

HOUSE BILL NO. 664
INTRODUCED BY R. BITNEY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF JUSTICE TO ESTABLISH RULES GOVERNING THE MAXIMUM AMOUNT THAT CERTAIN TOW TRUCK OPERATORS MAY CHARGE FOR TOWING SERVICES; REQUIRING TOW TRUCK OPERATORS THAT PARTICIPATE IN THE LAW ENFORCEMENT ROTATION SYSTEM TO SUBMIT TO THE DEPARTMENT AN ITEMIZED LIST OF CHARGES; PROHIBITING A TOW TRUCK OPERATOR THAT PARTICIPATES IN THE LAW ENFORCEMENT ROTATION SYSTEM FROM CHARGING MORE THAN THE AMOUNT PRESCRIBED IN THE RULES; PROVIDING THAT COMPLAINTS ABOUT CHARGES BE SUBMITTED TO THE OFFICE OF THE ATTORNEY GENERAL; AND AMENDING SECTIONS 61-8-902, 61-8-903, 61-8-904, AND 61-8-911, MCA."

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

Section 1. Section 61-8-902, MCA, is amended to read:

"61-8-902. Purpose. The legislature recognizes that:

(1) wrecked, disabled, and abandoned motor vehicles on the public roadways create hazards that imperil lives and property and require expeditious removal;

(2) officers investigating accidents on the public roadways need immediately available towing and recovery vehicles staffed by competent operators and adequately equipped to clear the roadways and remove hazardous obstructions with minimum damage to property;

(3) certain standards and classifications are needed for professional tow trucks and equipment used for towing and recovering wrecked, disabled, and abandoned motor vehicles or other objects creating hazards on the public roadways;

(4) encouragement of a competitive and qualified professional towing industry requires establishment of a uniform and equitable qualification system based on the equipment and the standards provided in 61-8-905 through 61-8-907 and [section 5] and a system for the fair consideration of all qualified tow truck companies; and

(5) the use of nonqualified tow truck companies or private motor vehicles to tow or recover for hire wrecked, disabled, or abandoned vehicles creates additional hazards and, except in limited situations, should be prohibited. However, when a person or tow truck company responds in good faith to life-threatening emergency situations, it should not be liable for civil damages for acts or omissions, other than damages

occasioned by gross negligence or by willful or wanton acts or omissions."

Section 2. Section 61-8-903, MCA, is amended to read:

"61-8-903. Definitions. As used in this part, the following definitions apply:

(1) "Commercial tow truck operator" or "operator" means a person, firm, or other entity that owns or operates a commercial tow truck as defined in 61-9-416.

(2) "Department" means the department of justice provided for in 2-15-2001.

(3) "Local government" means a county, a municipality, or other local board or body that has authority to enact laws relating to traffic.

(4) "Qualified tow truck operator" means a commercial tow truck operator:

(a) that has equipment that:

(i) meets the requirements of 61-8-906, 61-8-907, and 61-9-416; and

(ii) has been classified in accordance with 61-8-905; ~~and~~

(b) that participates in the law enforcement rotation system provided for in 61-8-908; and

(c) that has filed with the department an itemized list of charges for towing service that is in compliance with the rules established pursuant to 61-8-911(2)."

Section 3. Section 61-8-904, MCA, is amended to read:

"61-8-904. Prohibition -- exception. (1) A commercial tow truck operator may not operate for compensation upon the public roadways of this state unless the operator complies with the provisions of 61-8-906(1) and 61-8-907.

(2) A commercial tow truck operator may not participate in the law enforcement rotation system provided for in 61-8-908 unless the operator complies with the provisions of 61-8-905 through 61-8-907 and [section 5].

(3) Sections 61-8-901 through 61-8-908, ~~and~~ 61-8-910, and [section 5] do not apply to a commercial tow truck operator that does not operate for compensation."

Section 4. Section 61-8-911, MCA, is amended to read:

"61-8-911. Rulemaking authority -- maximum towing charges. (1) The department shall adopt reasonable and necessary rules to administer the provisions of this part.

(2) (a) The department shall adopt rules governing the maximum allowable charges that may be assessed by a qualified tow truck operator for towing services.

(b) The rules governing maximum allowable charges do not apply to mechanical work, body work, or other repair work conducted by the qualified tow truck operator subsequent to the actual tow."

NEW SECTION. Section 5. Limits on towing charges. (1) A qualified tow truck operator may not assess charges for a tow in excess of the amounts established in the rules adopted pursuant to 61-8-911(2).

(2) Complaints of unfair charges assessed by a tow truck operator must be referred to the office of the attorney general.

NEW SECTION. Section 6. Codification instruction. [Section 5] is intended to be codified as an integral part of Title 61, chapter 8, part 9, and the provisions of Title 61, chapter 8, part 9, apply to [section 5].

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