



Transportation Interim Committee

68th Montana Legislature

SENATE MEMBERS

MIKE FOX
THERESA MANZELLA - Chair
BARRY USHER
SHELLEY VANCE

HOUSE MEMBERS

DENISE BAUM - Vice Chair
SCOT KERNS
DENLEY LOGE
ZACK WIRTH

COMMITTEE STAFF

KATY CALLON, Research Analyst
JOE CARROLL, Staff Attorney
DANIEL ROSENBERG, Secretary

May 31, 2024

Re: commercial driver's license (CDL) exceptions

Attached to this memo please find a Federal Motor Carrier Safety Administration (FMCSA) explainer on CDL exceptions (Attachment A). It presents information on CDL exceptions, most of which have not been discussed in Transportation Interim Committee (TIC).

The "Step 1" exception is "for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise." FMCSA mentions the "transport of horses to races" for this exception. There is a link to a separate "Horse Q&A" (Attachment B).

The "Step 2" exception is for **covered farm vehicles**—a term defined in 49 CFR 390.5 (Attachment C). The distance a covered farm vehicle can be driven without a CDL is based on the vehicle's gross vehicle weight/gross vehicle weight rating:

- 26,001 pounds or less - anywhere in the United States;
- More than 26,001 pounds - anywhere in the state it is registered, and if traveling out-of-state "within 150 air-miles of owner or operator's farm or ranch."

One of the requirements for a covered farm vehicle is that it "has a license plate or some other means specified by the State that identifies it as a farm vehicle." Some states issue farm vehicle license plates. Montana identifies a vehicle as a farm vehicle by issuing a permit under 61-10-206, MCA (Attachment D).

The first box of the "Step 3" exception is the exception that exists in the definition of commercial driver's license in 61-1-101(10), MCA, (Attachment E) which has been discussed in TIC extensively this interim. It allows an excepted vehicle to go 150 miles from a farmer's farm, including into adjacent states with reciprocal agreements—which Montana has with all adjacent states.

The second box of the "Step 3" exception provides other exceptions for certain agricultural operations, including the transportation of commercial bees and the transportation of livestock.

Additional limited exceptions are mentioned by FMCSA in "Step 4" but are not further discussed in this memo.

Please review the attached material. TIC members may wish to consider:

- whether the FMCSA's explanation of the "Step 1" exception matches personal or constituent experience and Montana CDL law;
- whether the FMCSA's explanation of the "Step 2" exception and the availability of a permit under 61-10-206, MCA, matches personal or constituent experience;
- whether 61-1-101(10), MCA, sufficiently reflects the "Step 3" exception;
- whether the Motor Vehicle Division of the Department of Justice or the Department of Transportation could provide Montanans helpful information on the "Step 1", "Step 2", and "Step 3" exceptions.

Farm, Ranch, and Agricultural Transportation Exemption Reference Guide

Step 1 – Occasional Personal Use?

§ 390.3(f)(3) provides an exception for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise. This includes individuals who occasionally use CMVs to transport horses to races, tournaments, shows or similar events, even if prize money or scholarships are offered. For more information on the transportation of horses to shows, rodeos, etc., please click [Horse Q&A](#)

If this exception applies:



The transportation is not subject to the Federal Motor Carrier Safety Regulations. However, please beware that States may have more stringent regulations of their own.

If this exemption does not apply:



Proceed to Step 2.

Step 2 – Covered Farm Vehicle?

A Covered Farm Vehicle (CFV)

1. Is a straight truck or articulated vehicle,
2. Is operated by an owner or operator of a farm or ranch, or by a family member or employee of the owner or operator,
3. Transports agricultural commodities, livestock, machinery or supplies to or from a farm or ranch,
4. Has a license plate or some other means specified by the State that identifies it as a farm vehicle,
5. Is not used in for-hire motor carrier operations (but for-hire operations do not include use of a vehicle owned and operated by a tenant farmer to transport the landlord's portion of the crops under a crop-share agreement),
6. Is not transporting hazardous materials that require placarding, and either of the following:
 - a. Has a GVW or GVWR (whichever is greater) of 26,001 or less*, in which case the CFV exemptions in § 390.39 apply anywhere in the United States.
 - b. Has a GVW or GVWR (whichever is greater) of more than 26,001 pounds* and travels within the State where it is registered or, if traveling out of the State where it is registered, stays within 150 air-miles of the owner or operator's farm or ranch.

*Please note that these limits are different than the definitions for commercial motor vehicles found in § 383.5 or in § 390.5.

If this exception applies:



The transportation is not subject to Parts 382, 383, 395, 396, and Subpart E of Part 391 of the Federal Motor Carrier Safety Regulations. However, please beware that States may have more stringent regulations of their own.

If this exemption does not apply:



Proceed to Step 3.

Step 3 - Miscellaneous Agricultural Exceptions and Exemptions

Part 383

Farm Waiver (CDL)

A farm waiver for operators of a farm vehicle, is available in some States when that vehicle—

1. Controlled and operated by a farmer, including operation by employees or family members,
2. Used to transport either agricultural products, farm machinery, farm supplies, or both to or from a farm,
3. Not used in the operations of a for-hire motor carrier, except for an exempt motor carrier as defined in §390.5 of this subchapter, and,
4. Used within 241 kilometers (150 miles*) of the farmer's farm.

*Note that this is not air-miles.

If this exception applies: A State may waive the requirements of Part 383, however, this waiver is limited to the driver's home State, unless there is a reciprocity agreement with adjoining States. **Contact your State driver's licensing office for additional information.**

Restricted CDL for Certain Drivers in Farm-Related Service Industries

A State may, at its discretion, waive the required knowledge and skills tests of subpart H of this part and issue restricted CDLs to employees of these designated farm-related service industries:

- Agri-chemical businesses
- Custom harvesters
- Farm retail outlets and suppliers
- Livestock feeders

If this exception applies: Refer to § 383.3(f) for additional information and contact your State driver's license office to determine if this type waiver is offered.

Part 391

Farm Custom Operations

Certain exceptions from Part 391 are available to a driver who drives a commercial motor vehicle controlled and operated by a person engaged in custom-harvesting operations, if the commercial motor vehicle is used to—

1. Transport farm machinery, supplies, or both, to or from a farm for custom-harvesting operations on a farm; or
2. Transport custom-harvested crops to storage or market.

If this exception applies: Part 391 does not apply, except for § 391.15(e) and (f). (These sections discuss the disqualifications for texting while driving a CMV and using a hand-held device.)

Apiarian Industries (Bees)

This exception applies to drivers who operate commercial motor vehicles controlled and operated by beekeepers engaged in the seasonal transportation of bees.

If this exception applies: Part 391 does not apply, except for § 391.15(e) and (f). (These sections discuss the disqualifications for texting while driving a CMV and using a hand-held device.)

Step 3 - Miscellaneous Agricultural Exceptions and Exemptions (continued)

Part 391 Continued

Certain Farm Vehicle Drivers (does not apply to combination vehicles)

A farm vehicle driver means a person who drives only a commercial motor vehicle that is—

1. Controlled and operated by a farmer as a private motor carrier of property;
2. Being used to transport either agricultural products, or farm machinery, farm supplies, or both, to or from a farm;
3. Not being used in the operation of a for-hire motor carrier;
4. Not carrying hazardous materials of a type or quantity that requires the CMV to be placarded; and
5. Being used within 150 air-miles of the farmer's farm.

If this exception applies: Part 391 does not apply, except for § 391.15(e) and (f). (These sections discuss the disqualifications for texting while driving a CMV and using a hand-held device.)

Farm Vehicle Drivers of Articulated Commercial Motor Vehicles (combination vehicles)

A farm vehicle driver means a person who drives only a commercial motor vehicle that is—

1. Controlled and operated by a farmer as a private motor carrier of property;
2. Being used to transport either agricultural products, or farm machinery, farm supplies, or both, to or from a farm;
3. Not being used in the operation of a for-hire motor carrier;
4. Not carrying hazardous materials of a type or quantity that requires the CMV to be placarded; and
5. Being used within 150 air-miles of the farmer's farm.

If this exception applies: The following rules do not apply to a farm vehicle driver who is 18 years of age or older and who drives an articulated commercial motor vehicle—

- Section 391.11(b)(1), (b)(6) and (b)(8) (relating to general qualifications of drivers);
- Subpart C (relating to disclosure of, investigation into, and inquiries about the background, character, and driving record of drivers);
- Subpart D (relating to road tests); and
- Subpart F (relating to maintenance of files and records).

Part 395

Agricultural Operations

This exception applies to drivers transporting—

1. Agricultural commodities from the source of the agricultural commodities to a location within a 150 air-mile radius from the source;
2. Farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or
3. Farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.

If this exception applies: Part 395 is not applicable during planting and harvesting periods, as determined by each State.

Transportation of Commercial Bees

If this exception applies: The provisions requiring a 30-minute rest break, do not apply to a driver engaged in the interstate transportation of bees by commercial motor vehicle as long as the bees are on the vehicle.

Transportation of Livestock

If this exception applies: The provisions requiring a 30-minute rest break, do not apply to a driver engaged in the interstate transportation of livestock by commercial motor vehicle while livestock are on the vehicle.

Step 4 – General Rules and Exemptions

FMCSR

Once you have determined if any miscellaneous agricultural exceptions and exemptions apply, you would then review the Federal Motor Carrier Safety Regulations for any general exemptions that may pertain to the driver and/or motor carrier's operation. For example, if the driver or motor carrier was determined to be subject to Part 395, you would determine if any of the following exceptions apply:

- Short-haul operations,
- State of Alaska or Hawaii exceptions,
- ELD Exception, etc.



Search

[Home](#) / [Regulations](#) / [Hours of Service](#) / [ELDS](#)

IN THIS SECTION



Related Links

- [Electronic Logging Device Final Rule](#)
- [Agricultural Exceptions and Exemptions to the Federal Motor Carrier Safety Admi...](#)

FMCSA ELD Information Line

1200 New Jersey Avenue SE
Washington, DC 20590
United States

Email:

ELD@dot.govPhone: [800-832-5660](tel:800-832-5660) ▼

If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

Non-Business Related Transportation of Horses

The Federal Motor Carrier Safety Administration (FMCSA) has provided guidance regarding an exception to the Federal Motor Carrier Safety Regulations (FMCSRs) for non-business related transportation of horses, including transportation to horse shows or other events. To qualify for this exception, there can be no compensation for the transportation, and the driver cannot be engaged in business related to the transportation (i.e., a professional racing operation transporting horses to a race).

In such non-business related transportation, the FMCSRs do not apply, even if prize or scholarship money is offered. This exception includes Hours-of-Service (HOS) regulations, requirements for Electronic Logging Devices (ELDs) and Commercial Driver's License (CDL) regulations, unless a CDL is required by the driver's home state.

How to Determine if a Commercial Motor Vehicle Driver Transporting Horses is Required to use an ELD or Have a CDL

If a safety official stops a driver transporting horses for personal use, FMCSA recommends that the driver explain that the transportation of the horses is non-business related.

If a driver is engaged in an underlying business related to the transportation of the horses, FMCSA recommends the driver use the following questions to determine if a CDL, ELD, or paper records of duty status (RODS) are required:

1. Is the vehicle being used for a non-commercial purpose, such as taking a personally owned animal to a show when the underlying business is unrelated?

If **YES**, a CDL is **NOT** required.

2. Does the vehicle or vehicle combination have a GVWR, GVW, GCWR or GCW (whichever is greater) of 10,001 pounds or more?

If **NO**, then the HOS and CDL regulations requirements **DO NOT** apply.

3. Does the vehicle or vehicle combination have a GVWR, GVW, GCWR or GCW (whichever is greater) of 10,001 pounds or more, but less than 26,001 pounds?

If **YES**, the individual **MAY** need an ELD to complete the RODS. However, a CDL is **NOT** required.

4. Does the vehicle or vehicle combination have a GVWR, GVW, GCWR or GCW (whichever is greater) of 26,001 pounds or more?

If **YES**, the driver **MAY** need an ELD to complete the RODS and a CDL **MAY** be required.

Several [ELD exceptions](#) may apply, including, but not limited to:

- Drivers who operate a vehicle that requires a CDL within a 100-air mile radius (150-air mile radius for vehicles not requiring CDL) and work no longer than 12 hours each day;
- Vehicles that are older than model year 2000; and
- Drivers who are required to complete RODS only for eight (8) days or fewer in a 30-day period.

Please note that the FMCSR exception for the commercial transportation of horses, other animals, and cars, boats and similar items to shows and events **does not exempt the driver from the CDL requirement**.

Employers and drivers who transport horses and other animals to shows and events in a vehicle or combination of vehicles with a GVWR, GVW, GCWR, or GCW of 26,001 pounds or more must comply with the CDL requirements.

However, a State may exempt operators of farm vehicles from its CDL requirements. **A farm vehicle waiver is limited to the driver's home State unless there is a reciprocal agreement with adjoining States.**

Non-Business Related Transportation of Horses Frequently Asked Questions

49 CFR § 390.3(f)(3) "Occasional use" exemption

Question: Does the exemption in [§390.3\(f\)\(3\)](#) for the "occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise" apply to persons who occasionally use commercial motor vehicles (CMVs) to transport horses to races, tournaments, shows or similar events, even if prize money is offered at these events?

Guidance: Yes. If a person meets this exemption's requirements, he or she is not subject to the FMCSRs, including ELD requirements. This exception is explained in FMCSA's regulatory guidance for Part 390, question 21.

Electronic Logging Device (ELD)

Scenario 1:

Question: If a driver transports a horse in interstate commerce in a vehicle or vehicle combination with a GVWR, GVW, GCWR, or GCW (whichever is greater) of less than 10,001 pounds, is the driver required to use an ELD?

Guidance: No. A driver who transports a horse in interstate commerce in a vehicle or vehicle combination with a GVWR, GVW, GCWR, or GCW (whichever is greater) of less than 10,001 pounds, is not subject to the FMCSRs and therefore not required to use an ELD.

Scenario 2:

Question: If a driver transports a horse only in intrastate commerce is the driver required to use an ELD?

Guidance: In general, the FMCSRs do not apply to intrastate commerce. However, States have similar regulations that may vary from Federal regulations and from State to State. A driver in intrastate commerce should check with the State commercial motor vehicle authorities to determine which regulations apply.

Scenario 3

Question: If a driver transports a horse in interstate commerce in a vehicle or vehicle combination with a GVWR, GVW, GCWR, or GCW (whichever is greater) of 10,001 pounds or greater, and the driver does not qualify for the "occasional use" exemption in §390.3(f)(3), is the driver required to use an ELD?

Guidance: Yes. A driver who transports a horse in interstate commerce in a vehicle or vehicle combination with a GVWR, GVW, GCWR, or GCW (whichever is greater) of 10,001 pounds or greater, and the driver does not qualify for the "occasional use" exemption in §390.3(f)(3), must use an ELD unless he or she is subject to an ELD exception.

Scenario 4

Question: If a driver transports a horse in interstate commerce in a vehicle or vehicle combination with a GVWR, GVW, GCWR, or GCW (whichever is greater) of 10,001 pounds or greater, and the driver does qualify for the "occasional use" exemption in § 390.3(f)(3), is the driver required to use an ELD?

Guidance: No. A driver who qualifies for the "occasional use" exemption is not subject to the FMCSRs and is not required to use an ELD.

Commercial Driver's License (CDL)

Note: Drivers must verify the licensing requirements in their home States.

Scenario 1

Question: If a driver transports a horse in intrastate or interstate commerce in a vehicle or combination vehicle with a GVWR, GVW, GCWR, or GCW of more than 10,000 pounds but less than 26,001 pounds, is the driver required to have a CDL?

Guidance: No. A driver who transports a horse in intrastate or interstate commerce in a vehicle or combination vehicle with a GVWR, GVW, GCWR, or GCW of more than 10,000 pounds but less than 26,001 pounds, is not required to have a CDL.

Scenario 2

Question: If a driver transports a horse in interstate or intrastate commerce in a vehicle or combination vehicle with a GVWR, GVW, GCWR, or GCW of more than 26,000 pounds in interstate or intrastate commerce, is the driver required to have a CDL?

Guidance: A driver who transports a horse in interstate or intrastate commerce in a vehicle or combination vehicle with a GVWR, GVW, GCWR, or GCW of more than 26,000 pounds in interstate or intrastate commerce who transports a horse in a vehicle, or combination vehicle, in interstate or intrastate commerce may be required to have a CDL if:

1. The vehicle has a GVWR or GVW of 26,001 pounds or more; or
2. The combination vehicle has a GCWR or GCW of more than 26,000 pounds, whichever is greater, inclusive of a towed unit(s) with a GVWR or GVW of more than 10,000 pounds.

Last updated: Wednesday, April 18, 2018

U.S. DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

1200 NEW JERSEY AVENUE, SE

WASHINGTON, DC 20590

1-800-832-5660

[Subscribe To Email Updates](#)



About

[About FMCSA](#)

[Regulations](#)

[Safety](#)

[Analysis](#)

[FMCSA Portal](#)

News and Events

[FMCSA Newsroom](#)

[Press Releases](#)

[Emergency Declarations](#)

Resources

[Career Center](#)

[Resources for Carriers](#)

[Resources for Consumers](#)

[Resources for Drivers](#)

[Forms](#)

[Contact Us](#)

Trending Topics

Policies, Rights, Legal

[About DOT](#)

[Budget and Performance](#)

[Civil Rights](#)

[FOIA](#)

[Information Quality](#)

[No FEAR Act](#)

[Office of Inspector General](#)

[Privacy Policy](#)



[Vulnerability Disclosure Policy](#)

[USA.gov](#)

[Web Policies and Notices](#)

[Web Standards](#)

This content is from the eCFR and is authoritative but unofficial.

 Displaying title 49, up to date as of 5/29/2024. Title 49 was last amended 5/24/2024. 

Title 49 –Transportation

Subtitle B –Other Regulations Relating to Transportation

Chapter III –Federal Motor Carrier Safety Administration, Department of Transportation

Subchapter B –Federal Motor Carrier Safety Regulations

Part 390 –Federal Motor Carrier Safety Regulations; General

Subpart A –General Applicability and Definitions

§ 390.5 Definitions.

Unless specifically defined elsewhere, in this subchapter:

Accident means—

- (1) Except as provided in paragraph (2) of this definition, an occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in:
 - (i) A fatality;
 - (ii) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.
- (2) The term accident does not include:
 - (i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or
 - (ii) An occurrence involving only the loading or unloading of cargo.

Alcohol concentration (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Assistant Administrator means the Assistant Administrator of the Federal Motor Carrier Safety Administration or an authorized delegee.

Bus means any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.

Business district means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

Certified VA medical examiner means a qualified VA examiner who has fulfilled the requirements for and is listed on the National Registry of Certified Medical Examiners.

Charter transportation of passengers means transportation, using a bus, of a group of persons who pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin.

Coerce or Coercion means either—

- (1) A threat by a motor carrier, shipper, receiver, or transportation intermediary, or their respective agents, officers or representatives, to withhold business, employment or work opportunities from, or to take or permit any adverse employment action against, a driver in order to induce the driver to operate a commercial motor vehicle under conditions which the driver stated would require him or her to violate one or more of the regulations, which the driver identified at least generally, that are codified at 49 CFR parts 171-173, 177-180, 380-383, or 390-399, or §§ 385.415 or 385.421, or the actual withholding of business, employment, or work opportunities or the actual taking or permitting of any adverse employment action to punish a driver for having refused to engage in such operation of a commercial motor vehicle; or
- (2) A threat by a motor carrier, or its agents, officers or representatives, to withhold business, employment or work opportunities or to take or permit any adverse employment action against a driver in order to induce the driver to operate a commercial motor vehicle under conditions which the driver stated would require a violation of one or more of the regulations, which the driver identified at least generally, that are codified at 49 CFR parts 356, 360, or 365-379, or the actual withholding of business, employment or work opportunities or the actual taking or permitting of any adverse employment action to punish a driver for refusing to engage in such operation of a commercial motor vehicle.

Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—

- (1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
- (2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
- (3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- (4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

Conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

Covered farm vehicle –

- (1) Means a straight truck or articulated vehicle—
 - (i) Registered in a State with a license plate or other designation issued by the State of registration that allows law enforcement officials to identify it as a farm vehicle;
 - (ii) Operated by the owner or operator of a farm or ranch, or an employee or family member of an owner or operator of a farm or ranch;
 - (iii) Used to transport agricultural commodities, livestock, machinery or supplies to or from a farm or ranch; and
 - (iv) Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of paragraphs (1)(i) through (iii) of this definition by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement.
- (2) Meeting the requirements of paragraphs (1)(i) through (iv) of this definition:
 - (i) With a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, whichever is greater, of 26,001 pounds or less may utilize the exemptions in § 390.39 anywhere in the United States; or
 - (ii) With a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, whichever is greater, of more than 26,001 pounds may utilize the exemptions in § 390.39 anywhere in the State of registration or across State lines within 150 air miles of the farm or ranch with respect to which the vehicle is being operated.

Crash –See accident.

Direct assistance means transportation operations in which a motor carrier or driver of a CMV is supplementing State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this section involving transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (e.g., electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (e.g., food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed.

Direct compensation means payment made to the motor carrier by the passengers or a person acting on behalf of the passengers for the transportation services provided, and not included in a total package charge or other assessment for highway transportation services.

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (1) **Inclusions.** Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
- (2) **Exclusions.**
 - (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - (ii) Tire disablement without other damage even if no spare tire is available.
 - (iii) Headlamp or taillight damage.
 - (iv) Damage to turn signals, horn, or windshield wipers which makes them inoperative.

Driveaway-towaway operation means an operation in which an empty or unladen motor vehicle with one or more sets of wheels on the surface of the roadway is being transported:

- (1) Between vehicle manufacturer's facilities;
- (2) Between a vehicle manufacturer and a dealership or purchaser;
- (3) Between a dealership, or other entity selling or leasing the vehicle, and a purchaser or lessee;

- (4) To a motor carrier's terminal or repair facility for the repair of disabling damage (as defined in § 390.5) following a crash; or
- (5) To a motor carrier's terminal or repair facility for repairs associated with the failure of a vehicle component or system; or
- (6) By means of a saddle-mount or tow-bar.

Driver means any person who operates any commercial motor vehicle.

Driving a commercial motor vehicle while under the influence of alcohol means committing any one or more of the following acts in a CMV:

Driving a CMV while the person's alcohol concentration is 0.04 or more; driving under the influence of alcohol, as prescribed by State law; or refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of Table 1 to § 383.51 or § 392.5(a)(2) of this subchapter.

Electronic device includes, but is not limited to, a cellular telephone; personal digital assistant; pager; computer; or any other device used to input, write, send, receive, or read text.

Electronic signature means a method of signing an electronic communication that identifies and authenticates a particular person as the source of the electronic communication and indicates such person's approval of the information contained in the electronic communication, in accordance with the Government Paperwork Elimination Act (Pub. L. 105-277, Title XVII, Secs. 1701-1710, 44 U.S.C. 3504 note, 112 Stat. 2681-749).

Emergency means any hurricane, tornado, storm (e.g., thunderstorm, snowstorm, ice storm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout, or other occurrence, natural or man-made, which interrupts the delivery of essential services (e.g., electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (e.g., food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado, or other event results in a declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; by FMCSA; or by other Federal, State, or local government officials having authority to declare emergencies; or a request by a police officer for tow trucks to move wrecked or disabled motor vehicles. *Emergency* does not include events arising from economic conditions that are caused by market forces, including shortage of raw materials (e.g., driver shortages, computer chip shortages, other supply chain issues) or labor strikes, unless such event causes an immediate threat to human life and results in a declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; by FMCSA; or by other Federal, State, or local government officials having authority to declare emergencies.

Emergency condition requiring immediate response means any condition that, if left unattended, is reasonably likely to result in immediate serious bodily harm, death, or substantial damage to property. In the case of transportation of propane winter heating fuel, such conditions shall include (but are not limited to) the detection of gas odor, the activation of carbon monoxide alarms, the detection of carbon monoxide poisoning, and any real or suspected damage to a propane gas system following a severe storm or flooding. An "emergency condition requiring immediate response" does not include requests to refill empty gas tanks. In the case of a pipeline emergency, such conditions include (but are not limited to) indication of an abnormal pressure event, leak, release or rupture.

Employee means any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle), a mechanic, and a freight handler. Such term does not include an employee of the United States, any State, any political subdivision of a State, or any agency established under a compact between States and approved by the Congress of the United States who is acting within the course of such employment.

Employer means any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any State, any political subdivision of a State, or an agency established under a compact between States approved by the Congress of the United States.

Exempt intracity zone means the geographic area of a municipality or the commercial zone of that municipality described in appendix A to part 372 of this chapter. The term "exempt intracity zone" does not include any municipality or commercial zone in the State of Hawaii. For purposes of § 391.62 of this chapter, a driver may be considered to operate a commercial motor vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone.

Exempt motor carrier means a person engaged in transportation exempt from economic regulation by the Federal Motor Carrier Safety Administration (FMCSA) under 49 U.S.C. chapter 135 but subject to the safety regulations set forth in this subchapter.

Farm vehicle driver means a person who drives only a commercial motor vehicle that is—

- (1) Controlled and operated by a farmer as a private motor carrier of property;
- (2) Being used to transport either—
 - (i) Agricultural products, or
 - (ii) Farm machinery, farm supplies, or both, to or from a farm;
- (3) Not being used in the operation of a for-hire motor carrier;

(4) Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded in accordance with § 177.823 of this subtitle; and

(5) Being used within 150 air-miles of the farmer's farm.

Farmer means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which—

(1) Are owned by that person; or

(2) Are under the direct control of that person.

Fatality means any injury which results in the death of a person at the time of the motor vehicle accident or within 30 days of the accident.

Federal Motor Carrier Safety Administrator means the chief executive of the Federal Motor Carrier Safety Administration, an agency within the Department of Transportation.

Field Administrator means the head of an FMCSA Service Center who has been delegated authority to initiate compliance and enforcement actions on behalf of FMCSA or an authorized delegee.

For-hire motor carrier means a person engaged in the transportation of goods or passengers for compensation.

Gross combination weight rating (GCWR) is the greater of:

(1) A value specified by the manufacturer of the power unit, if such value is displayed on the Federal Motor Vehicle Safety Standard (FMVSS) certification label required by the National Highway Traffic Safety Administration, or

(2) The sum of the gross vehicle weight ratings (GVWRs) or the gross vehicle weights (GVWs) of the power unit and the towed unit(s), or any combination thereof, that produces the highest value. Exception: The GCWR of the power unit will not be used to define a commercial motor vehicle when the power unit is not towing another vehicle.

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

Hazardous material means a substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

Hazardous substance means a material, and its mixtures or solutions, that is identified in the appendix to § 172.101, List of Hazardous Substances and Reportable Quantities, of this title when offered for transportation in one package, or in one transport motor vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in § 171.8 of this title, based on the reportable quantity (RQ) specified for the materials listed in the appendix to § 172.101.

Hazardous waste means any material that is subject to the hazardous waste manifest requirements of the EPA specified in 40 CFR part 262 or would be subject to these requirements absent an interim authorization to a State under 40 CFR part 123, subpart F.

Highway means any road, street, or way, whether on public or private property, open to public travel. "Open to public travel" means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates.

Interchange means—

(1) The act of providing intermodal equipment to a motor carrier pursuant to an intermodal equipment interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider, but it does not include the leasing of equipment to a motor carrier for primary use in the motor carrier's freight hauling operations; or

(2) The act of providing a passenger-carrying commercial motor vehicle by one motor carrier of passengers to another such carrier, at a point which both carriers are authorized to serve, with which to continue a through movement.

(3) For property-carrying vehicles, see § 376.2 of this subchapter.

Intermodal equipment means trailing equipment that is used in the intermodal transportation of containers over public highways in interstate commerce, including trailers and chassis.

Intermodal equipment interchange agreement means the Uniform Intermodal Interchange and Facilities Access Agreement (UIIFA) or any other written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, the primary purpose of which is to establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.

Intermodal equipment provider means any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment.

Interstate commerce means trade, traffic, or transportation in the United States—

(1) Between a place in a State and a place outside of such State (including a place outside of the United States);

(2) Between two places in a State through another State or a place outside of the United States; or

(3) Between two places in a State as part of trade, traffic, or transportation originating or terminating outside the State or the United States.

Intrastate commerce means any trade, traffic, or transportation in any State which is not described in the term "interstate commerce."

Lease, as used in subpart G of this part, means a contract or agreement in which a motor carrier of passengers grants the use of a passenger-carrying commercial motor vehicle to another motor carrier, with or without a driver, for a specified period for the transportation of passengers, whether or not compensation for such use is specified or required, when one or more of the motor carriers of passengers is not authorized to operate in interstate commerce pursuant to 49 U.S.C. 13901-13902. The term *lease* includes an interchange, as defined in this section, or other agreement granting the use of a passenger-carrying commercial motor vehicle for a specified period, with or without a driver, whether or not compensation for such use is specified or required. For a definition of *lease* in the context of property-carrying vehicles, see § 376.2 of this subchapter.

Lessee, as used in subpart G of this part, means the motor carrier obtaining the use of a passenger-carrying commercial motor vehicle, with or without the driver, from another motor carrier, through a *lease* as defined in this section. The term *lessee* includes a motor carrier obtaining the use of a passenger-carrying commercial motor vehicle from another motor carrier under an interchange or other agreement, with or without a driver, whether or not compensation for such use is specified. For a definition of *lessee* in the context of property-carrying vehicles, see § 376.2 of this subchapter.

Lessor, as used in subpart G of this part, means the motor carrier granting the use of a passenger-carrying commercial motor vehicle, with or without the driver, to another motor carrier, through a *lease* as defined in this section. The term *lessor* includes a motor carrier granting the use of a passenger-carrying commercial motor vehicle, with or without the driver, to another motor carrier under an interchange or other agreement, whether or not compensation for such use is specified. For a definition of *lessor* in the context of property-carrying vehicles, see § 376.2 of this subchapter.

Medical examiner means an individual certified by FMCSA and listed on the National Registry of Certified Medical Examiners in accordance with subpart D of this part.

Medical variance means a driver has received one of the following from FMCSA that allows the driver to be issued a medical certificate:

(1) An exemption letter permitting operation of a commercial motor vehicle pursuant to part 381, subpart C, of this chapter; or

(2) A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to § 391.49 of this chapter.

Mobile telephone means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the Federal Communications Commission, 47 CFR 20.3. It does not include two-way or Citizens Band Radio services.

Motor carrier means a for-hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B, this definition includes the terms *employer*, and *exempt motor carrier*.

Motor vehicle means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Motor Carrier Safety Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

Motor vehicle record means the report of the driving status and history of a driver generated from the driver record that is provided to users, such as drivers or employers, and, for drivers licensed by a State, is subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. 2721-2725.

Multiple-employer driver means a driver, who in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier.

Operating authority means the registration required by 49 U.S.C. 13902, 49 CFR part 365, 49 CFR part 368, and 49 CFR 392.9a.

Operator –See driver.

Other terms –Any other term used in this subchapter is used in its commonly accepted meaning, except where such other term has been defined elsewhere in this subchapter. In that event, the definition therein given shall apply.

Out-of-service order means a declaration by an authorized enforcement officer of a Federal, State, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 CFR 386.72, 392.5, 392.9a, 395.13, or 396.9, or compatible laws, or the North American Standard Out-of-Service Criteria.

Person means any individual, partnership, association, corporation, business trust, or any other organized group of individuals.

Previous employer means any DOT regulated person who employed the driver in the preceding 3 years, including any possible current employer.

Principal place of business means the single location designated by the motor carrier, normally its headquarters, for purposes of identification under this subchapter. The motor carrier must make records required by parts 382, 387, 390, 391, 395, 396, and 397 of this subchapter available for inspection at this location within 48 hours (Saturdays, Sundays, and Federal holidays excluded) after a request has been

made by a special agent or authorized representative of the Federal Motor Carrier Safety Administration.

Private motor carrier means a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier.

Private motor carrier of passengers (business) means a private motor carrier engaged in the interstate transportation of passengers which is provided in the furtherance of a commercial enterprise and is not available to the public at large.

Private motor carrier of passengers (nonbusiness) means private motor carrier involved in the interstate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business).

Qualified VA examiner means an advanced practice nurse, doctor of chiropractic, doctor of medicine, doctor of osteopathy, physician assistant, or other medical professional who is employed in the Department of Veterans Affairs; is licensed, certified, or registered in a State to perform physical examinations; is familiar with the standards for, and physical requirements of, an operator certified pursuant to 49 U.S.C. 31149; and has never, with respect to such section, been found to have acted fraudulently, including by fraudulently awarding a medical certificate.

Radar detector means any device or mechanism to detect the emission of radio microwaves, laser beams or any other future speed measurement technology employed by enforcement personnel to measure the speed of commercial motor vehicles upon public roads and highways for enforcement purposes. Excluded from this definition are radar detection devices that meet both of the following requirements:

- (1) Transported outside the driver's compartment of the commercial motor vehicle. For this purpose, the *driver's* compartment of a passenger-carrying CMV shall include all space designed to accommodate both the driver and the passengers; and
- (2) Completely inaccessible to, inoperable by, and imperceptible to the driver while operating the commercial motor vehicle.

Receiver or consignee means a person who takes delivery from a motor carrier or driver of a commercial motor vehicle of property transported in interstate commerce or hazardous materials transported in interstate or intrastate commerce.

Regional Director of Motor Carriers means the Field Administrator, Federal Motor Carrier Safety Administration, for a given geographical area of the United States.

Residential district means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences.

Residential heating fuel includes heating oil, natural gas, and propane (also known as Liquefied Petroleum Gas or Petroleum Gas, Liquefied).

School bus means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting preprimary, primary, or secondary school students to such schools from home or from such schools to home.

School bus operation means the use of a school bus to transport only school children and/or school personnel from home to school and from school to home.

Secretary means the Secretary of Transportation.

Shipper means a person who tenders property to a motor carrier or driver of a commercial motor vehicle for transportation in interstate commerce, or who tenders hazardous materials to a motor carrier or driver of a commercial motor vehicle for transportation in interstate or intrastate commerce.

Single-employer driver means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier. This term includes a driver who operates a commercial motor vehicle on an intermittent, casual, or occasional basis.

Special agent. See appendix B to this part.

State means a State of the United States and the District of Columbia and includes a political subdivision of a State.

Texting means manually entering alphanumeric text into, or reading text from, an electronic device.

- (1) This action includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access a World Wide Web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication.
- (2) Texting does not include:
 - (i) Inputting, selecting, or reading information on a global positioning system or navigation system; or
 - (ii) Pressing a single button to initiate or terminate a voice communication using a mobile telephone; or
 - (iii) Using a device capable of performing multiple functions (e.g., fleet management systems, dispatching devices, smart phones, citizens band radios, music players, etc.) for a purpose that is not otherwise prohibited in this subchapter.

Trailer includes:

- (1) **Full trailer** means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing motor vehicle. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer.
- (2) **Pole trailer** means any motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing motor vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing motor vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections.
- (3) **Semitrailer** means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing motor vehicle.

Transportation intermediary means a person who arranges the transportation of property or passengers by commercial motor vehicle in interstate commerce, or who arranges the transportation of hazardous materials by commercial motor vehicle in interstate or intrastate commerce, including but not limited to brokers and freight forwarders.

Truck means any self-propelled commercial motor vehicle except a truck tractor, designed and/or used for the transportation of property.

Truck tractor means a self-propelled commercial motor vehicle designed and/or used primarily for drawing other vehicles.

Use a hand-held mobile telephone means:

- (1) Using at least one hand to hold a mobile telephone to conduct a voice communication;
- (2) Dialing or answering a mobile telephone by pressing more than a single button, or
- (3) Reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt that is installed in accordance with 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

United States means the 50 States and the District of Columbia.

Veteran operator means an operator of a commercial motor vehicle who is a veteran enrolled in the health care system established under 38 U.S.C. 1705(a).

Written or in writing means printed, handwritten, or typewritten either on paper or other tangible medium, or by any method of electronic documentation that meets the requirements of 49 CFR 390.32.

[53 FR 18052, May 19, 1988]

EDITORIAL NOTE

Editorial Note: For FEDERAL REGISTER citations affecting § 390.5, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

EFFECTIVE DATE NOTE

Effective Date Note: At 82 FR 5311, Jan. 17, 2017, § 390.5 was suspended, effective Jan. 14, 2017. At 84 FR 40293, Aug. 14, 2019, the suspension was lifted and amendments were made to § 390.5. In that same document, § 390.5 was again suspended indefinitely. At 86 FR 35642, July 7, 2021, the suspension was lifted and amendments were made to § 390.5. In that same document, § 390.5 was again suspended indefinitely. At 86 FR 57072, Oct. 14, 2021, the suspension was lifted and amendments were made to § 390.5. In that same document, § 390.5 was again suspended indefinitely. At 87 FR 13208, Mar. 9, 2022, the suspension was lifted and an amendment was made to § 390.5. In that same document, § 390.5 was again suspended indefinitely. At 88 FR 80183, Nov. 17, 2023, the suspension was lifted, § 390.5 was amended, and the section was again suspended indefinitely. At 88 FR 70907, Oct. 13, 2023, the suspension was lifted, § 390.5 was amended, and the section was again suspended indefinitely.

Montana Code Annotated 2023

TITLE 61. MOTOR VEHICLES

CHAPTER 10. SIZE -- WEIGHT -- LOAD

Part 2. Gross Vehicle Weight Licensing Requirements

Special Fees -- Certain Farm Vehicles

61-10-206. Special fees -- certain farm vehicles. (1) Except for motortrucks owned and operated by cooperative associations or cooperative marketing associations, there must be paid and collected annually a fee equal to 35% of the fees provided in **61-10-201** on:

- (a) motortrucks owned and operated by ranchers or farmers in:
 - (i) the transportation of their own ranch, farm, orchard, or dairy products from point of production to market;
 - (ii) the transportation of timber harvested on their own ranch, farm, orchard, or dairy from point of harvest to market;
 - (iii) the transportation of supplies, commodities, or equipment to be used on the ranch, farm, orchard, or dairy;
 - (iv) the infrequent or seasonal transportation by one farmer for another for any purpose other than commercial hire of products of the farm, orchard, or dairy; or
 - (v) the transportation of supplies or commodities to be used on the farm, orchard, or dairy; and
 - (b) one truck tractor and lowboy trailer used by contractors engaged exclusively in soil conservation work and land leveling activities that result in direct benefit to agriculture.
- (2) The minimum fee is \$6.
- (3) A motor vehicle or trailer designed and used to apply fertilizer to agricultural land must be treated as special mobile equipment.

History: En. Sec. 6-206, Ch. 197, L. 1965; amd. Sec. 1, Ch. 143, L. 1967; amd. Sec. 6, Ch. 2, Ex. L. 1967; R.C.M. 1947, 32-3306; amd. Sec. 17, Ch. 575, L. 1993; amd. Sec. 2, Ch. 314, L. 1995; amd. Sec. 1, Ch. 55, L. 2003; amd. Sec. 229, Ch. 542, L. 2005.

Montana Code Annotated 2023

TITLE 61. MOTOR VEHICLES

CHAPTER 1. DEFINITIONS

Part 1. Vehicles

Definitions

61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) "Authorized agent" means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department's motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes on behalf of a third party.

(b) For purposes of this subsection (1), "person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

(2) "Authorized agent agreement" means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent is required to operate in performing specific motor vehicle or driver-related record functions.

(3) "Autocycle" means a three-wheeled motorcycle that is equipped with safety belts, roll bars or roll hoops, a steering wheel, and seating that does not require the operator to straddle or sit astride it.

(4) "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(5) (a) "Business entity" means a corporation, association, partnership, limited liability partnership, limited liability company, or other legal entity recognized under state law.

(b) The term does not include an individual.

(6) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) The term does not include a truck canopy cover or topper.

(7) "CDLIS driver record" means the electronic record of a person's commercial driver's license status and history stored as part of the commercial driver's license system established under 49 U.S.C. 31309.

(8) "Certificate of title" means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.

(9) "Commercial driver's license" means:

(a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; or

(b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver's license.

(10) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater;

(iii) is designed to transport at least 16 passengers, including the driver;

(iv) is a school bus; or

(v) is of any size and is used in the transportation of hazardous materials.

(b) The following vehicles are not commercial motor vehicles:

(i) an authorized emergency vehicle:

(A) equipped with audible and visual signals as required under **61-9-401** and **61-9-402**; and

(B) operated when responding to or returning from an emergency call or operated in another official capacity;

(ii) a vehicle:

(A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;

(B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

(C) not used to transport goods for compensation or for hire; or

(iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel.

(c) For purposes of this subsection (10):

(i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) "school bus" has the meaning provided in 49 CFR 383.5.

(11) "Commission" means the state transportation commission.

(12) "Custom-built motorcycle" means a motorcycle that is equipped with:

(a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the manufacturer's original design; or

(b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials.

(13) "Custom vehicle" means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(14) "Customer identification number" means:

(a) a driver's license or identification card number when the customer is an individual who has been issued a driver's license or identification card by a state driver licensing authority;

(b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number;

(c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or

(d) if the customer has not been issued one of the numbers described in subsections (14)(a) through (14)(c), a number assigned to the customer by the department when a transaction is initiated under this title.

(15) (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special mobile equipment that is not registered in the name of the person.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection (15)(b)(i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties.

(16) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(17) "Department" means the department of justice acting directly or through its duly authorized officers or agents.

(18) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(19) "Domiciled" means a place where:

(a) an individual establishes residence;

(b) a business entity maintains its principal place of business;

(c) the business entity's registered agent maintains an address; or

(d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer, or pole trailer that it owns or leases.

(20) "Downgrade" means the removal of a person's privilege to operate a commercial motor vehicle, as maintained by the department on the individual Montana driving record and the CDLIS driver record for that person.

(21) "Driver" means a person who drives or is in actual physical control of a vehicle.

(22) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

(a) any temporary license or learner license;

(b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;

(c) any nonresident's driving privilege;

(d) a motorcycle endorsement; or

(e) a commercial driver's license.

(23) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour.

(24) "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(25) (a) "Golf cart" means a motor vehicle that is designed for use on a golf course to carry a person or persons and golf equipment and that has an average speed of less than 15 miles per hour.

(b) Except as provided in **61-3-201**, a golf cart is exempt from titling, registration, and mandatory liability insurance requirements under this title.

(26) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(27) "Hazardous material" means:

(a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 CFR, part 172; or

(b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

(28) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(29) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(30) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

(31) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

- (a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or
- (b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle.

(32) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

(33) "Low-speed electric vehicle" means a motor vehicle, on or by which a person may be transported, that:

- (a) has four wheels;
- (b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as certified by the manufacturer;
- (c) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;
- (d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;
- (e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;
- (f) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; and
- (g) is equipped as provided in **61-9-432**.

(34) "Low-speed restricted driver's license" means a license limited to the operation of a low-speed electric vehicle or a golf cart issued under or granted by the laws of this state, including:

- (a) a temporary license or learner license;
- (b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of **61-5-122**, whether or not the person holds a valid driver's license; and
- (c) a nonresident's similarly restricted driving privilege.

(35) "Manufactured home" has the meaning provided in **15-24-201**.

(36) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular business.

(37) "Manufacturer's certificate of origin" means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.

(38) (a) "Medium-speed electric vehicle" is a motor vehicle, on or by which a person may be transported, that:

- (i) has a maximum speed of 45 miles an hour as certified by the manufacturer;
- (ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;
- (iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

- (iv) is fully enclosed and includes at least one door for entry;
- (v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;
- (vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565;
- (vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating; and
- (viii) as certified by the manufacturer, is equipped as provided in **61-9-432**.

(b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3.

(c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

(39) "Mobile home" or "housetrailer" has the meaning provided in **15-24-201**.

(40) "Montana resident" means:

- (a) an individual who resides in Montana as determined under **1-1-215**; or
- (b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state.

(41) (a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles on a public highway in this state for the transportation of property for hire on a commercial basis.

(b) The term does not include motor carriers regulated under Title 69, chapter 12.

(42) "Motor home" means a motor vehicle:

- (a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;
- (b) containing permanently installed independent life support systems that meet the NFPA 1192 standard on recreational vehicles; and

(c) providing at least four of the following types of facilities:

- (i) cooking, refrigeration, or icebox;
- (ii) self-contained toilet;
- (iii) heating or air conditioning, or both;
- (iv) potable water supply, including a faucet and sink; or
- (v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply, or both.

(43) (a) "Motor vehicle" means:

- (i) a vehicle propelled by its own power and designed or used to transport persons or property on the highways of the state;
- (ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; or
- (iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to **61-8-391** or by a person with a low-speed restricted driver's license.

(b) The term does not include a bicycle or a moped as defined in **61-8-102**, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(44) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the United States coast guard or any successor federal agency.

(45) (a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

(b) A motorcycle designed for use on highways is a motor vehicle unless otherwise prescribed.

(c) A motorcycle designed for off-road recreational use is an off-highway vehicle unless it has been modified to meet the equipment standards specified in chapter 9 and has been registered for highway use.

(d) The term includes an auticycle.

(e) The term does not include a tractor, a bicycle or a moped as defined in **61-8-102**, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.

(46) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.

(b) The term does not include a bicycle or a moped, as defined in **61-8-102**, or a motorized nonstandard vehicle.

(47) (a) "Motorized nonstandard vehicle" means a vehicle, on or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;

(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and

(iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a "pocket rocket".

(c) The term does not include a moped as defined in **61-8-102**, an electric personal assistive mobility device, or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

(48) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.

(49) "Nonresident" means a person who is not a Montana resident.

(50) (a) "Not used for general transportation purposes" means the operation of a motor vehicle registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or motorcycle club activity or event or an exhibit, show, cruise night, or parade, or for other occasional transportation activity.

(b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes.

(51) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) motor vehicles designed to transport persons or property on the highways unless the vehicle is used for off-road recreation on public lands.

(52) "Operator" means a person who is in actual physical control of a motor vehicle.

(53) "Owner" means each person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession and control vested in an individual human being or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise in an individual human being, or in the event a mortgagor of a vehicle is entitled to possession and control, then the owner is the individual human being or mortgagor in whom is vested the right of possession and control.

(54) "Person" means an individual human being, corporation, partnership, association, firm, or other legal entity.

(55) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(56) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(57) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(58) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle on which the operator sits.

(b) The term does not include golf carts.

(59) "Railroad" means a carrier of persons or property on cars, other than streetcars, operated on stationary rails.

(60) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated on rails.

(b) The term does not include streetcars.

(61) "Recreational vehicle" includes a motor home, travel trailer, or camper.

(62) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.

(63) "Registration decal" means an adhesive sticker produced by the department and issued by the department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under **61-3-101**.

(64) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(65) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes other than resale.

(66) "Revocation" means the termination by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's license for a period of time designated by law, during which the license or privilege may not be renewed, restored, or exercised. An application for a new license may be presented and acted on by the department after the expiration of the period of the revocation.

(67) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(68) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(69) "School zone" means an area near a school beginning at the school's front door, encompassing the campus and school property, and including the streets directly adjacent to the school property and for as many blocks surrounding the school as determined by the local authority establishing a special speed limit under **61-8-310(1)(d)**.

(70) "Sell" means to transfer ownership from one person to another person or from a dealer to another person for consideration.

(71) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(72) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(73) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(74) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that:

(i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles;

(ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles;

(iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles;

(iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or

(v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

(b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts.

(75) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.

(b) The term does not include trucks having a manufacturer's rated capacity of 1 ton or less.

(76) (a) "Stop", when required, means complete cessation from movement.

(b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(77) "Storage lot" means property owned, leased, or rented by a dealer that is not contiguous to the dealer's established place of business where a motor vehicle from the dealer's inventory may be placed when space at the dealer's established place of business is not available.

(78) "Street" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(79) "Street rod" means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(80) "Suspension" means the temporary withdrawal by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's license for a period of time designated by law.

(81) "Temporary registration permit" means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

(i) required vehicle and owner information; and

(ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in **61-3-224**, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for:

(i) 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs; or

(ii) 90 days from the date the record is issued for a permit issued pursuant to **61-3-303(4)(b)**.

(82) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(83) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests on the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in **15-1-101**.

(84) "Transaction summary receipt" means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under **61-3-101**.

(85) "Travel trailer" means a vehicle:

(a) that is 46 feet or less in length;

(b) that is of a size or weight that does not require special permits when towed by a motor vehicle; and

(c) that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.

(86) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(87) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(88) "Under the influence" has the meaning provided in **61-8-1001**.

(89) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, or given away or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is commonly known as "secondhand" within the ordinary meaning of that term.

(90) "Van" means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.

(91) (a) "Vehicle" means a device in, on, or by which any person or property may be transported or drawn on a public highway, except devices moved by animal power or used exclusively on stationary rails or tracks.

(b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(92) "Vehicle identification number" means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.

(93) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(94) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1.

History: En. Sec. 2, Ch. 267, L. 1947; R.C.M. 1947, 31-118; amd. Sec. 1, Ch. 421, L. 1979; (10), (23), (38), (60), (64)En. Sec. 1, Ch. 458, L. 2005; (1), (2), (9)En. Sec. 2, Ch. 596, L. 2005; (50)En. Sec. 137, Ch. 596, L. 2005; amd. Sec. 7, Ch. 233, L. 2005; amd. Sec. 5, Ch. 241, L. 2005; amd. Sec. 36, Ch. 428, L. 2005; amd. Secs. 11 thru 14, Ch. 468, L. 2005; amd. Sec. 41, Ch. 542, L. 2005; amd. Secs. 129, 133 thru 136, Ch. 596, L. 2005; amd. Sec. 1, Ch. 20, L. 2007; amd. Sec. 50, Ch. 44, L. 2007; amd. Sec. 1, Ch. 83, L. 2007; amd. Sec. 1, Ch. 233, L. 2007; amd. Sec. 16, Ch. 329, L. 2007; amd. Sec. 1, Ch. 83, L. 2009; amd. Sec. 1, Ch. 353, L. 2009; amd. Sec. 5, Ch. 209, L. 2011; amd. Sec. 11, Ch. 247, L. 2011; amd. Sec. 2, Ch. 296, L. 2011; amd. Sec. 1, Ch. 120, L. 2015; amd. Sec. 1, Ch. 199, L. 2015; amd. Sec. 3, Ch. 374, L. 2015; amd. Sec. 2, Ch. 323, L. 2017; amd. Sec. 1, Ch. 435, L. 2017; amd. Sec. 1, Ch. 309, L. 2019; amd. Sec. 2, Ch. 109, L. 2021; amd. Sec. 5, Ch. 389, L. 2021; amd. Sec. 29, Ch. 498, L. 2021.