

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MOTOR CARRIER LAWS; ELIMINATING
5 THE REQUIREMENT THAT CERTAIN MOTOR CARRIERS DEMONSTRATE PUBLIC CONVENIENCE AND
6 NECESSITY TO ACQUIRE A CERTIFICATE FROM THE PUBLIC SERVICE COMMISSION; CREATING A
7 CLASS E CLASSIFICATION FOR MOTOR CARRIERS THAT OFFER TRANSPORTATION NETWORK
8 CARRIER SERVICES; PROVIDING OPERATING REQUIREMENTS FOR CLASS E MOTOR CARRIERS;
9 PROVIDING A TRANSITION FOR MOTOR CARRIERS OPERATING WITH A CERTIFICATE; PROVIDING
10 INSURANCE REQUIREMENTS FOR CLASS E MOTOR CARRIERS; PROHIBITING LOCAL GOVERNMENTS
11 FROM REGULATING TRANSPORTATION NETWORK CARRIER SERVICES; PROHIBITING A LOCAL
12 GOVERNMENT WITH SELF-GOVERNING POWERS FROM REGULATING TRANSPORTATION NETWORK
13 CARRIER SERVICES; AMENDING SECTIONS 7-1-111, 69-12-101, 69-12-205, 69-12-210, 69-12-301,
14 69-12-311, 69-12-312, 69-12-313, 69-12-314, 69-12-321, 69-12-323, 69-12-324, 69-12-404, 69-12-406,
15 69-12-407, 69-12-415, AND 69-12-501, MCA; REPEALING SECTION 69-12-328, MCA; AND PROVIDING AN
16 EFFECTIVE DATE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19
20 NEW SECTION. **Section 1. Class E motor carrier certificate of compliance.** (1) A Class E motor
21 carrier may not transport persons on a public highway in this state without obtaining, pursuant to this chapter, a
22 certificate of compliance.

23 (2) A Class E motor carrier shall apply for a certificate of compliance in writing. The application must be
24 verified by the applicant and specify the following:

- 25 (a) the name and address of the applicant and its officers, if any;
- 26 (b) the locality and character of operations to be conducted;
- 27 (c) a detailed statement showing the assets and liabilities of the applicant;
- 28 (d) a detailed statement that the applicant complies or, once certificated, will comply with the
29 requirements of 69-12-323(5);
- 30 (e) other information required by the commission.

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

2 (4) A transportation network carrier may apply for a Class E certificate of compliance on behalf of the
3 transportation network carrier drivers who register with the transportation network carrier to use its software or
4 digital network to offer transportation network carrier services.

5 (5) Notwithstanding subsection (4), a transportation network carrier does not own, control, operate, or
6 manage the vehicles used by transportation network carrier drivers and is not a taxicab association or a for-hire
7 vehicle owner.

8
9 **NEW SECTION. Section 2. Fare charged for transportation network carrier services.** (1) (a) A
10 Class E motor carrier may charge a fare for the services provided to passengers in accordance with this section.

11 (b) If a fare is charged, the motor carrier shall:

12 (i) disclose to passengers the fare calculation method on its website or within the software application
13 service; and

14 (ii) provide passengers with the applicable rates being charged and the option to receive an estimated
15 fare before the passenger enters the transportation network carrier driver's vehicle.

16 (2) Within a reasonable period of time following the completion of a trip, a Class E motor carrier shall
17 transmit an electronic receipt to the passenger that includes:

18 (a) the origin and destination of the trip;

19 (b) the total time and distance of the trip; and

20 (c) an itemization of the total fare paid.

21
22 **NEW SECTION. Section 3. Authority.** (1) Notwithstanding any other provision of law, transportation
23 network carrier services are exclusively governed by this chapter and rules promulgated by the commission
24 consistent with this chapter.

25 (2) A local government as defined in 2-2-102 may not impose a tax or fee on, require a license for, or
26 impose any other operational requirements on transportation network carrier services.

27
28 **NEW SECTION. Section 4. Transportation network carrier insurance.** (1) A transportation network
29 carrier, as defined in 69-12-101, and each transportation network carrier driver shall maintain transportation
30 network carrier insurance as provided in this section.

1 (2) Transportation network carrier insurance must provide:

2 (a) from the moment a transportation network carrier driver accepts a ride request on the transportation
3 network carrier digital network or software application until the driver completes the transaction on the digital
4 network or software application or until the ride is complete, whichever is later:

5 (i) at least \$1 million for death and bodily injury per person;

6 (ii) at least \$1 million for death and bodily injury per incident;

7 (iii) at least \$1 million for property damage;

8 (iv) at least \$1 million for uninsured motorist coverage and underinsured motorist coverage; and

9 (v) collision physical damage coverage and comprehensive physical damage coverage if the
10 transportation network carrier driver carries collision physical damage coverage and comprehensive physical
11 damage coverage on the driver's personal automobile insurance policy unless the insurer for the transportation
12 network carrier also provides transportation network carrier insurance to the driver; and

13 (b) from the moment a transportation network carrier driver logs on to the transportation network carrier
14 digital network's online-enabled application or platform until the transportation network carrier driver accepts a
15 request to transport a passenger and from the moment the transportation network carrier driver completes the
16 transaction on the online-enabled application or platform or the ride is complete, whichever is later, until the
17 transportation network carrier driver either accepts another ride request on the online-enabled application or
18 platform or logs off the online-enabled application or platform:

19 (i) liability insurance meeting the requirements of 61-6-103, except that the minimum coverages for the
20 transportation network carrier driver are:

21 (A) \$50,000 because of bodily injury to or death of one person in any one accident and subject to the
22 limit for one person;

23 (B) \$100,000 because of bodily injury to or death of two or more persons in any one accident; and

24 (C) \$30,000 because of injury to or destruction of property of others in any one accident; and

25 (ii) collision physical damage coverage and comprehensive physical damage coverage if the
26 transportation network carrier driver carries collision physical damage coverage and comprehensive physical
27 damage coverage on the driver's personal automobile insurance policy unless the insurer for the transportation
28 network carrier also provides transportation network carrier insurance to the driver.

29 (3) The insurance coverage required by this section is satisfied if transportation network carrier insurance
30 is maintained by:

1 (a) a transportation network carrier driver;

2 (b) a transportation network carrier that provides coverage if a transportation network carrier driver's
3 insurance policy under subsection (3)(a) has ceased to exist or has been canceled or the driver does not
4 otherwise maintain transportation network carrier insurance; or

5 (c) any combination of a transportation network carrier driver and the transportation network carrier with
6 which the driver is affiliated, but only if the transportation network carrier verifies that the coverage is maintained
7 by the driver and is specifically written to cover the driver's use of a vehicle in connection with a transportation
8 network carrier's digital network or software application.

9 (4) Whenever transportation network carrier insurance maintained by a transportation network carrier
10 driver to fulfill the insurance requirements of this section has lapsed or ceased to exist, the transportation network
11 carrier with which the driver is or was affiliated shall provide the coverage required by this section beginning with
12 the first dollar of a claim.

13 (5) The insurer providing transportation network carrier insurance under this section shall defend and
14 indemnify the insured.

15 (6) Coverage under a transportation network carrier insurance policy is not dependent on a personal
16 automobile insurance policy first denying a claim, and a personal automobile insurance policy is not required to
17 first deny a claim.

18
19 **NEW SECTION. Section 5. Transportation network carrier insurance -- limitations -- coverage.**

20 (1) The provisions of this section apply during the period of time from the moment a transportation network carrier
21 driver for a transportation network carrier logs on to the transportation network carrier's digital network or software
22 application until the driver logs off the digital network or software application or until the ride is complete,
23 whichever is later.

24 (2) The personal automobile insurance policy of a transportation network carrier driver or the owner of
25 a vehicle driven by a transportation network carrier driver does not provide any coverage to the driver, the vehicle
26 owner, or any third party unless:

27 (a) the personal policy expressly provides for transportation network carrier insurance during the time
28 described in subsection (1), with or without a separate charge; or

29 (b) the personal policy contains an amendment or endorsement to provide transportation network carrier
30 coverage for which a separately stated premium is charged.

1 (3) The insurer of a transportation network carrier driver does not have a duty to defend or indemnify for
2 the driver's activities in connection with the transportation network carrier unless:

3 (a) the policy expressly provides for defense or indemnification for the period of time described in
4 subsection (1), with or without a separate charge; or

5 (b) the policy contains an amendment or endorsement to provide the coverage, for which a separately
6 stated premium is charged.

7 (4) A personal automobile insurer may offer an automobile liability insurance policy or an amendment
8 or endorsement to an existing policy that covers a private passenger vehicle with a passenger capacity of eight
9 persons or fewer, including the driver, whenever the vehicle is used in connection with a transportation network
10 carrier's digital network or software application and only if:

11 (a) the policy expressly provides for the coverage during the times described in subsection (1), with or
12 without a separate charge; or

13 (b) the policy contains an amendment or an endorsement to provide the coverage, for which a separately
14 stated premium may be charged.

15 (5) A transportation network carrier or its insurer shall cooperate with all other insurers that are involved
16 in a claim coverage investigation to facilitate the exchange of information, including but not limited to:

17 (a) providing the date and time at which an accident occurred that involved a transportation network
18 carrier driver; and

19 (b) providing the precise times that the transportation network carrier driver logged on and off the
20 transportation network carrier's digital network or software application.

21 (6) A transportation network carrier driver shall carry proof of transportation network carrier insurance
22 coverage whenever the driver operates as a transportation network carrier driver. Whenever a transportation
23 network carrier driver is involved in a vehicle accident, the driver shall provide proof of and information about the
24 driver's transportation network carrier insurance coverage to the other party, if any, involved in the accident and,
25 upon request, to any law enforcement officer or agency.

26 (7) This section determines the obligations under transportation network carrier insurance policies issued
27 to transportation network carriers and, if applicable, transportation network carrier drivers using a vehicle in
28 connection with a transportation network carrier's digital network or software application.

29 (8) Nothing in this section may be construed to require a private passenger automobile insurance policy
30 to provide primary or excess coverage during the times described in subsection (1).

1

2 **NEW SECTION. Section 6. Transportation network carrier insurance disclosures.** A transportation
3 network carrier shall, in writing as part of the carrier's agreement with the transportation network carrier drivers
4 affiliated with the carrier:

5 (1) disclose the insurance coverage and limits of liability that the transportation network carrier provides
6 while the driver uses a vehicle in connection with a transportation network carrier's digital network or software
7 application; and

8 (2) advise each driver that the driver's personal automobile insurance policy may not provide any required
9 or optional transportation network carrier insurance coverage because the driver uses a vehicle in connection
10 with a transportation network carrier's digital network or software application.

11

12 **Section 7.** Section 7-1-111, MCA, is amended to read:

13 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from
14 exercising the following:

15 (1) any power that applies to or affects any private or civil relationship, except as an incident to the
16 exercise of an independent self-government power;

17 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective
18 bargaining for public employees, unemployment compensation, or workers' compensation), except that subject
19 to those provisions, it may exercise any power of a public employer with regard to its employees;

20 (3) any power that applies to or affects the public school system, except that a local unit may impose an
21 assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise
22 any power that it is required by law to exercise regarding the public school system;

23 (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public
24 convenience and necessity pursuant to Title 69, chapter 12;

25 (5) any power that establishes a rate or price otherwise determined by a state agency;

26 (6) any power that applies to or affects any determination of the department of environmental quality with
27 regard to any mining plan, permit, or contract;

28 (7) any power that applies to or affects any determination by the department of environmental quality
29 with regard to a certificate of compliance;

30 (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense

1 as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months'
2 imprisonment, or both, except as specifically authorized by statute;

3 (9) any power that applies to or affects the right to keep or bear arms, except that a local government
4 has the power to regulate the carrying of concealed weapons;

5 (10) any power that applies to or affects a public employee's pension or retirement rights as established
6 by state law, except that a local government may establish additional pension or retirement systems;

7 (11) any power that applies to or affects the standards of professional or occupational competence
8 established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession
9 or occupation;

10 (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title
11 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);

12 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended
13 to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70,
14 chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords
15 to comply with ordinances or provisions that are applicable to all other businesses or residences within the local
16 government's jurisdiction.

17 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

18 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
19 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may
20 enter into a cooperative agreement with the department of agriculture concerning the use and application of
21 commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
22 government from adopting or implementing zoning regulations or fire codes governing the physical location or
23 siting of fertilizer manufacturing, storage, and sales facilities;

24 (16) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,
25 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired
26 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
27 communications commission of the United States;

28 (17) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna
29 at heights and dimensions sufficient to accommodate amateur radio service communications by a person who
30 holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or

1 higher class, issued by the federal communications commission of the United States."

2

3 **Section 8.** Section 69-12-101, MCA, is amended to read:

4 **"69-12-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions
5 apply:

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

9 (2) "Certificate" means ~~the~~ a certificate of public convenience and necessity or a certificate of compliance
10 issued under this chapter.

11 (3) "Certificate of compliance" means written authorization to operate issued by the commission for Class
12 A, Class B, or Class E motor carriers that transport passengers declaring that the motor carrier meets the fitness
13 requirements of this chapter.

14 (4) "Certificate of public convenience and necessity" means a written authorization to operate issued by
15 the commission for Class A and Class B motor carriers that transport property or persons and property, Class
16 C motor carriers, and Class D motor carriers declaring that the motor carrier service is required by the public
17 convenience and necessity, as provided in this chapter.

18 ~~(3)~~(5) "Charter service" means a service used for the transportation of passengers by a motor carrier
19 with rates not subject to approval by the commission if:

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

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

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

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

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

28 ~~(4)~~(6) "Compensation" means the charge imposed on motor carriers for the use of the highways in this
29 state by motor carriers under 69-12-421.

30 ~~(5)~~(7) "Corporation" means a corporation, company, association, or joint-stock association.

1 ~~(6)~~(8) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or
2 received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is
3 obtained or derived for transportation service.

4 ~~(7)~~(9) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is
5 transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, or licensed
6 disposal well. The term does not include wastewater and waste tires.

7 ~~(8)~~(10) "Household goods" means any of the following:

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

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

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

20 ~~(9)~~(11) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by
21 a court, operating motor vehicles upon a public highway in this state for the transportation of passengers,
22 household goods, or garbage for hire on a commercial basis, either as a common carrier or under private
23 contract, agreement, charter, or undertaking. A motor carrier includes a transportation network carrier.

24 ~~(10)~~(12) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled
25 vehicles used for the transportation of property or persons over the public highways of the state.

26 ~~(11)~~(13) "Person" means an individual, firm, or partnership.

27 ~~(12)~~(14) "Public highway" means a public street, road, highway, or way in this state.

28 ~~(13)~~(15) "Railroad" means the movement of cars on rails, regardless of the motive power used.

29 ~~(14)~~(16) "Recyclable" means any material diverted from the solid waste stream that can be reused in the
30 production of heat or energy or as raw material for new products and for which markets exist.

1 (17) "Transportation network carrier" means an entity that uses a digital network or software application
 2 service to connect passengers to transportation network carrier services provided by transportation network
 3 carrier drivers.

4 (18) "Transportation network carrier driver" means an individual who operates a motor vehicle that is:

5 (a) owned, leased, or otherwise authorized for use by the individual;

6 (b) not a taxi service, a street-hail service, or a for-hire vehicle service; and

7 (c) used to provide transportation network carrier services.

8 (19) "Transportation network carrier insurance" means an insurance policy that specifically covers a
 9 transportation network carrier driver's use of a vehicle in connection with a transportation network carrier's digital
 10 network or software application.

11 (20) "Transportation network carrier services" means the transportation of a passenger between points
 12 chosen by the passenger and prearranged with a transportation network carrier driver through the use of a
 13 transportation network carrier digital network or software application. Transportation network carrier services
 14 begin when a transportation network carrier driver accepts a request for transportation received through the
 15 transportation network carrier's digital network or software application service. Services continue while the
 16 transportation network carrier driver transports the passenger in the transportation network carrier driver's vehicle
 17 and end when the passenger exits the transportation network carrier driver's vehicle. Transportation network
 18 carrier service is not taxi service, street-hail service, or a for-hire vehicle service."

19

20 **Section 9.** Section 69-12-205, MCA, is amended to read:

21 **"69-12-205. Rules to reflect differences between carrier classes.** ~~All rules in relation~~ (1) Rules related
 22 to schedules, service, tariffs, rates, facilities, accounts, and reports must have due regard for recognize the
 23 differences existing between types of Class A, Class B, Class C, and Class D, and Class E motor carriers, as
 24 defined in this chapter, and must be just, fair, and reasonable to the classes and types of motor carriers in their
 25 relations relation to each other and to the public.

26 (2) (a) In fixing establishing the tariff or rates to be charged by Class A and Class B motor carriers for
 27 the carrying of persons or property, or both, the commission shall take into consideration the kind and character
 28 of service to be performed, the public necessity of the service, and the effect of the tariff and rates upon other
 29 transportation agencies, if any, and shall, as far as possible, avoid detrimental or unreasonable competition with
 30 existing railroad service or service furnished by a motor carrier.

1 (b) In establishing the tariff or rates to be charged by Class A and Class B motor carriers for the carrying
 2 of property, the commission shall take into consideration the public necessity of the service, the kind and
 3 character of service to be performed, and the effect of the tariff and rates on other transportation agencies, if any.
 4 The commission shall, as far as possible, avoid detrimental or unreasonable competition with existing railroad
 5 service or service furnished by a motor carrier."

6
 7 **Section 10.** Section 69-12-210, MCA, is amended to read:

8 **"69-12-210. Complaints.** (1) The commission ~~has jurisdiction to~~ may conduct investigations and hear
 9 complaints to determine whether a motor carrier has violated any of the commission's rules or orders or any
 10 provision of this chapter.

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

14
 15 **Section 11.** Section 69-12-301, MCA, is amended to read:

16 **"69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into ~~four~~ five classes to be
 17 known as:

- 18 (a) Class A motor carriers;
- 19 (b) Class B motor carriers;
- 20 (c) Class C motor carriers; ~~and~~
- 21 (d) Class D motor carriers; and
- 22 (e) Class E motor carriers.

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

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

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

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

2 (6) Class E motor carriers include all transportation network carriers."

3

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

5 **"69-12-311. Class A motor carrier certificate.** (1) (a) A Class A motor carrier may not transport
6 persons, ~~property, or both~~ for hire on ~~any~~ a public highway in this state without obtaining, pursuant to this chapter,
7 a certificate of compliance ~~declaring that public convenience and necessity require the operation.~~

8 (b) A Class A motor carrier may not transport property or persons and property for hire on a public
9 highway in this state without obtaining, pursuant to this chapter, a certificate of public convenience and necessity.

10 (2) A Class A motor carrier shall apply for a certificate, in writing, separately for each route. The
11 application must be verified by the applicant and specify the following:

12 (a) the name and address of the applicant and its officers, if any;

13 (b) the public highway or highways and the fixed termini between the regular route or routes where the
14 applicant intends to operate;

15 (c) a full and complete description of the character of the vehicle or vehicles to be used, including the
16 seating capacity;

17 (d) the proposed time schedule;

18 (e) a proposed schedule of the tariff or rates to be charged;

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

20 (g) a detailed statement showing the assets and liabilities of the applicant; and

21 (h) other information required by the commission.

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

24

24 **Section 13.** Section 69-12-312, MCA, is amended to read:

25 **"69-12-312. Class B motor carrier certificate.** (1) (a) A Class B motor carrier may not transport
26 persons, ~~property, or both~~ for hire on ~~any~~ a public highway in this state without obtaining, pursuant to this chapter,
27 a certificate of compliance ~~declaring that public convenience and necessity require the operation.~~

28 (b) A Class B motor carrier may not transport property or persons and property for hire on a public
29 highway in this state without obtaining, pursuant to this chapter, a certificate of public convenience and necessity.

30 (2) A Class B motor carrier shall apply for a certificate in writing, separately for each locality under

1 consideration. The application must be verified by the applicant and specify the following:

2 (a) the name and address of the applicant and its officers, if any;

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

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

8 (d) a proposed schedule of the tariff or rates to be charged for the transportation of passengers,
9 household goods, 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 the applicant; and

12 (g) other information required by the commission.

13 (3) The application must be accompanied by a filing fee to be set by rule of the commission."
14

15 **Section 14.** Section 69-12-313, MCA, is amended to read:

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

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

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

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

30 (c) the kind of transportation and the character of the goods, wares, merchandise, or commodities to be

1 distributed, delivered, or collected, together with a full and complete description of the character of the vehicle
 2 or vehicles, including the rated tonnage capacity of ~~such~~ the vehicles, to be used in ~~such service of the~~
 3 distribution, delivery, or collection; and

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

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

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

10

11 **Section 15.** Section 69-12-314, MCA, is amended to read:

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

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

20

21 **Section 16.** 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 for a certificate by a Class A, Class B, Class C, ~~or~~ Class D, or Class E motor carrier, except a Class
 24 C motor carrier authorized to operate under the terms of a contract as provided in 69-12-324, or upon the filing
 25 of a request for a transfer of authority, the commission shall ~~give~~ provide notice of the ~~filing of the~~ application to
 26 any interested party.

27 (b) ~~The~~ If a protest or a request for hearing is received, the commission shall fix a time and place for a
 28 hearing on the application ~~whenever a protest or a request for a hearing is received.~~ The hearing must be set for
 29 ~~a date~~ not later than 60 days after receipt of a protest or a hearing request, ~~by the commission.~~ ~~Whenever no~~
 30 ~~protests or hearing requests are received,~~ If a protest or a request for hearing is not received, the commission

1 may act on the application without a hearing as prescribed by commission rules.

2 (c) A protest related to an application by a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a)
 3 or by a Class E motor carrier is limited to a protest of the motor carrier's ability to meet the requirements of
 4 69-12-323(5).

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

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

11 (4) ~~However, an application by a Class A, Class B, Class C, or~~ An application by a motor carrier pursuant
 12 to 69-12-311(1)(b) or 69-12-312(1)(b), by a Class C motor carrier, or by a Class D motor carrier for a certificate
 13 of public convenience and necessity may be disallowed ~~denied~~ without a public hearing when it ~~appears from the~~
 14 records of the commission demonstrate that the route or territory sought to be served by the applicant has
 15 previously been made the basis of a public investigation and finding by the commission that public convenience
 16 and necessity do not require the proposed motor carrier service, ~~unless it is made to affirmatively appear in the~~
 17 ~~application by a recital of the~~ A hearing must be held if the applicant presents facts demonstrating that conditions
 18 ~~obtaining~~ over the route or in the territory and affecting transportation facilities have materially changed since the
 19 previous public investigation and finding and that public convenience and necessity now require the motor carrier
 20 operation."
 21

22 **Section 17.** Section 69-12-323, MCA, is amended to read:

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

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

29 (2) (a) If after a hearing ~~upon application for~~ on the request for a certificate of public convenience and
 30 necessity, the commission finds from the evidence that public convenience and necessity require the

1 authorization of the service proposed or any part thereof of the service proposed, ~~as the commission shall~~
 2 ~~determine~~, a certificate ~~therefor shall~~ of public convenience and necessity must be issued. In determining whether
 3 a certificate of public convenience and necessity should be issued, the commission shall ~~give reasonable~~
 4 ~~consideration to~~ consider:

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

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

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

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

15 (3) The commission may issue the certificate as ~~prayed for or issue it for the partial exercise only of the~~
 16 ~~privilege sought~~ requested in the application or in part and may attach ~~to the exercise of the rights granted by~~
 17 ~~such certificate such terms and conditions to a certificate of public convenience and necessity for a motor carrier~~
 18 pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), a Class C motor carrier, or a Class D motor carrier as that in its
 19 judgment ~~the public convenience and necessity may require. When~~

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

23 (5) (a) In determining whether to approve a certificate of compliance for a motor carrier pursuant to
 24 69-12-311(1)(a) or 69-12-312(1)(a) or for a Class E motor carrier, the commission shall consider only whether
 25 the applicant meets the requirements of 69-12-415. The commission may provide notice and require a hearing
 26 in accordance with 69-12-321.

27 (b) An applicant seeking a certificate of compliance establishes a rebuttable presumption that it meets
 28 the requirements of 69-12-415 by demonstrating compliance with insurance requirements in [sections 4 through
 29 6] and bonding and security requirements established by the commission in accordance with 69-12-402."

30

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

2 **"69-12-324. Special provisions when federal or state contract involved.** (1) ~~The presentation of the~~
3 A written contract presented to the commission shall be deemed is sufficient proof that a motor carrier pursuant
4 to 69-12-311(1)(a) or 69-12-312(1)(a) or a Class E motor carrier meets the requirements for a certificate of
5 compliance or that a motor carrier pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), a Class C motor carrier, or
6 a Class D motor carrier meets the requirements for a certificate of public convenience and necessity in
7 accordance with the terms and conditions contained within the United States government or state government
8 contracts. Subject to the provisions of this section, a transportation movement is considered to be:

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

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

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

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

25

26 **Section 19.** Section 69-12-404, MCA, is amended to read:

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

1 **(b) The suspension of a certificate of public convenience and necessity requested by a motor carrier**
 2 **pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), by a Class C motor carrier, or by a Class D motor carrier** may
 3 be granted ~~by the commission~~ upon a showing of ~~present absence of that~~ public convenience and necessity no
 4 longer require the service or other showing of matters affecting motor carrier transportation.

5 **(2) (a) The suspension of any intrastate operating authority of any carrier a certificate of compliance for**
 6 **a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a) or for a Class E motor carrier** as provided for in
 7 subsection (1) for a period of 12 consecutive months ~~shall be deemed to establish~~ automatically terminates a
 8 certificate of compliance and requires a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a) or a Class
 9 E motor carrier to reapply for a certificate of compliance.

10 **(b) The suspension of a certificate of public convenience and necessity for a motor carrier pursuant to**
 11 **69-12-311(1)(b) or 69-12-312(1)(b), a Class C motor carrier, or a Class D motor carrier as provided in subsection**
 12 **(1) for a period of 12 consecutive months establishes** a prima facie presumption of absence of public convenience
 13 and necessity. If after notice and hearing the motor carrier pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), the
 14 Class C motor carrier, or the Class D motor carrier is unable to prove the existence of public convenience and
 15 necessity or existing demand for the transportation service, the commission ~~is authorized to~~ may cancel ~~such a~~
 16 certificate of public convenience and necessity."

17
 18 **Section 20.** Section 69-12-406, MCA, is amended to read:
 19 **"69-12-406. Restriction on transportation of certain waste.** Except as provided in 69-12-324, a Class
 20 A, ~~Class B, or Class C, or Class E motor~~ carrier may not be authorized or permitted to transport garbage within
 21 the state. This restriction does not apply to recyclables."

22
 23 **Section 21.** Section 69-12-407, MCA, is amended to read:
 24 **"69-12-407. Records and reports.** (1) All records, books, accounts, and files of a Class A, Class B,
 25 Class C, and Class D motor carrier in this state, as they relate to the business of transportation conducted by the
 26 motor carrier, must at all times be subject to examination by the commission or by any authorized agent or
 27 employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports
 28 covering the operations of Class A, Class B, Class C, and Class D motor carriers. A motor carrier authorized to
 29 operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according
 30 to the uniform system to the extent possible.

1 (2) Before April 1 of each year, unless this deadline has been extended for good cause by the
 2 commission, a motor carrier authorized to engage in business shall file with the commission a report, under oath,
 3 on a form prescribed and furnished by the commission.

4 (3) In addition to other reporting requirements, a Class D motor carrier shall provide sufficient information
 5 to the commission to show that the carrier is entitled to possess the Class D motor carrier certificate of public
 6 convenience and necessity under the requirements of 69-12-314."

7
 8 **Section 22.** Section 69-12-415, MCA, is amended to read:
 9 **"69-12-415. Carrier fitness.** A certificate ~~of operating authority~~ may not be issued or remain in force
 10 unless the ~~holder of the~~ certificate holder is fit, willing, and able to perform the authorized service and conforms
 11 to the provisions of this chapter and the rules and orders of the commission."

12
 13 **Section 23.** Section 69-12-501, MCA, is amended to read:
 14 **"69-12-501. Rate schedules to be maintained.** (1) ~~Every~~ A Class A or B motor carrier ~~holding~~ issued
 15 a certificate must maintain on file with the commission, if applicable, a full and complete schedule of its rates,
 16 fares, charges, classifications, and rules of service and ~~any and all~~ tariff provisions relating to ~~such~~ rates, fares,
 17 charges, classifications, or rules. ~~Every~~ A schedule on file and approved on March 7, 1961, ~~shall remain~~ remains
 18 in full force and effect until changed or modified by the commission or by the carrier with the approval of the
 19 commission.

20 (2) ~~No~~ A change, modification, alteration, increase, or decrease in ~~any~~ a rate, fare, charge, classification,
 21 or rule of service ~~shall~~ may not be made by ~~any~~ a motor carrier without first obtaining the approval of the
 22 commission. The commission shall prescribe rules providing for the form and style of all schedules and tariffs and
 23 for the procedures to be followed in filing or publishing any changes or modifications of ~~the same~~ schedules and
 24 tariffs."

25
 26 **NEW SECTION. Section 24. Repealer.** The following section of the Montana Code Annotated is
 27 repealed:
 28 69-12-328. Certificate for charter service.

29
 30 **NEW SECTION. Section 25. Grandfather clause -- transition.** A motor carrier that possesses a

1 certificate issued by the commission on or before June 30, 2015, is considered to possess a valid certificate.

2

3 NEW SECTION. Section 26. Codification instruction. (1) [Sections 1 through 3] are intended to be
4 codified as an integral part of Title 69, chapter 12, and the provisions of Title 69, chapter 12, apply to [sections
5 1 through 3].

6 (2) [Sections 4 through 6] are intended to be codified as an integral part of Title 33, chapter 23, and the
7 provisions of Title 33, chapter 23, apply to [sections 4 through 6].

8

9 NEW SECTION. Section 27. Saving clause. [This act] does not affect rights and duties that matured,
10 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

11

12 NEW SECTION. Section 28. Severability. If a part of [this act] is invalid, all valid parts that are
13 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
14 the part remains in effect in all valid applications that are severable from the invalid applications.

15

16 NEW SECTION. Section 29. Effective date. [This act] is effective July 1, 2015.

17

- END -