

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING REQUIREMENTS FOR CONTRACT CREW
5 TRANSPORTATION; ESTABLISHING CONTRACT CREW TRANSPORTATION VEHICLE REQUIREMENTS;
6 ESTABLISHING OPERATOR REQUIREMENTS AND HOURS OF SERVICE; ESTABLISHING REQUIREMENTS
7 FOR PERSONS PROVIDING CONTRACT CREW TRANSPORTATION; ESTABLISHING INSURANCE
8 REQUIREMENTS; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO ADMINISTER AND
9 ENFORCE REQUIREMENTS; AND PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT."
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12

13 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 7], the following definitions
14 apply:

15 (1) "Contract crew transportation vehicle" means every motor vehicle designed to transport 10 or fewer
16 passengers, including the driver, that is owned, leased, operated, or maintained by a person contracting with a
17 railroad company or its agents, contractors, subcontractors, vendors, subvendors, secondary vendors, or
18 subcarriers and used primarily to provide railroad crew transportation.

19 (2) "Department" means the department of transportation provided for in 2-15-2501.

20 (3) "Major offense" means a refusal to take a test under 61-8-402 or a similar implied consent law in any
21 other jurisdiction, a test result under an implied consent law in any other jurisdiction that shows an alcohol
22 concentration of 0.08 or more while operating a noncommercial motor vehicle or an alcohol concentration of 0.04
23 or more while operating a commercial motor vehicle, or a conviction in this state or any other jurisdiction of any
24 of the following offenses:

25 (a) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, a
26 drug, or a combination of the two;

27 (b) driving or being in actual physical control of:

28 (i) a noncommercial motor vehicle and having an alcohol concentration of 0.08 or more; or

29 (ii) a commercial motor vehicle and having an alcohol concentration of 0.04 or more;

30 (c) leaving the scene of an accident involving death or personal injury or failing to give information and

- 1 render aid;
- 2 (d) using a motor vehicle in the commission of a felony, other than a felony under 61-8-804;
- 3 (e) operating a motor vehicle while the person's driver's license is revoked, suspended, or canceled; or
- 4 (f) causing a fatality through negligent or criminal operation of a motor vehicle.
- 5 (4) "On-duty time" means all the time from the time an operator begins to work, or is required to be in
- 6 readiness to work, until the time the operator is relieved from work, including:
- 7 (a) driving time;
- 8 (b) time at a terminal, facility, or other property of a person providing contract crew transportation;
- 9 (c) time on any public or private property waiting to be dispatched;
- 10 (d) time spent in working hours by an operator under employment or agreement with another employer
- 11 who is not a person providing contract crew transportation; and
- 12 (e) time spent inspecting, servicing, conditioning, or attending a vehicle.
- 13 (5) "Railroad company" means any corporation, person, or association of persons owning or operating
- 14 a railroad.

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16 **NEW SECTION. Section 2. Prohibition.** A contract crew transportation vehicle may not operate on the

17 public roadways of this state unless operated in accordance with the provisions of [sections 1 through 7].

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19 **NEW SECTION. Section 3. Duties of department -- rulemaking.** (1) The department shall regulate

20 persons providing contract crew transportation and contract crew transportation vehicles with respect to driver

21 qualifications, equipment safety, safety of operations, hours of service by drivers, passenger safety, drug testing

22 requirements, and record retention. This regulation must be consistent with [sections 1 through 7] and federal

23 motor carrier safety regulations under Title 49, CFR.

24 (2) The department shall adopt rules necessary to carry out the requirements of [sections 1 through 7]

25 regarding the operation of contract crew transportation vehicles.

26 (3) The department may enforce [sections 1 through 7] with respect to persons providing contract crew

27 transportation.

28 (4) The department shall require the form and posting of adequate notices in a conspicuous location in

29 all contract crew transportation vehicles to advise railroad employee passengers of their rights, the opportunity

30 to submit safety complaints to the department, the complaint process, and contact information for the department.

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2 **NEW SECTION. Section 4. Operator requirements -- contract crew transportation requirements.**

3 (1) Persons providing contract crew transportation shall ensure that operators of contract crew transportation
4 vehicles successfully complete at least 8 hours of safety training that includes but is not limited to vehicle and
5 passenger safety awareness, rail yard safety, grade crossing safety, load securement, and proper maintenance
6 of required records.

7 (2) Persons providing contract crew transportation shall:

8 (a) perform a criminal background check on an operator;

9 (b) require random or routine drug and alcohol testing of an operator;

10 (c) annually verify an operator meets the requirements of subsections (3)(a)(i) and (3)(a)(ii);

11 (d) collect records to verify inspections are completed in accordance with subsection (3)(a)(iii);

12 (e) verify insurance requirements are met in accordance with [section 5]; and

13 (f) provide annual documentation that an operator meets the requirements of [sections 1 through 7] to
14 the department.

15 (3) (a) An operator of a contract crew transportation vehicle shall:

16 (i) have a valid driver's license;

17 (ii) submit to physical examinations to meet the requirements for commercial motor vehicle operators
18 under 49 CFR 391.41 through 391.45;

19 (iii) perform pretrip and postrip vehicle inspections;

20 (iv) submit to a criminal background check and random or routine drug and alcohol testing; and

21 (v) meet the requirements of subsection (1).

22 (b) An operator may not communicate over or otherwise operate a handheld cellular device when a
23 contract crew transportation vehicle is in motion.

24 (4) If a criminal background check reveals that an operator has been convicted of a major offense, the
25 operator may not operate a contract crew transportation vehicle for 5 years from the date of the conviction.

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27 **NEW SECTION. Section 5. Insurance coverage.** (1) The department shall require insurance coverage
28 for a contract crew transportation vehicle that satisfies the following minimum amounts:

29 (a) combined single limit coverage for bodily injury and property damage liability coverage of \$5 million;

30 and

1 (b) uninsured and underinsured motorist coverage of \$1 million.

2 (2) If a third party contracts with the person operating the vehicle on behalf of the railroad company or
3 its agents, contractors, subcontractors, vendors, subvendors, secondary vendors, or subcarriers to transport
4 railroad crew, the insurance requirements in subsection (1) may be satisfied by either the third party or the person
5 operating the vehicle, if the person operating the vehicle names the third party as an additional insured or named
6 insured.

7 (3) A railroad company may also satisfy the insurance requirements.

8 (4) Proof of coverage must be provided to the department by the person contracting with the railroad
9 company.

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11 **NEW SECTION. Section 6. Contract crew transportation vehicle requirements.** (1) A contract crew
12 transportation vehicle must have:

13 (a) tires that meet the same requirements as a motor vehicle under 49 CFR 393.75;

14 (b) a full-size spare tire that is fully inflated;

15 (c) properly functioning seat belts for the driver and each passenger being transported;

16 (d) properly functioning heater, defroster, and air conditioner;

17 (e) a windshield, side windows, and rear window that is clear of any obstruction;

18 (f) a working cellular device or two-way radio capable of contacting personnel of the railroad company
19 that employs the passengers being transported;

20 (g) a global positioning system device capable of identifying a vehicle's current location;

21 (h) an emergency road kit, which must at a minimum contain a blanket, flares or reflective triangles,
22 jumper cables, and a secure fire extinguisher;

23 (i) a safety glass hammer or belt cutter; and

24 (j) a location for personal baggage storage, so that all baggage can be secured in a manner that
25 prevents entry into or flight within the vehicle cabin.

26 (2) A contract crew transportation vehicle must include identification markings that identify the person
27 or persons providing contract crew transportation or the third party provider.

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29 **NEW SECTION. Section 7. Operator requirements -- hours of service.** (1) (a) A person providing
30 contract crew transportation may not require an operator to remain on duty for more than:

1 (i) 10 hours after 8 consecutive hours off duty;

2 (ii) 15 hours of combined on-duty time and drive time since last obtaining 8 consecutive hours of off-duty
3 time; or

4 (iii) 70 hours of on-duty and drive time in any period of 8 consecutive days.

5 (b) After 24 hours off duty, an operator begins a new 7 consecutive day period and on-duty time is reset
6 to zero.

7 (2) If an operator encounters an emergency and cannot, because of the emergency, safely complete
8 a transportation assignment within the 10-hour period established in subsection (1), the operator may drive for
9 no more than 2 additional hours to complete the transportation assignment.

10 (3) An operator shall maintain and retain for a period of 6 months accurate time records that demonstrate
11 the time the operator reports for duty each day, the total number of hours of on-duty time for each operator for
12 each day, the time the operator is released from duty each day, and the total number of hours driven each day.

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14 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 7] are intended to be codified
15 as an integral part of Title 61, and the provisions of Title 61 apply to [sections 1 through 7].

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

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20 **NEW SECTION. Section 10. Severability.** If a part of [this act] is invalid, all valid parts that are
21 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
22 the part remains in effect in all valid applications that are severable from the invalid applications.

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