brought into Montana for demonstration

purposes must have a special demonstration permit conspicuously displayed.

(2) (a) Annual application for the identification plate must be made to the county treasurer before any piece of equipment is moved on the highways. Application must be made on a form furnished by the department, together with the payment of a fee of \$5. The equipment for which a special mobile equipment plate or for which a special demonstration permit is sought is subject to the assessment of personal property taxes on the date application is made for the plate or the date determined pursuant to subsection (4). The personal property taxes assessed against the special mobile equipment must be paid before a special mobile equipment plate may be issued. The fees collected under this section must be deposited in the state general fund, except that \$25 of the special demonstration permit fee must be remitted to the department of transportation.

(b) Application must be made for a special demonstration permit as provided in subsection (1)(b). The application must be made to the county treasurer or to a weigh station before the piece of equipment is moved on Montana highways. Application for the special demonstration permit must be made on a form furnished by the department and must be accompanied by the payment of a fee of \$50.

(3) The identification plate expires on December 31 of each year. If the expired identification plate is displayed, an owner of special mobile equipment registered under the provisions of this section is entitled to operate the equipment between January 1 and February 15 following expiration without displaying the identification plate or receipt of the current year.

(4) (a) The special demonstration permit expires 45 days after its issuance. Special mobile equipment that remains in the state past the expiration of the permit is subject to the assessment of personal property taxes, starting on the first day following expiration of the permit.

(b) If the holder of a special demonstration permit leases or sells the piece of equipment during the term that is covered by the permit, the permit is no longer valid and the special mobile equipment is subject to the assessment of personal property taxes, starting on the first day of the lease or the date of the sale.

(5) Publicly owned special mobile equipment and implements of husbandry used exclusively by an owner in the conduct of the owner's farming operations are exempt from this section."

**Section 5.** Section 61-4-301, MCA, is amended to read:

**"61-4-301. Permit and transit plates for new vehicles being transported by driveaway or towaway methods -- used mobile homes.** (1) (a) A person, firm, partnership, or corporation; that is regularly and lawfully engaged in the transportation of new vehicles over the highways of this state from manufacturing or assembly points to agents of manufacturers and dealers in this state or in other states, territories, or foreign countries or

provinces by the driveaway or towaway ~~methods~~ method, ~~where by which~~ the vehicles being driven, towed, or transported by the saddle-mount, towbar, or full-mount ~~methods~~ method; or a lawful combination of these methods; will be transported over the highways of the state ~~but only~~ once, may annually apply to the department of justice for a permit to use the highways of this state and shall pay, upon filing the application, a fee of \$100. Upon processing of the application, that department shall issue an annual permit to the applicant.

(b) A person moving used mobile homes from a point outside the state to a point inside the state may apply to the department for the permit authorized pursuant to subsection (1)(a).

(2) The permitholder may also apply to the department of justice for a sufficient number of distinctive transit plates or devices showing the permit number for identification of the vehicles being transported by the permitholder, and the plates or devices may be used on a vehicle being driven, towed, or transported by and under the control of the permitholder. That department shall collect the additional sum of \$1 for each pair of transit plates or devices applied for and issued.

(3) The department of justice shall retain the permit and plate fees to defray costs of administering 61-4-301 through 61-4-303 and 61-4-305 through 61-4-308.

(4) The permit and transit plates or devices expire on December 31 of each year."

**Section 6.** Section 61-4-305, MCA, is amended to read:

**"61-4-305. Driveaway or towaway fees in lieu of other fees payable -- election to pay other fees.**

The fees provided for driveaway or towaway transporters are in consideration of the right to use the highways of the state and ~~except as provided in 61-4-304~~ are in lieu of all other fees including those ~~which that~~ might be payable under the provisions of part 2 of chapter 10. However, any operator may elect to pay the fees payable under the provisions of that part."

**Section 7.** Section 61-6-109, MCA, is amended to read:

**"61-6-109. Exceptions.** This part ~~shall~~ does not apply with respect to:

(1) any motor vehicle owned by the United States, this state, ~~or~~ any political subdivision of this state, or any municipality ~~therein~~ in this state; or

(2); except for 61-6-139, with respect to any motor vehicle ~~which is subject to the provisions of 69-12-402,~~ requiring insurance or other security."

**Section 8.** Section 61-10-141, MCA, is amended to read:

**"61-10-141. (Temporary) Officers authorized to weigh vehicles and require removal of excessive loads -- enforcement of motor carrier safety standards -- duty to obtain bills of lading for agricultural seeds -- authority to inspect diesel-powered vehicles.**

(1) A peace officer, officer of the highway patrol, or employee of the department of transportation may weigh any vehicle regulated by 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110, except recreational vehicles as defined in 61-1-132, by means of either portable or stationary scales and may require that the vehicle be driven to the nearest scales if those scales are within 2 miles. That person may then require the driver to unload at a designated facility that portion of the load necessary to decrease the weight of the vehicle to conform to the maximum allowable weights specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110. If the excess weight does not exceed 10,000 pounds, an excess weight permit may be issued in accordance with 61-10-121. The permit authorizes the driver of the excess weight load to proceed to a designated facility where the load can be safely reduced to legal limits.

(2) Commodities and material unloaded as required by this section must be cared for by the owner or operator of the vehicle at the risk of that owner or operator. Commodities or material unloaded as required by this section may not be left on the highway right-of-way.

(3) The department of transportation may establish, maintain, and operate weigh stations, either intermittently or on a continuous schedule, and may require vehicles, except passenger cars and pickup trucks under 14,000 pounds GVW and recreational vehicles as defined in 61-1-132 (that are not new or used recreational vehicles traveling into or through Montana for delivery to a distributor or a dealer), to enter for the purpose of weighing and inspection for compliance with all laws pertaining to their operation and safety requirements. The department may require vehicles over 10,000 pounds to be inspected and weighed by portable scale crews.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to 44-1-1005. For the purposes of the joint enforcement, the highway patrol is designated as the lead agency. The highway patrol and the department of transportation shall cooperate to ensure minimum duplication and maximum coordination of enforcement effort.

(5) In order to enforce compliance with safety standards adopted pursuant to 44-1-1005, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the motor carrier services functions of the department of transportation. Each employee designated as a peace officer may:

(a) issue citations and make arrests in connection with violations of safety standards adopted under 44-1-1005;

(b) issue summons;

(c) accept bail;

(d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of the commercial motor vehicles.

(6) In addition to other enforcement duties assigned under this section, an employee of the department of transportation who is appointed pursuant to 61-12-201 has:

(a) the same authority to enforce provisions of the motor carriers law as that granted the ~~public service commission~~ department of justice under 69-12-203;

(b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds as defined in 80-5-120 that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date the bill of lading was obtained; and

(c) the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance with Title 15, chapter 70, part 3.

(7) The department of transportation shall report to the revenue and transportation interim committee at least once each year on its enforcement, pursuant to the authority provided in subsection (6)(c), of the provisions of Title 15, chapter 70, part 3, and on any impacts that enforcement has had on the state special revenue fund. (Terminates July 1, 2003--sec. 2, Ch. 206, L. 2001.)

**61-10-141. (Effective July 1, 2003) Officers authorized to weigh vehicles and require removal of excessive loads -- enforcement of motor carrier safety standards -- duty to obtain bills of lading for agricultural seeds.** (1) A peace officer, officer of the highway patrol, or employee of the department of transportation may weigh any vehicle regulated by 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110, except recreational vehicles as defined in 61-1-132, by means of either portable or stationary scales, and may require that the vehicle be driven to the nearest scales if those scales are within 2 miles. That person may then require the driver to unload at a designated facility that portion of the load necessary to decrease the weight of the vehicle to conform to the maximum allowable weights specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110. If the excess weight does not exceed 10,000 pounds, an excess weight permit may

be issued in accordance with 61-10-121. The permit authorizes the driver of the excess weight load to proceed to a designated facility where the load can be safely reduced to legal limits.

(2) Commodities and material unloaded as required by this section must be cared for by the owner or operator of the vehicle at the risk of that owner or operator. Commodities or material unloaded as required by this section may not be left on the highway right-of-way.

(3) The department of transportation may establish, maintain, and operate weigh stations, either intermittently or on a continuous schedule, and may require vehicles, except passenger cars and pickup trucks under 14,000 pounds GVW and recreational vehicles as defined in 61-1-132 (that are not new or used recreational vehicles traveling into or through Montana for delivery to a distributor or a dealer), to enter for the purpose of weighing and inspection for compliance with all laws pertaining to their operation and safety requirements. The department may require vehicles over 10,000 pounds to be inspected and weighed by portable scale crews.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to 44-1-1005. For the purposes of the joint enforcement, the highway patrol is designated as the lead agency. The highway patrol and the department of transportation shall cooperate to ensure minimum duplication and maximum coordination of enforcement effort.

(5) In order to enforce compliance with safety standards adopted pursuant to 44-1-1005, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the motor carrier services functions of the department of transportation. Each employee designated as a peace officer may:

(a) issue citations and make arrests in connection with violations of safety standards adopted under 44-1-1005;

(b) issue summons;

(c) accept bail;

(d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of the commercial motor vehicles.

(6) In addition to other enforcement duties assigned under this section, an employee of the department of transportation has:

(a) the same authority to enforce provisions of the motor carriers law as that granted the ~~public service commission~~ department of justice under 69-12-203; and

(b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds as defined in 80-5-120 that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date the bill of lading was obtained."

**Section 9.** Section 61-12-206, MCA, is amended to read:

**"61-12-206. Offenses for which arrest authorized.** Employees appointed under 61-12-201 may make arrests for violations of the following statutory provisions:

- (1) chapters 3 and 5 of this title, but only if the vehicle involved is subject to 61-10-141;
- (2) chapter 10 of this title;
- (3) part 3, chapter 4, of this title;
- (4) 15-24-201 through 15-24-205;
- (5) Title 15, chapter 70, parts 2 and 3;
- (6) 44-1-1005 and safety rules adopted under that section;
- ~~(7) Title 69, chapter 12."~~

**Section 10.** Section 69-1-401, MCA, is amended to read:

**"69-1-401. Definitions.** As used in this part, the following definitions apply:

(1) "Department" means the department of public service regulation provided for in Title 2, chapter 15, part 26.

(2) "Regulated companies" means all organizations, corporations, associations, or other public or private entities ~~which now~~ that are now or may hereafter become subject to regulation in any manner by the department of public service regulation, the public service commission, or any successor agency. The term does not include motor carriers ~~regulated pursuant to as provided in Title 69, chapter 12 of this title."~~

**Section 11.** Section 69-2-101, MCA, is amended to read:

**"69-2-101. Adoption of rules for rate cases.** The commission shall adopt ~~such~~ rules of practice and procedure for the filing, investigation, and hearing of petitions or applications to increase or decrease rates and charges of railroads, ~~motor carriers,~~ and public utilities ~~as that~~ the commission finds necessary or appropriate to



enable it to reach a final decision in an orderly manner."

**Section 12.** 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.~~

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

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

~~(5)~~(1) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

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

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

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

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

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

~~(8)~~(2) "Motor carrier" means a person ~~or corporation~~, or its lessees, trustees, or receivers appointed by a court, operating motor vehicles upon a public highway in this state for the transportation of passengers; ~~household goods, or garbage property~~ for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking.

~~(9)~~(3) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state.

~~(10)~~(4) "Person" means an individual, firm, corporation, or partnership.

~~(11)~~(5) "Public highway" means a public street, road, highway, or way in this state.

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

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

**Section 13.** Section 69-12-203, MCA, is amended to read:

**"69-12-203. Supervisor of motor carriers.** (1) The ~~commission~~ department of justice shall appoint a supervisor of motor carriers who ~~shall have~~ has general responsibility ~~to the commission~~ for enforcement of the provisions of this chapter. ~~The supervisor shall be either an attorney admitted to practice law in Montana or a person qualified by at least 5 years of suitable experience and training in appropriate phases of the motor carrier industry. He shall serve at the pleasure of the commission and at an annual salary to be set by the commission.~~

(2) The supervisor shall direct all enforcement activities ~~in on~~ behalf of the ~~commission~~ department, including the investigation and prosecution of violations of ~~this chapter, as amended, or the rules or orders prescribed thereunder by the commission~~ licensing requirements, insurance requirements, and safety requirements adopted under 44-1-1005.

(3) The supervisor and ~~whatever~~ field inspectors ~~may be~~ employed by the ~~commission~~ department ~~to assist him shall be deemed~~ are considered peace officers for the purpose of making arrests in connection with violations of ~~this chapter, as amended,~~ law and issuing summonses, accepting bail, and serving warrants of arrest. The supervisor and field inspectors ~~are empowered to~~ may make reasonable inspections of cargoes carried by commercial motor vehicles and require production of manifests, bills of lading, leases, and other documents relating to the cargo, driver, routing, or ownership of ~~such~~ the commercial vehicles. ~~The scope of the inspections is limited to the enforcement of the provisions of Title 69, chapter 12."~~

**Section 14.** Section 69-12-401, MCA, is amended to read:

**"69-12-401. Compliance with state law.** It shall be ~~is~~ unlawful for any ~~corporation or person, its or his~~ the person's officers, agents, or employees, ~~or servants,~~ to operate any motor vehicle for the transportation of persons ~~and/or~~ or property for hire on any public highway in this state except in accordance with the applicable provisions of Title 61 and the provisions of this chapter."

**NEW SECTION. Section 15. Repealer.** Sections 61-4-304, 69-12-102, 69-12-104, 69-12-105, 69-12-106, 69-12-107, 69-12-108, 69-12-201, 69-12-202, 69-12-204, 69-12-205, 69-12-206, 69-12-207, 69-12-208, 69-12-209, 69-12-210, 69-12-301, 69-12-302, 69-12-311, 69-12-312, 69-12-313, 69-12-314, 69-12-321, 69-12-322, 69-12-323, 69-12-324, 69-12-325, 69-12-326, 69-12-327, 69-12-331, 69-12-402, 69-12-403, 69-12-404, 69-12-406, 69-12-407, 69-12-408, 69-12-415, 69-12-421, 69-12-422, 69-12-423, 69-12-501, 69-12-502, 69-12-503, 69-12-504, 69-12-505, 69-12-511, 69-12-601, 69-12-602, 69-12-603, 69-12-604, 69-12-605, 69-12-611, and 69-12-612, MCA, are repealed.

**NEW SECTION. Section 16. Effective date.** [This act] is effective July 1, 2003.

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