

1 HOUSE BILL NO. 238

2 INTRODUCED BY M. MALONE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TOW TRUCK LAWS; ALLOWING A TOW TRUCK
5 LICENSED BY ANOTHER STATE AND CONTRACTING WITH AN ENTITY OF THE FEDERAL
6 GOVERNMENT TO TOW A VEHICLE FROM FEDERAL PROPERTY 5 MILES INTO MONTANA; PROVIDING
7 RULEMAKING AUTHORITY; AMENDING SECTIONS 61-3-701, 61-8-904, 61-9-416, AND 61-14-301, MCA;
8 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

11

12 **Section 1.** Section 61-3-701, MCA, is amended to read:

13 **"61-3-701. Out-of-state vehicles used in gainful occupation to be registered -- reciprocity --**
14 **decals fee -- exception.** (1) A person may not operate a motor vehicle, trailer, semitrailer, or pole trailer that is
15 registered in another jurisdiction on the highways of this state if the vehicle is used for hire, compensation, or
16 profit or if the person is engaged in gainful occupation or business enterprise in the state, including highway
17 work, unless the motor vehicle, trailer, semitrailer, or pole trailer is registered at the office of a county treasurer
18 or an authorized agent of the department. Upon satisfactory evidence of ownership submitted to the county
19 treasurer or the department's authorized agent and the payment of fees in lieu of taxes or registration fees, if
20 appropriate, as required by 61-3-321, 61-3-529, or 61-3-537, the treasurer or authorized agent shall enter the
21 vehicle for registration purposes only on the electronic registry maintained by the department under 61-3-101.
22 One-fourth of the annual fees or taxes due on the motor vehicle, trailer, semitrailer, or pole trailer subject to
23 registration under this section must be paid for each calendar quarter or portion of a calendar quarter for the
24 year that the vehicle will be located or operated in Montana.

25 (2) Upon payment of the fees or taxes, the treasurer or the department's authorized agent shall issue
26 to the owner of the motor vehicle, trailer, semitrailer, or pole trailer a registration receipt and a registration decal
27 indicating the calendar quarter and year for which the motor vehicle, trailer, semitrailer, or pole trailer is
28 registered. The registration decal must at all times be displayed on the rear of the motor vehicle, trailer,

1 semitrailer, or pole trailer when operated or driven upon roads and highways of this state during the registration
2 period indicated on the receipt and may not be obstructed from plain view.

3 (3) The registration receipt does not constitute evidence of ownership but may be used only for
4 registration purposes. A Montana certificate of title may not be issued for a motor vehicle, trailer, semitrailer, or
5 pole trailer registered under this section.

6 (4) This section is not applicable to:

7 (a) a motor vehicle covered by a valid and existing reciprocal agreement or declaration entered into
8 under Montana law; or

9 (b) a motor vehicle that is:

10 (i) registered in another jurisdiction by an insurance company licensed to conduct business in this
11 state;

12 (ii) being used by an employee of the insurance company to assist residents of this state with
13 insurance claims; and

14 (iii) operated on the highways of this state for no more than 90 consecutive days.

15 (5) In addition to the fees and taxes required for registration, a fee of \$10 must be collected when a
16 decal required under subsection (2) is issued. For each \$10 fee collected, \$8 must be deposited in the account
17 established under 61-6-158 and \$2 must be deposited in the general fund.

18 (6) This section does not apply to a person or business operating in conformity with 61-8-904(4)."

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20 **Section 2.** Section 61-8-904, MCA, is amended to read:

21 **"61-8-904. Prohibition -- ~~exception~~ exceptions.** (1) A commercial tow truck operator may not
22 operate for compensation upon the public roadways of this state unless the operator complies with the
23 provisions of 61-8-906(1) and 61-8-907.

24 (2) A commercial tow truck operator may not participate in the law enforcement rotation system
25 provided for in 61-8-908 unless the operator complies with the provisions of this part.

26 (3) Except as provided in 61-9-416, the provisions of 61-8-901 through 61-8-908, 61-8-910, and 61-8-
27 920 do not apply to a commercial tow truck operator that does not operate for compensation.

28 (4) (a) The provisions of this part do not apply to a person or business operating pursuant to this

1 subsection (4).

2 (b) A person or business may tow a wrecked, disabled, or abandoned vehicle into the state no more
 3 than 5 miles beyond the boundary of federal property if the person or business:

4 (i) is properly licensed and insured under the laws of another state; and

5 (ii) contracts with an entity of the federal government to tow vehicles that become wrecked, disabled,
 6 or abandoned on federal property."

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8 **Section 3.** Section 61-9-416, MCA, is amended to read:

9 **"61-9-416. Commercial tow truck definition -- requirements -- exception.** (1) "Commercial tow
 10 truck" means a motor vehicle operating for compensation that is equipped with specialized equipment designed
 11 and intended for towing or the recovery of wrecked, disabled, or abandoned vehicles or other objects creating a
 12 hazard on the public roadways. If a tow truck owner or operator's business profits or benefits in any way from
 13 towing a vehicle, the tow truck must be considered a commercial tow truck for the purposes of Title 61, chapter
 14 8, and this chapter.

15 (2) A commercial tow truck must be equipped with:

16 (a) not less than two red flares, two red lanterns, or two warning lights or reflectors. The reflectors
 17 must be of a type approved by the department.

18 (b) at least two highway warning signs as provided in 61-9-431.

19 (c) a dry chemical fire extinguisher of at least 5 pound capacity or an equivalent alternative type of fire
 20 extinguisher, approved by the department;

21 (d) a lamp emitting a flashing red or amber light meeting the requirements of 61-9-402(7), or both a
 22 red and amber light, mounted on top of the cab of the tow truck or on the top of the crane or hoist if the light can
 23 be seen from the front of the tow truck. The light from the lamp must be visible for a distance of 1,000 feet
 24 under normal atmospheric conditions and must be mounted so that it can be securely fastened with the lens of
 25 the lamp facing the rear of the tow truck upon which it is mounted. When standing at the location from which the
 26 disabled vehicle is to be towed, the operator of the tow truck may unfasten the red light and place it in a position
 27 considered advisable to warn approaching drivers. When the disabled vehicle is ready for towing, the red light
 28 must be turned to the rear of the tow truck upon which it is mounted and securely locked in this position.

1 Additional red or amber lights of an approved type may be displayed at either side or both sides of the tow truck
2 during the period of preparation at the location from which the disabled vehicle is to be towed.

3 (e) one or more brooms, and the operator of the tow truck engaged to remove a disabled vehicle from
4 the scene of an accident shall remove all glass and debris deposited upon the roadway by the disabled vehicle
5 that is to be towed;

6 (f) a shovel, and whenever practical, the tow truck operator engaged to remove a disabled vehicle
7 shall spread dirt upon that portion of the roadway where oil or grease has been deposited by the disabled
8 vehicle; and

9 (g) a portable electrical extension cord or other device for use in displaying stop, turn, and taillamps
10 on the rear of the disabled vehicle. The length of the extension cord may not be less than the length of the
11 combined vehicles. When a disabled vehicle is towed, the tow truck operator shall provide for the rear light that
12 is capable of displaying a stop signal, turn signal, and taillamps by means of the extension cord or other device
13 referred to in this subsection.

14 (3) The operator of a commercial tow truck used for the purpose of rendering assistance to other
15 vehicles shall, when the rendering of assistance necessitates the obstruction of a portion of the roadway, place
16 a highway warning sign as required in 61-9-431.

17 (4) The owner or operator of a commercial tow truck who complies with the requirements of 61-8-906
18 and 61-8-907 and this section may stop or park the tow truck upon a highway for the purpose of rendering
19 assistance to a disabled vehicle, notwithstanding other provisions of this code.

20 (5) A commercial tow truck company that is in compliance with 61-9-431 and that is operating an
21 emergency service vehicle and using signal equipment in rendering assistance at a highway crash scene or in
22 response to any other hazard on the roadway that presents an immediate hazard or an emergency or life-
23 threatening situation is not liable, except for willful misconduct, bad faith, or gross negligence, for injuries, costs,
24 damages, expenses, or other liabilities resulting from a motorist operating a vehicle in violation of 61-9-402(5).

25 (6) This section does not apply to a person or business operating in conformity with 61-8-904(4)."
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27 **Section 4.** Section 61-14-301, MCA, is amended to read:

28 **"61-14-301. Other rulemaking authority.** (1) The department shall adopt rules to identify the entity or

1 entities that may qualify for grants under 61-3-415 and to establish criteria that an entity must meet to receive
2 grant funds.

3 (2) The department may adopt rules for the application, certification, and determination of the ability of
4 a self-insurer to pay any judgment under 61-6-143.

5 (3) The department may adopt rules for individuals who are exempt from wearing seatbelts under 61-
6 13-103.

7 (4) The department shall adopt rules governing sales, including sales of receipts by county treasurers
8 and other authorized agents.

9 (5) The department may adopt rules governing the cancellation of received services upon receipt of
10 an insufficient funds check in payment for a service.

11 (6) The department may adopt rules for the implementation of the Montana Driver Privacy Protection
12 Act, including procedures for:

13 (a) verifying the identity of a person requesting personal information;

14 (b) maintaining records for release of personal information by the department or by any recipient
15 under Title 61, chapter 11, part 5; and

16 (c) providing for oversight of sale or disclosure of personal information to third parties.

17 (7) The department may adopt rules for governing recordkeeping, including the destruction of records.

18 (8) The department shall adopt rules allowing a person or business to tow vehicles pursuant to 61-8-
19 904(4)."

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21 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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