

HOUSE BILL NO. 632

INTRODUCED BY D. MOORE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MOTOR CARRIER LAWS; ELIMINATING  
5 THE REQUIREMENT THAT CLASS A, CLASS B, AND CLASS C MOTOR CARRIERS MEET CERTAIN  
6 REQUIREMENTS TO ACQUIRE A CERTIFICATE FROM THE PUBLIC SERVICE COMMISSION; PROVIDING  
7 A TRANSITION FOR MOTOR CARRIERS OPERATING WITH A CERTIFICATE; AMENDING SECTIONS  
8 69-1-114, 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,  
9 69-12-324, 69-12-328, 69-12-404, 69-12-415, AND 69-12-421, MCA; AND PROVIDING AN EFFECTIVE DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12  
13 **Section 1.** Section 69-1-114, MCA, is amended to read:

14 **"69-1-114. Fees.** (1) Each fee charged by the commission must be reasonable.

15 (2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), 69-12-421(1)(b), or 69-12-423(2),  
16 a fee set by the commission may not exceed \$500.

17 (3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the  
18 special revenue fund. Funds in this account must be used as provided in 69-8-421(10)."

19  
20 **Section 2.** Section 69-12-101, MCA, is amended to read:

21 **"69-12-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions  
22 apply:

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

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

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

- 1 (a) the transportation of passengers is based on a single contract;
- 2 (b) the contract is entered into in advance of the transportation and does not result from a spontaneous,  
3 curbside agreement;
- 4 (c) the contract includes a single fixed charge and fares are not assessed per passenger;
- 5 (d) the passenger or group of passengers acquires exclusive use of the motor vehicle through the  
6 contract; and
- 7 (e) when applied to a group of passengers being transported, the group of passengers travels together  
8 to a specified destination.
- 9 (4) "Compensation" means the charge imposed on motor carriers for the use of the highways in this state  
10 by motor carriers under 69-12-421.
- 11 (5) "Corporation" means a corporation, company, association, or joint-stock association.
- 12 (6) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or  
13 received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is  
14 obtained or derived for transportation service.
- 15 (7) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is transported  
16 to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, or licensed disposal well.  
17 The term does not include wastewater and waste tires.
- 18 (8) "Household goods" means any of the following:
- 19 (a) personal effects and property used or to be used in a dwelling when they are a part of the equipment  
20 or supply of the dwelling. The term does not include property moving from a factory or store unless the property  
21 is purchased by a householder for use in a dwelling and is transported at the request of the householder.
- 22 (b) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals,  
23 or other establishments when those items are a part of the stock, equipment, or supply of the stores, offices,  
24 museums, institutions, hospitals, or other establishments. The term does not include the stock-in-trade of an  
25 establishment, whether consignor or consignee, other than used furniture and used fixtures, except when  
26 transported as incidental to moving of the establishment or a portion of the establishment from one location to  
27 another.
- 28 (c) articles, including objects of art, displays, and exhibitions that because of their unusual nature or  
29 value, require the specialized handling and equipment usually employed in moving household goods and other  
30 similar articles.

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

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

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

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

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

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

12

13 **Section 3.** Section 69-12-205, MCA, is amended to read:

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

23

24 **Section 4.** Section 69-12-210, MCA, is amended to read:

25 **"69-12-210. Complaints.** (1) The commission ~~has jurisdiction to conduct investigations~~ may investigate  
 26 and hear complaints to determine whether a motor carrier has violated ~~any of the commission's~~ commission rules  
 27 or orders or any provision of this chapter.

28 (2) Following an opportunity for hearing and ~~upon a~~ after finding that a motor carrier has violated ~~any~~  
 29 ~~of the commission's~~ commission rules or orders or any provision of this chapter, the commission may suspend  
 30 or revoke the motor carrier's certificate ~~of operating authority~~ or impose any penalty provided for under

1 69-12-108."

2

3 **Section 5.** Section 69-12-311, MCA, is amended to read:

4 **"69-12-311. Class A motor carrier certificate.** (1) ~~No A~~ Class A motor carrier ~~shall operate for the~~  
5 ~~transportation of~~ may not transport persons, ~~and/or property, or both~~ for hire on any public highway in this state  
6 without ~~first having obtained from the commission, under the provisions of obtaining a certificate pursuant to this~~  
7 chapter, ~~a certificate declaring that public convenience and necessity require such operation.~~

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

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

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

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

17 (d) the proposed time schedule;

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

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

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

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

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

24

25 **Section 6.** Section 69-12-312, MCA, is amended to read:

26 **"69-12-312. Class B motor carrier certificate.** (1) ~~No A~~ Class B motor carrier ~~shall operate for the~~  
27 ~~transportation of~~ may not transport persons, ~~and/or property, or both~~ for hire on any public highway in this state  
28 without ~~first having obtained from the commission, under the provisions of obtaining a certificate pursuant to this~~  
29 chapter, ~~a certificate that public convenience and necessity require such operations.~~

30 (2) A motor carrier ~~making application for such permit shall do so~~ apply for a certificate in writing;

1 separately for each locality ~~for which consideration is desired, which petition shall~~ under consideration. The  
 2 application must be verified by the applicant and shall specify the following matters:

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

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

7 (c) the locality and character of operations to be conducted;

8 (d) a proposed schedule of the tariff ~~of or~~ rates ~~desired~~ to be charged for the transportation of freight,  
 9 ~~and/or~~ passengers, or both;

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

11 (f) a detailed statement showing the assets and liabilities of ~~such~~ the applicant; and

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

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

14

15 **Section 7.** Section 69-12-313, MCA, is amended to read:

16 **"69-12-313. Class C motor carrier certificate.** (1) ~~No~~ A Class C motor carrier, except ~~any~~ a Class C  
 17 motor carrier operating pursuant to the terms and conditions of a contract as provided in 69-12-324, ~~shall~~ may  
 18 not operate for the distribution, delivery, or collection of goods, wares, merchandise, or commodities or for the  
 19 transportation of persons on any public highway in this state without ~~first having obtained from the commission,~~  
 20 obtaining a certificate under the provisions of this chapter, ~~a certificate that public convenience and necessity~~  
 21 ~~require such operation.~~

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

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

26 (b) the public highways or highways over which and the fixed termini between which or the route or  
 27 routes over which it the applicant intends to operate, if the ~~same~~ routes are fixed, or the particular city, town,  
 28 station, or locality from ~~and/or~~ or to which, or both, the applicant intends to operate;

29 (c) the kind of transportation and the character of the goods, wares, merchandise, or commodities to be  
 30 distributed, delivered, or collected, together with a full and complete description of the character of the vehicle

1 or vehicles, including the rated tonnage capacity of ~~such~~ the vehicles, to be used in ~~such service of~~ the  
 2 distribution, delivery, or collection; and

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

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

5 (4) The submission of a Class C motor carrier application ~~must be accompanied by~~ include the names  
 6 and addresses of any person, corporation, or other legal entity with whom the applicant has executed a contract  
 7 for the distribution, delivery, or collection of wares, merchandise, or commodities or transporting persons. ~~Such~~  
 8 The contracts must be in writing, executed by the parties, and submitted to the commission for examination."  
 9

10 **Section 8.** Section 69-12-314, MCA, is amended to read:

11 **"69-12-314. Class D motor carrier certificate.** (1) Class D carriers shall conduct operations pursuant  
 12 to a certificate ~~of public convenience and necessity~~ issued by the commission, upon a finding that the public  
 13 convenience and necessity require the issuance of the certificate, authorizing the transportation of the  
 14 commodities described in 69-12-301(5). Class D carriers, when applying for a new or additional ~~authority~~  
 15 certificate, shall file an application with the commission in accordance with the requirements of this chapter and  
 16 the rules of the commission.

17 (2) A motor carrier may not possess a Class D motor carrier certificate or operate as a Class D motor  
 18 carrier unless the motor carrier actually engages in the transportation of garbage on a regular basis as part of  
 19 the motor carrier's usual business operation."  
 20

21 **Section 9.** Section 69-12-321, MCA, is amended to read:

22 **"69-12-321. Hearing on application for motor carrier certificate.** (1) (a) Upon the filing of an  
 23 application by a Class A, Class B, Class C, or Class D motor carrier, except a Class C motor carrier authorized  
 24 to operate under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer  
 25 of authority, the commission shall ~~give~~ provide notice of the ~~filing of the~~ application to any interested party.

26 (b) ~~The~~ Except as provided in subsection (1)(c), if a protest or a request for hearing is received, the  
 27 commission shall fix a time and place for a hearing on the application ~~whenever a protest or a request for a~~  
 28 ~~hearing is received.~~ The hearing must be set ~~for a date~~ not later than 60 days after receipt of a protest or a  
 29 hearing request ~~by the commission. Whenever no protests or hearing requests are received, If a protest or a~~  
 30 request for hearing is not received, the commission may act on the application without a hearing as prescribed

1 by commission rules.

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

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

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

10 (4) ~~However, an application by a Class A, Class B, Class C, or~~ An application by a Class D motor carrier  
 11 for a certificate may be ~~disallowed~~ denied without a public hearing when it ~~appears from~~ the records of the  
 12 commission demonstrate that the route or territory sought to be served by the applicant has previously been  
 13 made the basis of a public investigation and finding by the commission that public convenience and necessity  
 14 do not require the proposed motor carrier service, ~~unless it is made to affirmatively appear in the application by~~  
 15 ~~a recital of the~~ A hearing must be held if the applicant presents facts demonstrating that conditions ~~obtaining~~  
 16 the route or in the territory and affecting transportation facilities have materially changed since the previous public  
 17 investigation and finding and that public convenience and necessity now require the motor carrier operation."  
 18

19 **Section 10.** Section 69-12-323, MCA, is amended to read:

20 **"69-12-323. Decision on application.** (1) ~~(a) The commission must issue, within~~ Except as provided  
 21 in subsection (1)(b), within 180 days from ~~and after~~ the date of the completed filing of ~~said~~ an application, the  
 22 commission shall issue its finding, order, or decision on ~~said~~ the application and the evidence presented in  
 23 support ~~thereof~~ of the application at the time of ~~said~~ the hearing.

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

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

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

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

5 (iii) the effect ~~which that~~ the proposed transportation service may have ~~upon~~ on other forms of  
6 transportation service ~~which that~~ are essential and indispensable to the communities to be affected by ~~such the~~  
7 proposed transportation service or that might be affected ~~thereby~~ by the proposed transportation service.

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

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

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

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

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

23  
24 **Section 11.** Section 69-12-324, MCA, is amended to read:

25 **"69-12-324. Special provisions when federal or state contract involved.** (1) ~~The presentation of the~~  
26 A written contract presented to the commission ~~shall be deemed~~ is sufficient proof that a motor carrier meets the  
27 requirements of 69-12-323(5) or, for a Class D motor carrier, of public convenience and necessity in accordance  
28 with the terms and conditions contained within the United States government or state government contracts.  
29 Subject to the provisions of this section, a transportation movement is considered to be:

30 (a) the transportation for hire of persons between two points within the state by a motor carrier pursuant



1 to the terms of a written contract between the carrier and the United States government or an agency or  
 2 department ~~thereof~~ of the United States; or

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

6 (2) The Class C certificate ~~of public convenience and necessity~~ issued pursuant to the terms and  
 7 conditions of the United States government or state government contract may be issued by the commission upon  
 8 receipt of an executed copy of the United States government or state government contract. The certificate ~~of~~  
 9 ~~public convenience and necessity~~ may be issued ~~thereafter~~ without requiring the commission to fix a time and  
 10 ~~place for a~~ public hearing.

11 (3) The certificate ~~of public convenience and necessity~~, issued pursuant to the terms of the United States  
 12 government or state government contract; is authorized only for the duration of the United States government or  
 13 state government contract concerned. The certificate may be renewed for another definite term if the ~~same~~ motor  
 14 carrier is the motor carrier authorized to operate under the United States government or state government  
 15 contract."

16

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

18 **"69-12-328. Certificate for charter service.** (1) The commission shall issue a certificate ~~of public~~  
 19 ~~convenience and necessity~~ that authorizes a motor carrier to provide charter service if the motor carrier provides  
 20 written documentation or business records to the commission that demonstrate that during the 1-year period prior  
 21 to January 1, 2011, the motor carrier:

22 (a) provided charter service;

23 (b) transported passengers with a motor vehicle designed to carry more than 10 passengers; and

24 (c) obtained a USDOT number from the U.S. department of transportation as provided in 49 CFR 390.19.

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

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

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

1

2 **Section 13.** Section 69-12-404, MCA, is amended to read:

3 **"69-12-404. Suspension of intrastate operating authority by petition.** (1) ~~(a) Every~~ A motor carrier  
4 ~~as defined within this chapter~~ may petition the commission in writing to suspend its intrastate operating authority  
5 for a period not to exceed 6 months. ~~An~~ Only one additional 6 months' suspension may be requested and  
6 granted, ~~but no other.~~ Such

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

10 (2) The suspension of any intrastate operating authority of ~~any a~~ a Class D motor carrier as provided for  
11 in subsection (1) for a period of 12 consecutive months ~~shall be deemed to establish~~ establishes a prima facie  
12 presumption of absence of public convenience and necessity. If after notice and hearing the Class D motor carrier  
13 is unable to prove the existence of public convenience and necessity or existing demand for the transportation  
14 service, the commission ~~is authorized to~~ may cancel ~~such a~~ a certificate of public convenience and necessity."  
15

16 **Section 14.** Section 69-12-415, MCA, is amended to read:

17 **"69-12-415. Carrier fitness.** A certificate ~~of operating authority~~ may not be issued or remain in force  
18 unless the ~~holder of the~~ certificate holder is fit, willing, and able to perform the authorized service and conforms  
19 to the provisions of this chapter and the rules and orders of the commission."  
20

21 **Section 15.** Section 69-12-421, MCA, is amended to read:

22 **"69-12-421. Annual fee for motor carriers.** (1) Except as provided in subsection (2), in addition to all  
23 of the licenses, fees, or taxes imposed ~~upon on~~ on motor vehicles in this state ~~and in consideration of the~~ for use  
24 of the public highways of this state, ~~every a~~ a motor carrier shall, at the time of the issuance of a certificate and  
25 annually ~~thereafter~~ after receiving the certificate, on or between October 1 and the following January 31, pay to  
26 the ~~public service~~ commission of Montana:

27 (a) a fee set by rule ~~of the commission~~ for ~~every a~~ a motor vehicle operated by the carrier ~~over or upon~~  
28 on the public highways of this state; and

29 (b) prior to issuance of a certificate, a \$1,000 fee.

30 (2) (a) A motor carrier engaged in seasonal operations ~~only, where its operations~~ that do not extend

1 continuously over a period of not to exceed 6 months in any a calendar year, ~~shall only be required to~~ shall pay  
2 compensation and fees in a sum equal to one-half of the compensation and fees ~~herein provided~~ required in this  
3 section.

4 (b) The compensation and fees ~~herein~~ imposed in this section ~~shall do~~ not apply to motor vehicles  
5 maintained and used by a motor carrier as standby or emergency equipment. The commission ~~shall have the~~  
6 ~~power and it is hereby made its duty to~~ may determine what motor vehicles ~~shall be classed~~ are classified as  
7 standby or emergency equipment."

8  
9 NEW SECTION. Section 16. Grandfather clause -- transition. A motor carrier that possesses a  
10 certificate issued by the commission on or before June 30, 2012, is considered to possess a valid certificate.

11  
12 NEW SECTION. Section 17. Saving clause. [This act] does not affect rights and duties that matured,  
13 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

14  
15 NEW SECTION. Section 18. Effective date. [This act] is effective July 1, 2013.

16 - END -