

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN LARRY TVEIT**, on March 7, 1995, at
2:57 p.m. in Room 410.

ROLL CALL

Members Present:

Sen. Larry J. Tveit, Chairman (R)
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Arnie A. Mohl (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Council
Carla Turk, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 86
HB 111
HB 248
HB 318

Executive Action: HB 318
HB 86

HEARING ON HB 318

Opening Statement by Sponsor:

REPRESENTATIVE SAM ROSE, HD 87, Choteau, said HB 318 was senior citizen oriented. He stated that small communities had vans for transporting senior citizens to urban areas for shopping. He said there were no legal unloading zones available. He reported

having reviewed the rules with the Motor Vehicles Division, and the Department of Justice, and said the rules were very stringent on the use of handicap parking zones. He said HB 318 had been drafted to allow loading, and unloading of senior citizen vans in the handicapped parking zones. He said the vans could not remain parked in the handicap zones, but the senior citizens could conveniently, and safely be unloaded in the handicap parking zones.

Proponents' Testimony:

Dean Roberts, Administrator, Motor Vehicle Division, said they administered the handicap parking permit system. He said it had always been a problem that a group of people cannot get a handicap permit. He stated that only a long-term care facility, or individual people, who their doctor recommends, can have handicap permits. He said HB 318 would simply allow someone on a senior citizens bus, or other people in the business of moving handicapped people, the ability to get a handicap permit for loading and unloading. He said the permit would allow the vehicle to be loaded, or unloaded, in a handicap parking area before being parked elsewhere. He said the Bill would not allow this type of vehicle to remain in the handicapped parking space. He said they supported the Bill.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SENATOR COLE asked how many permits may be expected to be requested? **REPRESENTATIVE ROSE** said he thought that five would be the most permits requested in his trading area. He stated the intent of the Bill was for very limited numbers.

CHAIRMAN TVEIT asked the Division how many permits they estimated would be requested, state-wide. **Dean Robert** said there wouldn't be very many, and reminded the Committee the permits had to be renewed every four years.

SENATOR JABS asked if these permits would be the same as the regular handicap permits? **Dean Roberts** answered yes, it would be the window type, not the license plate.

SENATOR JABS asked if these permits could allow those vehicle to remain in the handicap zone? **Dean Roberts** said the Bill addressed the restriction to loading and unloading purposes only.

Closing by Sponsor:

REPRESENTATIVE ROSE stated lines 21 & 22 addressed the questions **SENATOR JABS** had raised regarding how long these vehicle could remain in the handicap area. He thanked the Committee for the Hearing and closed.

CHAIRMAN TVEIT ANNOUNCED THE HEARING ON HB 318 AS CLOSED.

HEARING ON HB 248Opening Statement by Sponsor:

REPRESENTATIVE ERNEST BERGSAGEL, HD 95, Malta, said the Bill had evolved, as a result of previous legislation which cut drivers license examination stations throughout Montana. He said a Task Force had been created to study the efficiencies, and privatization methods for drivers license stations. He said HB 248 was one of the results of this process. **REPRESENTATIVE BERGSAGEL** said he and **SENATOR GREG JERGSON** had served on the Task Force, and felt the Senator could answer any questions the Committee may have, along with the Department of Justice who was present. He stated having another hearing in progress, in another Committee, and asked to reserve the right for **SENATOR JERGSON** to close, if he deemed it necessary.

Proponents' Testimony:

Brenda Nordlund, Department of Justice, reiterated that HB 248 was a product of the Drivers License Task Force, and stated they had already heard SB 34, which was another piece of Task Force work that privatized commercial drivers license testing. She said HB 248 contained the two other primary components of the Task Force recommendations, which were a Cooperative Driver Training Program, and the extension of the drivers license from a 4-year term to an 8-year term.

Ms. Nordlund said the Cooperative Driver Training Program would be a program that was the cooperative effort between the Office of Public Instruction (OPI), the Department of Justice, and interested school districts who were currently offering drivers education services to their students. She said the Cooperative Driver Training Program would allow school districts, who chose to participate, the ability for driver education instructors to administer the knowledge or road tests to their students. She stated these tests were normally given by Department of Justice employees, prior to licensure. She said that if the instructor chose to certify the successful completion of those tests, by their students to the Department, HB 248 would give the Department the ability to waive those testing requirement for the

certified student. She said the waiver was optional, as was the choice to participate in the Program, by local school districts. She stated the advantage of the Cooperative Drivers Training Program was that it would allow instructors, who have an innately more familiarity with students; whom they have been on the road, in a car, with for a minimum of six hours, to observe the road test, and administer the knowledge test in the school setting. She stated that when graduating drivers education students arrived, in groups, at the drivers examination station it created a bubble in the Station's schedule. She said it took four minutes to administer and correct the knowledge test, and twenty minutes to administer a road test for each individual. She explained that each time a driver education instructor could waive a student, in a Cooperative Driver Training Program, it would alleviate some pressure off the examination stations. She stated this would afford better service to others, as the Department's goal was to improve their services without jeopardizing public safety.

Ms. Nordlund said the other portion of HB 248 dealt with the extension of the drivers license from four to eight years. She said the past legislature had adopted a mail-renewal system which allowed someone to renew their drivers license, on alternate cycles by mail. She stated that was being dropped, and the Bill would extend the drivers license to a 8-year period instead. She said there was an age restricted extension; applicants under age 21 or age 75 would not receive an 8-year drivers license. She said applicants under age 21 would be issued a license which needed renewed on their 21st birthday. She said there was already a trend that, when drivers reached the age of 21, they wanted an up-to-date frontal photo on their license. She said the other factor was to offer the opportunity for driver examiners to counsel young drivers who had already accumulated a problem driving record. She said the highest accident rate was for drivers under 21, and counseling or additional testing could be beneficial to accident prevention and safety. **Ms. Nordlund** said accidents rates also increased at age 75, so that age group would again be issued a 4-year drivers license. She said the Bill would, also, somewhat change the eligibility requirement for who was eligible to get a drivers license. She said this language appeared in Section 1, and dealt with problems the Department of Justice encountered when an individual had suffered a seizure, or loss of consciousness. She said the Department typically suspended the license of drivers with these medical factors involved. She said that the period was arbitrary, not based on individual medical conditions, so page 2, Section 1, lines 8-17 changed that criteria for non-commercial driver. She said the new language stated the Department would return the drivers license of a driver who had suffered a loss of consciousness, if their physician indicated to the Department, that the condition had been stabilized, and no longer adversely affected their ability to drive. She explained the Department of Justice did not have the medical expertise to establish individual medical conditions that determine safety factors, so

they were leaving the determination within the hands of the physicians who know and treat these individuals. She offered to answer any question on the Bill. He stated the Bill had an immediate effective date, for the purposes of the Cooperative Driver Training Program. She presented (**EXHIBIT # 1**) which contained a thumbnail outline of her testimony.

Mike Bullock, Supervisor for the Drivers Education Program for the Helena Public Schools, said they had been fortunate enough to pilot the Cooperative Driver Training Program, along with the Department of Justice. He said the Program had worked very well, and stated they appreciated the cooperation received from the Department. He expressed the hope that the Schools could in some way assist in alleviating the long lines at the drivers examination stations. He stated his willingness to answer any specific questions the Committee may have.

Dan Purcell, a Driver Education Instructor in Helena, and Board Member of the Montana Traffic Education Association, said they were in support of HB 248. He stated they were anxious to get the Program under way, and begin training at their spring conference. He said he had been involved in the pilot project, and would be happy to answer any questions regarding the program, itself.

Gail Gray, Assistant Superintendent, Office of Public Instruction, said they were also in support of HB 248, especially as it relates to Section 4, which created the Cooperative Driver Testing Program. She said they thought it was a good program, and their Office would be facilitating the provision of the program state-wide. She said the Program was a convenience to the public, students, parents, and to schools. She said their Office had the opportunity to work with the Department of Justice's Motor Vehicle Division, for the past two years, in the development of the Program, and had participated in the piloting of the Program in the Helena Public School System. She said the first Certification Training, which would certify Drivers Education Instructors in giving the tests, was to be held April 30th through May 2nd, 1995 in Lewistown, Montana. She said they encouraged passage of HB 248, and were available for questions which may arise.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SENATOR MOHL asked where the General Fund Revenue was to come from? **SENATOR JERGSON** referred to the companion Bill, SB 390, language and stated there would be an increase in revenue because people would be paying for an 8-year license as compared to a 4-

year license. He said it would create additional revenue for this, and the following biennium.

SENATOR MOHL asked if the fiscal note showed a duplication of revenue generation? **SENATOR JERGESON** stated he didn't feel there was any duplication. He said SB 390 reduced the \$4-annual fee for a typical drivers license to \$3, making the difference of an up-front cost for the license of \$25 rather than \$32. He said that just because there were fiscal notes on two bills on the same issue, there wasn't a duplication of impact.

SENATOR SWYSGOOD asked what the earliest age, after completing drivers training, that application could be made for a drivers license? **Dan Purcell**, said that a Montana Traffic Education Learners License (MTELL), which allowed an individual to drive with a parent, guardian, or Drivers Education Instructor, could be issued at the age of 14½. He said that at 15 years-of-age, upon successful completion of Drivers Education, the individual could get a provisional drivers license that allowed them to independently drive a vehicle. He said that at 16 years-of-age, an individual who had not had Drivers Education could apply to be licensed.

SENATOR SWYSGOOD said that under HB 248, asked if a 15 year-old would be issued a 6-year drivers license? **Ms. Nordlund** said a provisional license would not be issued for 6-years, but a regular license issued at the end of that period would be a 6-year license.

SENATOR JABS asked what time length a 75-year old would be issued a license for? **Ms. Nordlund** said that it would be for 4-years.

SENATOR JABS asked if a 74-year would be issued an 8-year license? **Ms. Nordlund** said no, the Bill was constructed to have any license, issued to someone under the age of 75, expire upon the individual's 75th birthday, and the individual would have to renew their license on the 4-year cycle.

SENATOR STANG asked if the State could get sued for age discrimination? **Ms. Nordlund** said it was possible, but she was very comfortable that the Legislation could be defended successfully. She said age was not a suspect classification under the individual dignities clause of the Montana Constitution, nor under the Unites States Constitution. He said the only test which must be met, in the course of meeting equal protection under the laws, was a rational basis test. She stated she believed that, based on the increased accident rate, the State could demonstrate for those under twenty-one and the increased accident rate per-miles-driven for those over seventy-five. She maintained that was a reasonable basis upon which to distinguish the length of a license for these drivers.

CHAIRMAN TVEIT asked how the Bill, based on the accident rate, differed from the unisex insurance law which Montana currently had in place, and asked how gender was treated within HB 248?

Ms. Nordlund referred to the accident rate chart which had been used in development of the Legislation, and stated both groups of general trends were the same for both sexes. She said it was basically a uniform trend, irrespective of sex.

SENATOR NELSON asked if the fee would be less for licenses which were issued for shorter periods of time, regarding a 74-year old person renewing? **Ms. Nordlund** the annual renewal fee would be \$3, with SB 390, so a 4-year license would be \$12, instead of the current \$16. She said there would be an actual reduction of out-of-pocket expenses for the older age population.

CHAIRMAN TVEIT said the Committee had been notified of a language conflict with other bills (**EXHIBIT # 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H**) and asked for an explanation before closing on the Bill. **Ms. Nordlund** said the conflict notice in **EXHIBIT 1A** came from **Greg Petesch**, and gave notice that HB 248 conflicted with: SB 34, the commercial drivers licensing bill signed into law, SB 390, and SB 83. She spoke to SB 34, and said the conflict arose under 61-5-110, and addressed language in HB 248, page 4, and page 5 of SB 34, **EXHIBIT 1G**, and stated she did not feel there was a conflict. She stated HB 248 said "the Department may waive a knowledge and road test for an individual who has been certified as having completed those tests by a cooperative driver training program". She said that only applied to a base drivers license, noncommercial, and for individuals who were coming out of a drivers education program. She said the amendment in SB 34, page 5, lines 5-8, **EXHIBIT # 1G**, referred to the waiver of the knowledge and skills test for a seasonal commercial drivers license. She stated that waiver was mandatory, and applied only to those individuals seeking a seasonal commercial drivers license. She said it was a waiver program driven by federal regulation, and the State paralleled federal regulations for purposes of extending the waiver. **Ms. Nordlund** said, based on these factors, she did not believe there was a conflict in the two Bills. She said the other issue regarded SB 390, in terms of the coordination of the amendments to 61-5-121, the fee distribution section of the drivers license receipt law. She said that if SB 390 passed, with the amendments this Committee had already adopted, **EXHIBIT # 1H**, the Bill would contain language to coordinate HB 248, SB 83, and SB 390. She said the only time any inconsistency in the Bills would arise, was if SB 390 were to fail. She said that failure would result in a conflict between HB 248, in the amount of money allocated for State Drivers Education, and SB 83, the de-earmarking Bill and the same amount allotted for State Traffic Education. She said that if SB 390 failed, the Legislature would have to resolve the conflict by deciding which percentage of funding they wanted to enact, and attach a coordination language in either HB 248 or SB 83. She stated she would remain available to assist with the desired coordination.

SENATOR SWYSGOOD said that while HB 248 addressed the Cooperative Driving Program, and SB 34 was the examination of applicants, they were still one in the same Code. He stated the language was identical in both Bills, except for the "may" and "must" appearing on the waiver. He said he thought there were two conflicting sets of directions, as it could be perceived that each bill contained a cooperative program. **Ms. Nordlund** said the language which set up the waiver for the third party commercial driver testing program appeared on page 6, lines 2-4 of SB 34, **(EXHIBIT # 1G)**, and was a waiver based in participation of the third party commercial driver testing program and said the language had been specifically chosen to distinguish it from the cooperative driver training program. She stated there was no need for participation in any program to be a beneficiary of the waiver for a farm related service seasonal commercial drivers license. She reiterated feeling they were distinct Programs in Statute, and should be considered absolutely separate.

CHAIRMAN TVEIT stated the information was being brought before the Committee, so that any conflict could be resolved before Executive Action was taken. He said the Committee would need to make certain the Bill facilitated all of the bills' functions. **Valencia Lane** said that a conflict could not be resolved by anyone other than the Legislature. She said the final form of the Bill would be Codified and Published with the conflict within, and cautioned the Committee they did not want that to happen. She identified this as the reason **Mr. Petesch** went to great lengths to avoid the conflicts, and give the Legislature the opportunity to resolve them. **Ms. Lane** said **Mr. Petesch** had felt there was a conflict between the inserted sentence in SB 34, page 5, line 6, **EXHIBIT # 1G**, and a very similar sentence in HB 248, page 4, lines 29 and 30. She said the concern was that both Bills addressed the same subject, and he felt there was a conflict. She said **Ms. Nordlund**, who was active in drafting the Bills, had expressed feeling there was not a conflict. **Ms. Lane** said she was inclined to feel there wasn't a conflict. She said that, given **Mr. Petesch's** feelings, he had prepared an amendment for the Committee's convenience, **EXHIBIT # 1C**. She read the amendment and stated the feeling that the amendment was redundant, because she did not think the conflict existed. She said the question did need resolved, but expressed the need to impress upon the Committee the necessity to resolve conflicts.

SENATOR JERGSON asked if the minutes were reviewed, during the codification process, to determine the Legislature's intent, because the Legislature obviously had an intent for these definitions. **Valencia Lane** said they normally wouldn't, unless it was discovered there was a real problem. She thought she would look at the two bills and determine there were clearly two separate bills, two separate subjects, and two separate sentences, and would consecutively Codify both into existing law.

SENATOR MOHL asked what SB 83 dealt with? **Valencia Lane** referred to the amendments adopted for SB 390, **EXHIBIT # 1H**, page 3, amendment 10, Subsection (3) "If Senate Bill No. 83 is passed and approved and if it includes a section that amends 61-5-121, then that section is void and is superseded by [sections 2 and 3 of this act]." She said that meant that if both SB 83 and SB 390 passed, then the approved contents of SB 390 took precedence over what was in SB 83. She stated that conflict had already been addressed, when the Committee adopted the amendments to SB 390, through Codification instructions.

SENATOR JERGESON said a lot of bills had a Codification instruction section, and asked if such a section should be designed, for this, that clearly instructed the Code Commissioner that SB 34, HB 248 dealt with separate subjects? **Ms. Lane** stated they could certainly do that. She stated that once it was determined there was a conflict they could either; try to amend the conflict out of one or both of the bills, or clearly state coordination instructions that one bill was to supersede the other. She said it first had to be determined if there were conflicts which needed to be addressed.

Closing by Sponsor:

SENATOR JERGESON, made closing statements for **REPRESENTATIVE BERGSAGEL**, and stated the Task Force proved rather exciting when they began arriving at some of the different possibilities, that resulted in this Bill. He said a lot of credit, for having reached this point, should probably extended to **SENATOR STANG AND SENATOR NELSON** who were deeply involved in the whole issue of driver examination stations during the '93 Regular and Special Sessions. He said they had helped get to a point where a Task Force was developed, which came up with these recommendations.

CHAIRMAN TVEIT ANNOUNCED THE HEARING ON HB 248 AS CLOSED.

HEARING ON HB 111

Opening Statement by Sponsor:

REPRESENTATIVE CHARLES DEVANEY, HD 97, Plentywood, said he was sponsoring HB 111 at the request of the Montana Department of Transportation (MDT). He said the Bill would accomplish two purposes; to clarify the arrest authority for Motor Carrier Service Officers, and to protect the State from liability problems. He said the Bill would also allow the Department Director to authorize nonresident Motor Carrier Officers authority to enforce Montana Statute at joint ports of entry.

REPRESENTATIVE DEVANEY said Section 1 granted the Director of the MDT authority to appoint a nonresident Motor Carrier Officer the same authority as a Montana Motor Carrier Officer. He said that in 1988 the MDT entered into a joint port agreement with the State of Idaho, construction and operating cost were split 50/50 between the two States, including Montana Officer's salaries. He stated that Idaho has appointed Montana Employees peace officer status, in Idaho, and has educated them regarding Idaho Department of Transportation Law. He said Montana's employees enforce the laws of both States, which made the arrangement work very well. He said that in 1991 Montana had signed an agreement to operate a joint weigh station in Alberta, Canada. He said our Officers work in that weigh station and have been appointed special Constable Status, to enforce Alberta Motor Carrier Law. He said this joint port has also saved money and worked well, except Montana cannot offer Alberta and Idaho Officers the same authority as our Officers have been offered. He said further negotiations are hindered with other surrounding states, if Montana cannot utilize the nonresident employee appointment

REPRESENTATIVE DEVANEY said Section 2 would add certain Statutes in the employment list for Montana Carrier Service Officers, but said this was not an expansion of authority. He stated that Section 61-10-141 authorized MCS Officers to enforce federal safety laws and PSC Statutes. He said Section 2, number 6 and 11, place single authority into Statute 61-12-206. He said this was simple clarification that eliminated a contradiction in Statute, and protected the Montana from any liability.

REPRESENTATIVE DEVANEY said Section 3 clarified for a MCS Officer's arrest authority, and protected the State from charges which could result from an arrest by a MCS Officer. He said the MCS Administrator, **Dave Galt**, was present to address any technical portions of the Bill. He offered to be available to answer any questions.

Proponents' Testimony:

Dave Galt, Administrator, Motor Carrier Services Division, Montana Department of Transportation, said language contained in Section 1 of the Bill had been killed by the Committee last Session. He said paragraph 2, the one stricken and amended in the House, had been added to address concerns of Committee Members, that he would contract with other states and terminate more Officers. He said the important part of this Bill was contained in Sections 2 and 3, which clarified the arrest authority of MCS Officers, and closes any loopholes in Statute. He said Section 3 also clarified exactly what MCS Officers had to do when they put someone under arrest. He said that many times a justice of the peace required the MCS to post bond, or arrest that person and bring the individual before them. He thought the Section clarified exactly what was necessary in that Statute. He stated he would be glad to answer any questions.

Tom Schneider, representing the Montana Public Employees Association, said their Association represented the MCS Officers in Montana. He said they would go on record supporting the Bill, however would ask the Committee to look favorably on amending the language back in on page 1, lines 21 and 22. He said the language simply stated "the department may not terminate existing motor carrier service officers because the state enters into joint weigh station agreements." He said that amendment had been worked out with the MCS Officers, when **Mr. Galt** traveled the State and explained this Bill to all the Officers, and pointed that language was going to be included. He said the Association had agreed on the language, as had the sponsor. He said there had been some discussion in the House Highways and Transportation Committee, however the Bill was left intact and sent to the House Floor. He said the Bill was amended on the House Floor, because some had felt this Legislation produced a life-time job security for MCS Officers. He stated that his understanding of the language was that when the agreement is reached, Montana Officers cannot be replaced with nonresident Officers. He said the language would only have relevance at that point. He said the intent of the language was not to state that an MCS Officer could never be laid-off. He said it did not change the fact that if a reduction in work force could not occur when there was a reduction in revenue.

Mr. Schneider stated the Association liked the Bill otherwise, as they thought it was necessary because of the clarifications of the arrest Statutes. He said they would like to support the Bill, but would like to have the amended language reinserted by the Committee.

Opponents' Testimony:

None

CHAIRMAN TVEIT stated written testimony had been submitted by **Joseph R. Rentmeister, of Black Eagle**, who could not be present at the hearing (**EXHIBITS # 2 AND 3**). Copies of the exhibits were passed to Committee Members.

Questions From Committee Members and Responses:

SENATOR STANG asked if **Mr. Galt** had any suggested language for page 1, lines 21 and 22? He expressed the belief that some form of the suggested language was needed, with the intent of protecting Montana jobs. **Dave Galt** said the language had not been worked on since it left the House, and it was the same concern that arose last time the legislation was proposed. He stated a House concern had been that the language was a union protection clause, and he did not see that as the case. He stated he would certainly work on the language if so desired. **SENATOR STANG** stated he did wish to have the language addressed.

SENATOR SWYSGOOD referred to Section 1, as it related to the joint port in Alberta, and expressed his concerns regarding jurisdictions for a foreign officer. He stated he would be inclined to strike that language, and insert "state", and asked the resulting effect. **Mr. Galt** said it would amount to training Alberta Officers and offer them the same authority which had been granted Montana Peace Officers. He thought that would eliminate the claim that when Canadian operators entered the United States, and Montana Officers weren't present, that no enforcement action was taken. He said that rumor surfaced at different times. He said that if the language was struck and "state" was inserted, it would still allow him to make important negotiations with neighboring states. He stated he could accept that proposed change. He said he wanted it known that if jurisdiction language remained in the Bill, and it passed, he would intent to train those Alberta Officers, and extend that authority to them.

{Tape: 1; Side: B.}

CAIRMAN TVEIT went to tell the sponsor of the next bill that the Committee was nearly ready for him, and relinquished the gavel temporarily. **SENATOR SWYSGOOD ASSUMED THE RESPONSIBILITIES OF THE CHAIR.**

SENATOR JABS asked about the authority Canada had given Montana Officers. **Mr. Galt** said Montana Officers held a special Constable status, and had the authority to enforce Alberta Motor Carrier Law when in the presence of an Alberta Officer. He stated the intent to pursue the same type of authority.

SENATOR STANG asked why **SENATOR SWYSGOOD** didn't want the Alberta Officers to have jurisdiction? **Mr. Galt** said he thought the Senator was concerned about the sovereignty issue between the United States and Canada, and having a Montana Officer enforcing Montana Law in Canada. He referred the question to **SENATOR SWYSGOOD** who stated he had a problem concerning the entire shared port venture with the Canadian Government. He said that from the very inception, this was something the Legislature did not approve, it was done by Executive Order, for whatever reason. He stated concern that there were two different Countries involved, with two entirely differed sets of laws, with Officers being authorized to impose one set of laws on the other Nation's citizenry. He said this agreement also allowed for the expenditure of Montana money in Canada, to construct buildings which will never leave Canadian Soil. He stated displeasure with that type of investment, and with the agreement in general. He said it was his contention that if Montana wanted to weigh trucks and enforce Montana Law, they should be on Montana Soil with a facility for that purpose. He stated the willingness to provide the necessary money, and said he did not think Montana Officers belonged in another country. He emphasized that a large number of people in the Trucking Industry felt Montana money should remain in Montana. He said he had no problem entering into agreements with bordering states who had a commonality.

SENATOR COLE asked what benefits would exist with the Canadian proposal? **Mr. Galt** said that for years there had been a weigh station north of Shelby, in the south-bound lane, and that station had deteriorated to a point of renovation of about \$150,000. He said they had run special, portable equipment on the north-bound lane, and they found that weighing north-bound trucks stopped a lot of violations. He said they had been looking at the opportunity to have a north-bound scale in the area. He said that Alberta had offered, and promoted the agreement with **Governor Stephens**, and he guessed the benefit to Montana was that building a north-bound and a south-bound port would have required the acquisition of new land to build the new facility on. He said that expenditure probably would have been \$600,000 to \$1-million, versus the current expenditure of approximately \$35,000 a year, to Alberta.

SENATOR COLE asked to clarify that one benefit was money, and the other was one stop, rather than two? **Mr. Galt** said that prior to that scale agreement, theoretically a trucker would have stop at the Canadian scale, the border crossing, and at the Montana scale, compared to the current joint scale and border stops.

SENATOR STANG asked how much revenue Montana derived from the joint venture, through fines or permits, etc.? **Mr. Galt** stated he estimated the revenue to Montana was between \$100,000 and \$200,000-per-year, without checking any records.

SENATOR MOHL asked what type of problems had been encountered with the weigh station being located in Canada. **Mr. Galt** said he had originally thought it wasn't a good idea, although it has worked extremely well as time has progressed. He said information sharing, enforcement had worked well, but the concerns **SENATOR SWYSGOOD** stated were the problems which arose. He said there had been resistance to the joint venture by both country's citizenry.

SENATOR MOHL asked if he would object to an amendment which left jurisdiction to the state? **Mr. Galt** said he would like the Bill to pass, and if changing the jurisdiction to "state" was the key to passage, he would like to see that happen. He stated a reluctance to lose the ability to negotiate with the Canadians, and maybe a weigh station at the border would be better, but that wasn't the present situation.

SENATOR STANG asked how the agreement with Canada would be affected with the jurisdiction changed to "state", and would that reduce the revenue from that venture? **Mr. Galt** said he thought there was a Section in Title 60 which allowed the State of Montana to enter into agreements with "states", and thought the word in that Section was "jurisdiction". He said that if the jurisdiction was with the states, the operation of the joint weigh station, with Alberta, would continue as it has been and the revenue would still be generated.

ACTING CHAIRMAN SWYSGOOD RETURNED AUTHORITY OF THE CHAIR BACK TO CHAIRMAN TVEIT.

SENATOR STANG asked, if in effect, this Bill really wasn't necessary? **Mr. Galt** said that currently only Montana Officers were enforcing Montana Law, and he wanted the opportunity to have other jurisdiction's officers enforce Montana law when dealing with joint port agreements. He said this Bill would allow nonresident Officers to enforce Montana law, and augment the work of Montana Officers.

SENATOR STANG asked if **Mr. Galt** envisioned more joint port agreements in the future, and would the agreements set up similar to the agreement in Idaho? **Mr. Galt** said that was correct, and his immediate plans didn't include any agreement other than Wyoming.

SENATOR SWYSGOOD reiterated the potential creation of problems which could occur if Canadian Officers were allowed to enforce United States or Montana law, as it related to the Trucking Industry. He stated the current situation was tolerable, however undesired, but he guaranteed that the passage of proposals in this Bill would cause any number of problems. He said the situation was entirely different when you began interpreting another country's laws, versus working with United States law between two bordering states.

SENATOR MOHL stated he agreed with **SENATOR SWYSGOOD'S** thoughts. He asked the sponsor if he would object to an amendment which struck the "port of entry"? **REPRESENTATIVE DEVANEY** said he would not object, and hoped the Bill would still accomplish the desired affect between the states.

SENATOR JERGESON asked if other states had been surveyed as to whether they had these types of agreements with Canadian Provinces? **Mr. Galt** said the agreement between Alberta and Montana was the first one in the United States. He reported that some other states had expressed interest in how it had been accomplished, and some states and federal agencies had asked for a history on development of the agreement.

SENATOR SWYSGOOD stated there was a Canadian Free Trade Agreement with Canada, the North American Free Trade Agreement (NAFTA) had just been passed, and said the Canadian Government had been the driving force behind development of a corridor from Canada to Mexico. He stated that corridor ran through Montana and the shared ports made it more enticing to streamline development of that corridor. He explained that Montana was not going to benefit from any of these Trade Agreements, and we would soon see foreign trucks transporting goods down this super corridor, with Montana carriers sitting idle. He maintained that Montana had to begin protecting some of our rights and investments.

SENATOR COLE asked if Canadian law would be enforced in Montana? **Mr. Galt** said the enforcement proposed in this Bill pertained to enforcement of Montana law. However as **SENATOR SWYSGOOD** stated, NAFTA required the United States, Canada and Mexico to work together to harmonize truck size and weight laws between the three countries. He said there was a national Committee working on that process, but nothing has been done regarding truck size and weight issue. He also expected change in the Industry, but did not know what the final outcome was going be.

SENATOR COLE asked if those types of centralized laws may go into affect, regardless of what was done with this Bill? **Mr. Galt** said he would agree they would.

SENATOR MOHL asked if it was intended that all of the weigh stations were going to be located in other states? **Mr. Galt** said no, that has never been the plan, but when it made sense to negotiate those agreements he would like the flexibility to do so.

SENATOR JABS asked for an explanation of the national committee. **Mr. Galt** said that currently the Land Transport Standards Committee was examining all types of transport standards and how they differ between the three Countries. He said that Committee was working truck size and weight.

Closing by Sponsor:

REPRESENTATIVE DEVANEY stated his appreciation for the Committee's time and effort concerning the Hearing. He said he was acceptable to the amendment which would possibly limit enforcement authority to agreements with other states. He stated he would be willing to work with the Committee regarding the language stricken by the House. He said he thought cooperation with Canada was important, specifically to economics. He said the important part of the Bill was the clarification of the arrest authority.

ACTING CHAIRMAN SWYSGOOD ANNOUNCED THE HEARING CLOSED ON HB 111. HE STATED THE CHAIRMAN HAD GONE TO LOCATE THE SPONSOR OF THE NEXT BILL AND MOVED THE COMMITTEE INTO EXECUTIVE ACTION,

EXECUTIVE ACTION ON HB 318

Motion/Vote:

SENATOR NELSON'S MOTION THAT HB 318 BE CONCURRED IN CARRIED UNANIMOUSLY AND SENATOR COLE WAS ASSIGNED TO CARRY THE BILL ON THE SENATE FLOOR.

CHAIRMAN TVEIT RESUMED HIS POSITION AS CHAIR.

HEARING ON HB 86

Opening Statement by Sponsor:

REPRESENTATIVE DICK SIMPKINS, HD 49, Great Falls, said the purpose of HB 86 was to grant an exception to ranchers transporting livestock to and from summer pasture. He said that by expanding the 20 percent harvest tolerance to include the transportation of livestock to and from summer pasture a rancher could transport his cattle without risking a fine. He maintained that in rural areas there wasn't usually a weigh scale where the livestock was loaded and it was difficult to know when a truck was overweight. He stated that HB 86 would allow for an overweight permit to transport livestock to and from summer pasture during the grazing season only. He said Section 2 struck 5% and inserted "7%" to standardize the tolerance percentage amount by which vehicles can exceed weight limitations without incurring excess weight penalties. He said everyone seemed to agree on the change in Section 2, but the Montana Department of Transportation would be opposing the overweight permit section.

Proponents' Testimony:

Jennifer Hill, Montana Stock Growers Association, said they supported HB 86.

Opponents' Testimony:

Dave Galt, Administrator, Montana Motor Carriers Division, Montana Department of Transportation (MDT) thanked the sponsor for contacting the Department for suggestions as to how this issue could be addressed. Mr. Galt said he had drafted the Bill, because if the proposal was going to be passed he preferred it pass in this form. Although, he thought the 20% tolerance being requested for returning from summer pasture was too much. He said he thought 20% was too large a tolerance for any type of load and the Department opposed that section of the Bill. He said the change from "5%" to "7%" had already been signed into law via a previous bill. He urged the Committee to use careful consideration regarding the 20% tolerance.

Questions From Committee Members and Responses:

SENATOR SWYSGOOD said the sponsor had stated the Bill was to allow for the added weight of cattle being returned "from summer pasture", but language in the Bill stated "to and from summer pasture". He said that language didn't restrict the 20%

tolerance to transport "from summer pasture". He assumed the Bill would allow any number of miles to be traveled to that summer pasture? **REPRESENTATIVE SIMPKINS** said it was within 50-miles of the farm.

SENATOR SWYSGOOD said 20% was a high rate of tolerance and the Bill allowed a truck who could legally carry 80,000-pounds GVW to carry 97,000-pounds GVW, which would be 17,000-pounds more than some required to haul legally. He said there had been tolerances given to every type of hauler, other than those who haul commercially. He stated disagreement with agriculture on this particular issue, as all of the benefits were being derived by one user group. He said, unlike other farm commodities, it was quite easy to closely determine the weight of livestock to keep a load within the legal limit. He said the 17,000-pound tolerance proposed would be the equivalent of approximately twelve cattle. He maintained any livestock producer could estimate the weight of his load much closer than that. For that reason he maintained 20% was completely out of line. **REPRESENTATIVE SIMPKINS** queried what would be within tolerance?

SENATOR SWYSGOOD stated the recently adopted increase to "7%" would be closer. **REPRESENTATIVE SIMPKINS** asked if he meant that between 7% and 20% was intolerable? He said 7% had not allowed his constituent the tolerance needed. He said that in the interest of fairness livestock producers should have the tolerance as other commodity producers.

CHAIRMAN TVEIT asked if the 7% was taken on 80,000-pounds GVW? **Mr. Galt** said that was correct, the tolerance could be on the gross or per-axle either one, or 5,600-pounds on an 80,000-pound truck. He said that during harvest a farmer hauling agricultural seed was allowed 20% per-axle or gross tolerance from the harvest field to the place of first unloading. He said they were sold a permit each time their load was in excess of 80,000-pounds. He said a farmer with a small two or three axle truck was not required to buy a permit. He said a 20% tolerance was just too high and the Department was historically opposed to that great a tolerance.

SENATOR MOHL asked if the 20% tolerance for grain was just for harvest, or for other loads from the farm to market? **Mr. Galt** said prior to this Legislature livestock carriers received a 7% tolerance, every other hauler had a 5% tolerance and grain farmers had a 20% tolerance during harvest. He said the tolerance meant that if you entered a weigh station and were overweight by 0-5% a permit could be purchased to the first available facility to get legal. He said **SENATOR LYNCH'S** bill which had now become law, raised that tolerance to 7% for everyone. He said the 20% tolerance was different as it applied from the harvested field to the place of first unloading, within 50-miles, on a non-Interstate Highway, and the vehicle cannot exceed 49-mph. He said those were the same conditions provided for in HB 86.

SENATOR MOHL objected to the 20% tolerance as too excessive and said he thought the tolerance should be 7% for everyone.

SENATOR STANG asked how many people in the State this Bill would affect? **Mr. Galt** said his record showed seventy-four citations in 1994 for livestock, but he could not state how many loads of livestock were coming back from summer pasture. He said there were a number of citations each year that were written on livestock being shipped out-of-state.

SENATOR STANG asked who would determine if the cattle were actually enroute to summer pasture and if the distance was within the required 50-miles? Would the truck driver be the source of information? **Mr. Galt** said that would be the case, unless the summer pasture was in a different county where the transporter would have to have a transportation permit from the Department of Livestock.

SENATOR STANG asked if seed-potato producers received a 20% tolerance? **Mr. Galt** said that during spring when seed-potatoes were being hauled from the cellars to producers they had an entirely separate permit system that states those weight restrictions don't apply during that time and they were restricted to specific routes. He said that during harvest when they were digging to haul to storage cellars they would experience the 20% tolerance.

{Tape: 2; Side: A .}

SENATOR STANG asked if it would be fairer that loggers hauling within 50-miles, during a limited transport season, that they should get the 20% tolerance? **Mr. Galt** said he would be opposing that amendment too, but that was the same argument.

CHAIRMAN TVEIT said it was going to be difficult to load enough cattle in a truck to need a 20% tolerance. He stated that type of loading wouldn't even be healthy or safe for the livestock. He stated that a 7% tolerance would likely cover the number of livestock a truck could hold.

SENATOR JABS asked if those granted a 20% tolerance would push the increased weight limit whenever possible? **REPRESENTATIVE SIMPKINS** said he assumed they would. He said he had only been seeking a solution to the problem.

Closing by Sponsor:

REPRESENTATIVE SIMPKINS said he didn't know about the weight. He had sought a solution. He said when the rancher hauled his cattle to summer pasture they had not been out of tolerance, but when that same number of cattle came back from summer pasture

they were out of tolerance. He said he had brought the Bill because he thought it was a fair solution to a problem. He said the Bill dealt with moves within 50-miles, the tolerance was not being asked for during spring break-up, and it dealt with one trip up and one back. He said he thought the Bill was a very reasonable solution. He asked for a favorable consideration of the Bill.

EXECUTIVE ACTION ON HB 86

Motion:

SENATOR HOLDEN MOVED HB 86 BE CONCURRED IN.

Discussion:

SENATOR SWYSGOOD said he opposed the motion as he thought the Bill set a bad precedence. He stated he could not understand the rationale of why commercial haulers were currently restricted to a 7% tolerance and a farmer with an identical truck was allowed 20%. He wanted to know why one operator would be more inclined to accurately judge the weight of the load than another? He said the first load was more difficult to judge, because crop weight varied with conditions, but why was a commercial hauler more limited than the farmer? He said the Bill contained the same type of inequity and it further set an inappropriate precedent. He stated that with livestock it only took common sense to know the same number of calves would have gained considerable weight, and the mature animals were put on summer pasture to gain weight as well. He thought the Bill should not be passed, and thought the 7% tolerance was sufficient for any hauler.

SENATOR STANG said the sponsor made the one trip scenario seem quite innocent, but suggested that a rancher could have a large number of cattle and be making numerous trips over the same road. He said the continual movement of that much weight over that road would destroy it. He said that unlike the seed-potato haulers there was nothing in the Bill to state these livestock could be rerouted once a road was damaged. He said he thought it was a proven fact we did not want to allow a 20% tolerance and allow the type of damage which would be done to our roads.

SENATOR MOHL said he wouldn't vote for the Bill, even to benefit his own company, because these type of tolerances should not be allowed. He said every type of business had limited time when they could do their jobs and weather elements affected more than just the farmers. He said he didn't believe in the continued writing of laws to benefit only a few while the remainder of the people paid more. He stated everyone needed to be treated fairly.

Motion:

SENATOR NELSON MOVED TO AMEND HB 86 ON PAGE 3, LINE 8 TO STRIKE THE FIRST "from a ranch to summer pasture and" AND STRIKE THE LANGUAGE ANYWHERE IT WAS NECESSARY.

Discussion:

SENATOR NELSON said the amendment would at least give the rancher the benefit of the doubt that he may not have known the cattle had gained too much weight on summer pasture. She said it would address the case the sponsor had presented.

CHAIRMAN TVEIT spoke to the amendment, and stated leaving the entire line was too broad and increased the limits for the entire State and provided no limits or restrictions within the Bill.

THE QUESTION WAS CALLED FOR.

Vote:

SENATOR NELSON'S MOTION TO AMEND HB 86 ON PAGE 3, LINE 8 TO STRIKE THE FIRST "from a ranch to summer pasture and" AND STRIKE THE LANGUAGE ANYWHERE IT WAS NECESSARY CARRIED WITH SENATORS TVEIT AND MOHL VOTING NO.

Motion:

SENATOR HOLDEN MOVED HB 86 BE CONCURRED IN AS AMENDED.

Discussion:

SENATOR HOLDEN said the Bill dealt with one trip. He said the weight those cattle gained on summer pasture was complex because the cattle still fit the capacity of that same truck. He said the idea was not to force as many cattle as possible into a truck. He said he did not think the 20% would become a problem because he didn't think that measure of overloading would occur. He said he thought that passing the Bill and staying with the 20% tolerance for one trip once a year was consistent with the other exceptions provided in the law.

SENATOR JABS stated there were ranchers with several thousand head of cattle and this Bill would open the tolerance for the numerous trips a larger herd would require. He said this was a larger thing than one person with a few cattle.

CHAIRMAN TVEIT stated the Bill had no points of concern for what happened to damage of the roads during spring break-up. He said the Bill allowed for overloading with no restrictions for spring road conditions.

SENATOR STANG said SENATOR HOLDEN was assuming that the person at the weigh station knew the rancher took a specific number of cattle to pasture and was returning with that same number. He said there was no way of guaranteeing a consistent number.

Motion/Vote:

SENATOR STANG'S MOTION TO TABLE HB 86 CARRIED WITH SENATOR HOLDEN VOTING NO.

ADJOURNMENT

Adjournment: The meeting was adjourned at 4:55 p.m.


SENATOR LARRY TVEIT, Chairman


Carla Turk, Secretary

LJT/cmt

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 8, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration HB 318 (third reading copy -- blue), respectfully report that HB 318 be concurred in.

Signed: *Sen. Tveit*
Senator Larry Tveit, Chair

QJ Amd. Coord.
SA Sec. of Senate

Senator Cole
Senator Carrying Bill

541134SC.SRF

DATE 3/7/95 BILL NO. HB 86 NUMBER 1
MOTION: Senator Stang Moved to Table
HB 86.

SEN:1995
wp:rlclvote.man
CS-11

DEPARTMENT OF JUSTICE
House Bill 248: Driver Licensing Revisions

SENATE HIGHWAYS

EXHIBIT NO. 1

DATE 3/7/95

BILL NO. HB 248

Purpose

- ▶ Allows the Department of Justice, in cooperation with the Office of Public Instruction and interested school districts, to implement a statewide cooperative driver testing program
- ▶ Changes the term of a driver's license from 4 to 8 years for most drivers
- ▶ Clarifies driver licensing eligibility requirements and allows electronic records transfer

Background

HB 248 incorporates the recommendations of a 12-member task force that spent four months analyzing the process by which Montana drivers are licensed. Appointed by Attorney General Joe Mazurek, the task force included representatives from the Legislature, the insurance industry, law enforcement, and state and local government. Its objective was to find ways, given reductions in staffing, to make driver licensing more efficient without jeopardizing public safety.

▶ Cooperative Driver Testing Program

HB 248 authorizes a voluntary cooperative driver testing program (CDTP) for those school districts and instructors that choose to participate and are approved by the Department of Justice and Office of Public Instruction.

On average, 12,000 students complete driver education courses in Montana each year. When the course ends, the graduates overwhelm driver exam stations seeking licensure. It takes a driver examiner approximately 4 minutes to distribute and correct a written knowledge test and at least 15 minutes to administer a road test. The task force found that significant time savings could be achieved by allowing driver education instructors, who are familiar with the individual student drivers, to administer written and road tests to that student. If the student passes, the instructor would certify that student for a testing waiver by the Department.

To ensure the safety of the driving public, only those instructors who comply with regulations of the Department and the Superintendent of Public Instruction will be authorized to certify testing waivers. CDTP will be available only to school districts that wish to take advantage of the program.

A pilot CDTP program in Helena School District No. 1, with 900+ students participating, demonstrated the potential effectiveness of the program. Most students received at least written testing waivers, significantly reducing the time required to examine these students and issue their licenses. Inconvenience to parents and students was also reduced by minimizing time spent in often long, slow-moving lines at busy driver exam stations.

► Age-Restricted Eight-Year Driver Licenses

HB 248 increases the length of time that a driver's license is valid from four to eight years, except for drivers under age 21 or over age 75.

For most Montana drivers, driver's license renewals every four years involves paying the license fee, taking a vision test, and getting an updated photograph. Although the 53rd Legislature authorized mail renewal for drivers with good driving records, the task force concluded that an eight-year driver's license for persons between the age of 21 and 75 would be less bureaucratic and more efficient without jeopardizing driver safety.

For licensees under age 21, the task force recommended that the license expire upon the person's 21st birthday. There are two principal reasons for this age distinction.

→ Most youthful drivers already request a new driver's license when they turn 21, so they have evidence of adulthood. By requiring license renewal at age 21 an opportunity would be created to counsel youthful drivers regarding their driving record and habits and hopefully divert some drivers from becoming problem drivers into their adulthood.

→ The accident rate of Montana drivers age 19 and under is significantly higher than for those over 25. Likewise, national statistics show that the crash rate per mile for drivers 15-20 years old is about 4 times as high as the rate for adults.

Older drivers are also a special concern. Studies show that when adjusted for miles driven, older drivers' accident involvement rate rivals that of teens and increases notably at age 75, even though drivers less than ten years younger (ages 65-69) enjoy the lowest mile-adjusted accident rate of all. Both the youngest and oldest drivers (except those 85 and older) have higher mileage-adjusted citation rates.

The task force recommended that four-year license cycles commence upon a driver's seventy-fifth birthday.

HB 248 will improve efficiency of driver examination and will lessen the amount of time most Montanans spend at driver exam stations to renew their driver's licenses. The result: a more convenient process for Montana drivers with no adverse effect on public safety.

March 7, 1995

CONFLICT NOTICE

Date: March 6, 1995

TO: Committee on Highways

Chair: Senator Tveit

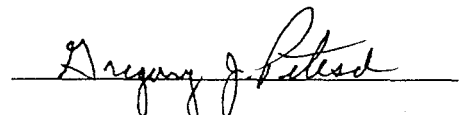
Committee Staff: Valencia Lane

This is to notify you that House Bill No. 248, now under consideration by your committee is in conflict with Senate Bill No. 34 (Ch. 53, L. 1995). Both bills amend section 61-5-110, MCA.

House Bill No. 248 also conflicts with Senate Bill No. 83. Both bills amend section 61-5-121, MCA.

It is IMPERATIVE that the conflict be resolved.

Sincerely,



Gregory J. Petesch, Director
Legal Services Division

EXHIBIT NO. 1 BDATE 3/2/95BILL NO. HB 248

SB # 34 is already signed into law, and assuming that Bill contains the desired language, HB 248 needs to be amended as stated in amendment # hb024801.agp before you. The language being addressed appears in SB 34, Page 5, line 6.

Mr. Petesch's other concerns re: conflict within HB 248 and SB 83 have been addressed in the amendments for SB 390 which Valencia Lane prepared. Specifically, the coordination language appears on Page 3 of Amendment # sb039001.avl, adopted by this committee on March 3rd, 1995. If you will look at the language provision within #10., you will see (2) has provided for HB 248 and (3) has provided for SB 83. Mr. Petesch is satisfied that the amendments (sb039001.avl) satisfactorily address the amendments set forth in HB 248, SB 83 and SB 390 in regard to section 61-5-121, MCA.

Amendments to House Bill No. 248
Third Reading Copy

For the Committee on Highways

Prepared by Greg Petesch
March 6, 1995

1. Page 4, line 29.

Strike: "The"

Insert: "Unless the applicant works in a farm-related industry,
the"

SENATE HIGHWAYS

EXHIBIT NO. 1 DDATE 3/2/95BILL NO. HB 24

HOUSE BILL NO. 248

INTRODUCED BY BERGSAGEL, JERGESON, STANG, BECK, HARRINGTON, CLARK, TVEIT, KEATING,
TOEWS

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS PERTAINING TO DRIVER
LICENSING AND EXAMINATION; CLARIFYING ELIGIBILITY REQUIREMENTS FOR DRIVER LICENSING;
CREATING A COOPERATIVE DRIVER TESTING PROGRAM IN CONJUNCTION WITH A STATE-APPROVED
HIGH SCHOOL TRAFFIC EDUCATION COURSE; EXTENDING THE TERM OF A DRIVER'S LICENSE IN
CERTAIN CIRCUMSTANCES; PROVIDING FOR ELECTRONIC TRANSFER OF DRIVING RECORDS;
ELIMINATING MAIL RENEWALS AND PROFILE PHOTOGRAPHS FOR MINORS; ADJUSTING THE
DISPOSITION OF LICENSE FEES; AMENDING SECTIONS 61-5-105, 61-5-106, 61-5-107, 61-5-110,
61-5-111, AND 61-5-121, MCA; AND PROVIDING EFFECTIVE DATES ~~AND~~, AN APPLICABILITY DATE,
AND A TERMINATION DATE."

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL
NOT BE REPRINTED. PLEASE REFER TO SECOND
READING COPY (YELLOW) FOR COMPLETE TEXT.

HOUSE BILL NO. 248

INTRODUCED BY BERGSAGEL, JERGESON, STANG, BECK, HARRINGTON, CLARK, TVEIT, KEATING,
TOEWS

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS PERTAINING TO DRIVER
LICENSING AND EXAMINATION; CLARIFYING ELIGIBILITY REQUIREMENTS FOR DRIVER LICENSING;
CREATING A COOPERATIVE DRIVER TESTING PROGRAM IN CONJUNCTION WITH A STATE-APPROVED
HIGH SCHOOL TRAFFIC EDUCATION COURSE; EXTENDING THE TERM OF A DRIVER'S LICENSE IN
CERTAIN CIRCUMSTANCES; PROVIDING FOR ELECTRONIC TRANSFER OF DRIVING RECORDS;
ELIMINATING MAIL RENEWALS AND PROFILE PHOTOGRAPHS FOR MINORS; ADJUSTING THE
DISPOSITION OF LICENSE FEES; AMENDING SECTIONS 61-5-105, 61-5-106, 61-5-107, 61-5-110,
61-5-111, AND 61-5-121, MCA; AND PROVIDING EFFECTIVE DATES ~~AND~~, AN APPLICABILITY DATE,
AND A TERMINATION DATE."

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

Section 1. Section 61-5-105, MCA, is amended to read:

"61-5-105. Who may not be licensed. The department ~~shall~~ may not issue ~~any a~~ license ~~hereunder~~
under this chapter to any a person:

(1) who is under ~~the age of 16 years, with these exceptions of age unless:~~

(a) ~~The department may issue a driver's license to a~~ the person who is at least 15 years of age if
~~he and~~ has passed a driver's education course approved by the department and the superintendent of public
instruction; or

(b) ~~The department may issue a restricted license to any~~ the person who is at least 13 years of age
and, because of individual hardship, to be determined by the department, needs a restricted license;

(2) whose license ~~has been or driving privilege is currently~~ suspended during the suspension, or
~~to any person whose license has been revoked, except as provided in 61-5-208 in this or any state;~~

(3) who is ~~an habitual drunkard, or is~~ addicted to the use of alcohol or narcotic drugs;

(4) who has previously been adjudged to be afflicted with or suffering from any mental disability

1 or disease and who, at the time of application, has not ~~at the time of application~~ been restored to
2 competency by the methods provided by law;

3 (5) who is required by this chapter to take an examination, ~~unless the person shall have~~
4 ~~successfully passed such examination;~~

5 (6) who ~~is~~ has not deposited proof of financial responsibility when required under the provisions
6 of the motor vehicle financial responsibility laws of this state to deposit proof of financial responsibility and
7 ~~who has not deposited such proof~~ chapter 6 of this title; or

8 (7) who ~~is suffering from any form of epileptic type seizures or similar disorders~~ has any condition
9 characterized by lapse of consciousness or control, either temporary or prolonged, ~~which~~ that is or may
10 become chronic; ~~provided that.~~ However, the department may in its discretion issue a license to a an
11 otherwise qualified person suffering from ~~epileptic type seizures or similar disorder~~ characterized by lapse
12 of consciousness or control, a condition if ~~otherwise qualified to be licensed to drive a motor vehicle, when~~
13 the afflicted person can show through a written report from his person's attending physician attests in
14 writing that he has not experienced an epileptic type seizure or similar disorder characterized by lapse of
15 consciousness or control for a sufficient period and that the condition is stabilized as attested to by said
16 physician the person's condition has stabilized and would not be likely to interfere with that person's ability
17 to operate a motor vehicle safely."

18
19 **Section 2.** Section 61-5-106, MCA, is amended to read:

20 **"61-5-106. Instruction and permits -- traffic education learner licenses and permits and -- temporary**
21 **licenses.** (1) ~~A~~ The department may issue an instruction permit to a person satisfying the age requirements
22 specified in 61-5-105(1) ~~may apply to the department for an instruction permit. The department may in its~~
23 ~~discretion, after the applicant has successfully passed all parts of the examination other than the driving~~
24 ~~test, issue to the applicant an~~ the knowledge test and the vision examination as provided in 61-5-110. An
25 instruction permit that entitles the applicant permittee, while having the permit in the applicant's immediate
26 possession of the permit and accompanied by a licensed driver seated beside the permittee, to drive a motor
27 vehicle upon the public highways for a period of 6 months ~~when accompanied by a licensed driver who is~~
28 ~~occupying a seat beside the driver~~ from the date the fees required in 61-5-111 are paid.

29 (2) ~~In addition, the~~ The department may issue an ~~instruction permit~~ a traffic education learner
30 license to any person who is at least 14½ years of age and who has successfully completed or is

1 successfully participating in a traffic education course approved by the department and the superintendent
2 of public instruction. ~~An instruction permit must be restricted to the operation of a motor vehicle~~ A traffic
3 education learner license entitles the licensee to operate a motor vehicle only when accompanied by an
4 approved instructor or licensed parent or guardian and may be further restricted to specific times or areas.

5 ~~(2)(3)~~ (a) ~~The department upon receiving proper application may in its discretion~~ An instructor of
6 a traffic education program approved by the department and by the superintendent of public instruction may
7 issue a traffic education permit that is effective for a school year or more restricted period to an applicant
8 who is enrolled in a traffic education program approved by the department ~~even though the applicant has~~
9 ~~not reached the legal age to be eligible for a driver's license~~ and who meets the age requirements specified
10 in 20-7-503. The permit entitles the permittee, when the permittee has a permit in the permittee's

11 (b) When in immediate possession of the traffic education permit, to the permittee may operate
12 only on a designated highway or within a designated area;

13 (i) a motor vehicle only when an approved instructor is occupying a seat seated beside the
14 permittee; or

15 (ii) a motorcycle or quadricycle only when under the immediate and proximate supervision of an
16 approved instructor.

17 ~~(3)(4)~~ The department may in its discretion issue a temporary driver's permit to an applicant for
18 a driver's license permitting the applicant to operate a motor vehicle while the department is completing
19 its investigation and determination of all facts relative to the applicant's right to receive a driver's license.
20 The temporary driver's permit must be in the permittee's immediate possession while operating a motor
21 vehicle, and it is invalid when the applicant's license has been issued or for good cause has been refused.

22 ~~(4)(5)~~ The department may in its discretion issue a temporary commercial driver's license to an
23 applicant permitting the applicant to operate a commercial motor vehicle while the department is completing
24 its investigation and determination of all facts relative to the applicant's right to receive a commercial
25 driver's license. The temporary license must be in the applicant's immediate possession while operating
26 a commercial motor vehicle and is invalid when the applicant's license has been issued or for good cause
27 has been refused."

28
29 **Section 3.** Section 61-5-107, MCA, is amended to read:

30 **"61-5-107. Application for license, instruction permit, or motorcycle endorsement. (1) ~~Every~~ Each**

1 application for an instruction permit, driver's license, or motorcycle endorsement must be made upon a form
 2 furnished by the department. A motorcycle endorsement is required for the operation of a quadricycle.
 3 ~~Every~~ Each application must be accompanied by the proper fee, and payment of the fee entitles the
 4 applicant to not more than three attempts to pass the examination within a period of 6 months from the
 5 date of application. A voter registration form for mail registration as prescribed by the secretary of state
 6 must be attached to each driver's license application. If the applicant wishes to register to vote, the
 7 department shall accept the registration and forward the form to the election administrator.

8 (2) ~~Every~~ Each application must state the full name, date of birth, sex, and residence address of
 9 the applicant, must briefly describe the applicant, and must state whether:

10 (a) the applicant has previously been licensed as a driver or commercial vehicle operator, and, if
 11 so, when and by what state or country, ~~and whether;~~

12 (b) any commercial operator license has ever been suspended or revoked, ~~or whether~~

13 (c) an application has ever been refused, and, if so, the date of and reason for suspension,
 14 revocation, or refusal.

15 (3) ~~Whenever~~ When application is received from an applicant previously licensed by ~~any other~~
 16 another jurisdiction, the department shall request a copy of the applicant's driving record from the previous
 17 licensing jurisdiction. The driving record may be transmitted manually or by electronic medium. When
 18 received, the driving records become a part of the driver's record in this state with the same force and
 19 effect as though entered on the driver's record in this state in the original instance."
 20

21 **Section 4.** Section 61-5-110, MCA, is amended to read:

22 **"61-5-110. Examination of applicants -- cooperative driver testing programs.** (1) The department
 23 shall examine every applicant for a driver's license or motorcycle endorsement, except as otherwise
 24 provided in this section. The examination must include a test of the applicant's eyesight, a knowledge test
 25 examining the applicant's ability to read and understand highway signs ~~regulating, warning, and directing~~
 26 ~~traffic, and~~ and the applicant's knowledge of the traffic laws of this state, and ~~must include an actual~~
 27 ~~demonstration of a road test demonstrating the applicant's ability to exercise ordinary and reasonable~~
 28 ~~control in the operation of a motor vehicle, quadricycle, or motorcycle.~~ UNLESS the applicant works in a farm-related industry
 29 The knowledge test or road test, or both, may be waived by
 30 the department upon certification of the applicant's successful completion of the test by a certified

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1 cooperative driver testing program, as provided in subsection (2).

2 (2) The department is authorized to certify as a cooperative driver testing program any
3 state-approved high school traffic education course offered by or in cooperation with a school district that
4 employs an approved instructor who has current endorsement from the superintendent of public instruction
5 as a teacher of traffic education and who agrees to:

6 (a) administer standardized knowledge and road tests required by the department to students
7 participating in the district's high school traffic education courses:

8 (b) certify the test results to the department; and

9 (c) comply with regulations of the department and the superintendent of public instruction.

10 ~~(2)~~(3) Within 90 days of receipt of an application for a commercial driver's license, the department
11 shall give an examination to the applicant in the county where the applicant resides.

12 ~~(3)~~(4) Except as otherwise provided by law, a resident who has a valid driver's license issued by
13 another state may surrender that license for a Montana license of the same class, type, and endorsement
14 upon payment of the required fees, successful completion of a vision examination, and, if requested by the
15 examiner, completion of either the knowledge test or road test, or both. ~~(A resident who obtains a Montana~~
16 ~~driver's license in this manner is exempt from the written examination and actual demonstration of the~~
17 ~~operation of a motor vehicle provided for in subsection (1) but is not exempt from the eyesight test or, in~~
18 ~~the case of commercial drivers,~~) In addition, a resident surrendering a commercial driver's license issued by
19 another state shall successfully complete any examination required by federal regulations before being
20 issued a commercial driver's license by the department."

21
22 **Section 5.** Section 61-5-111, MCA, is amended to read:

23 **"61-5-111. Renewals, expirations, and fees for licenses, permits, and endorsements -- notice of**
24 **expiration.** (1) The department may appoint county treasurers and other qualified officers to act as its
25 agents for the sale of driver's licenses receipts and shall make necessary rules governing sales. In ~~these~~
26 areas ~~where~~ in which the department provides driver licensing services 3 days or more a week, the
27 department is responsible for sale of receipts and may, in its discretion, ~~not~~ appoint an agent to sell
28 receipts. The department, upon receipt of payment of the fees specified in this section, shall issue a
29 driver's license to ~~every~~ each qualifying applicant. The license must contain a full-face photograph of the
30 licensee in the size and form prescribed by the department; ~~except as provided in subsection (4); a~~

1 distinguishing number issued to the licensee; the full name, date of birth, ~~residence~~ Montana mailing
2 address, and a brief description of the licensee; and either ~~a facsimile of the signature of the licensee or~~
3 ~~a space upon which the licensee shall write the licensee's signature in pen and ink immediately upon receipt~~
4 ~~of the license or a digital reproduction of the licensee's signature.~~ A license is not valid until it is signed
5 by the licensee.

6 (2) (a) ~~The~~ When a person applies for renewal of a driver's license, the department shall, ~~when any~~
7 ~~person applies in person for renewal of a driver's license,~~ test the applicant's eyesight and ~~may also,~~ in the
8 department's discretion, may have the applicant ~~demonstrate~~ complete a road test demonstrating the
9 applicant's ~~physical~~ ability to operate and to exercise ordinary and reasonable care in the operation of a
10 motor vehicle.

11 (b) In the case of a commercial driver's license, the department may also require that the applicant
12 successfully complete a written examination as required by federal regulations.

13 (c) A person is considered to have applied for renewal of a Montana driver's license if the
14 application is made within 6 months before or 3 months of after the expiration of the person's license.

15 ~~(d) The department shall mail a driver's license renewal notice to a person no earlier than 60 days~~
16 ~~and no later than 30 days prior to the expiration date of the person's license.~~

17 ~~(e) (i) A person may renew a driver's license by mail, without the tests provided for in subsection~~
18 ~~(2)(a), for a 4 year period, provided that the person:~~

19 ~~(A) has not accumulated five or more points on the person's driving record for the 4 years~~
20 ~~immediately preceding the expiration date; and~~

21 ~~(B) submits a sworn affidavit on a form prescribed by the department, attesting to the person's~~
22 ~~physical and mental ability to safely operate a motor vehicle.~~

23 ~~(ii) The department may not renew a driver's license by mail for more than one renewal period. At~~
24 ~~the expiration of the mail renewal period, a person shall apply in person for a renewal.~~

25 ~~(iii) A person who holds a probationary or restricted license may not renew the license by mail.~~

26 (D) THE DEPARTMENT SHALL MAIL A DRIVER'S LICENSE RENEWAL NOTICE NO EARLIER THAN
27 60 DAYS AND NO LATER THAN 30 DAYS PRIOR TO THE EXPIRATION DATE OF A COMMERCIAL
28 DRIVER'S LICENSE IF THE LICENSEE HAS PREVIOUSLY SUBMITTED A WRITTEN REQUEST FOR THE
29 NOTICE, EITHER AT THE TIME OF INITIAL APPLICATION OR OF RENEWAL OF THE LICENSE.

30 (3) (a) A ~~Except as provided in subsection~~ EXCEPT AS PROVIDED IN SUBSECTIONS (3)(b) AND (3)(c), a license expires on the

anniversary of the ~~date of birth of the licensee~~ licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first. The department may adopt rules to stagger the implementation of the conversion to an 8-year license cycle over a 4-year period.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

~~(4) A license issued to a person under the age of 21 years must contain a photograph of the licensee's profile.~~

~~(5)(4)~~ Whenever the department issues an original license to a person under the age of 18 years, the license must be designated and clearly marked as a "provisional license". Any license designated and marked as provisional may be suspended by the department for a period of not more than 12 months, when its records disclose that the licensee, subsequent to the issuance of the license, has been guilty of careless or negligent driving. ~~Upon renewal the department may, for any reasonable cause as shown by its records, designate the renewal of the license as provisional; otherwise, a license in usual form must be issued subject to other provisions of the laws of Montana.~~

~~(6)(5)~~ It is unlawful for any person to have in the person's possession or under the person's control more than one valid Montana driver's license at any one time. A license is not valid for the operation of a motorcycle or quadricycle ~~until~~ unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "motorcycle endorsement". A license is not valid for the operation of a commercial vehicle ~~until~~ unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "commercial driver's license".

~~(7)(6)~~ Fees for driver's licenses are:

(a) driver's license, except a commercial driver's license -- \$4 per year or fraction of a year;

(b) motorcycle endorsement -- 50 cents per year or fraction of a year;

(c) commercial driver's license:

(i) interstate -- \$5 per year or fraction of a year;

(ii) intrastate -- \$3.50 per year or fraction of a year.

~~(8)(7)~~ The holder of a valid chauffeur's license may convert or renew the chauffeur's license to a

1 commercial driver's license by paying the appropriate fee ~~covering the remainder of the life of the license~~
2 and complying with the requirements established by the department.

3 ~~(9) The holder of a valid chauffeur's license who is renewing and wishes to obtain a commercial~~
4 ~~driver's license may do so upon paying the appropriate fees and complying with the requirements~~
5 ~~established by the department.~~

6 ~~(10) A person may not renew a driver's license by mail until the person has received a digital license~~
7 ~~issued by the department. As used in this subsection, the term "digital license" means a license having~~
8 ~~a computer imaged photograph and signature."~~

9
10 **Section 6.** Section 61-5-121, MCA, is amended to read:

11 **"61-5-121. Disposition of fees.** (1) The disposition of the fees from driver's licenses ~~provided for~~
12 ~~in 61-5-111(7)(a), motorcycle endorsements provided for in 61-5-111(7)(b), and~~ commercial driver's
13 licenses, ~~provided for in 61-5-111(7)(e), and from~~ duplicate driver's licenses provided for in 61-5-114 is
14 as follows:

15 (a) The amount of ~~25%~~ 16.7% of each driver's license fee and 25% of each duplicate driver's
16 license fee must be deposited into an account in the state special revenue fund. The department shall
17 transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund
18 as provided in 19-6-404.

19 (b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount
20 of ~~3.75%~~ 2.5% of each driver's license fee and 3.75% of each duplicate driver's license fee must be
21 deposited into the county general fund.

22 (ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must
23 be deposited into the general fund.

24 (c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount
25 of ~~5%~~ 3.34% of each motorcycle endorsement must be deposited into the county general fund.

26 (ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must
27 be deposited into the general fund.

28 (d) The amount of ~~8.75%~~ 5.85% of each driver's license fee and 8.75% of each duplicate driver's
29 license fee must be deposited into the state traffic education account.

30 (e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), the amount

1 of ~~62.5%~~ 74.95% of each driver's license fee and 62.5% of each duplicate driver's license fee must be
2 deposited into the state general fund.

3 (f) If the fee is collected by the county treasurer or other agent of the department, the amount of
4 ~~3.75%~~ 2.5% of each commercial driver's license fee must be deposited into the county general fund,
5 otherwise all of the fee must be deposited in the state general fund.

6 (g) The amount of ~~95%~~ 63.46% of each motorcycle endorsement fee must be deposited into the
7 state traffic education account in the state special revenue fund, and the amount of 33.2% of each
8 motorcycle endorsement fee must be deposited into the state general fund.

9 (2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and
10 duplicate driver's licenses are collected by a county treasurer or other agent of the department, the county
11 treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county
12 general fund. The county treasurer or agent shall then remit to the state treasurer all remaining fees,
13 together with a statement indicating what portion of each fee is to be deposited into the account in the
14 state special revenue fund, as provided in subsection (1)(a), and in the state general fund. The state
15 treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a)
16 and (1)(d) through (1)(g).

17 (b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and
18 duplicate driver's licenses are collected by the department, it shall remit all fees to the state treasurer,
19 together with a statement indicating what portion of each fee is to be deposited into the account in the
20 state special revenue fund as provided in subsection (1)(a), the state special revenue fund, and the state
21 general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as
22 provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g)."

23
24 **NEW SECTION. Section 7. Applicability.** [This act] applies to a person who, on or after October
25 1, 1995, applies for a Montana driver's license or who seeks to renew a Montana driver's license that
26 expires on or after October 1, 1995.

27
28 **NEW SECTION. Section 8. Effective dates.** (1) [Section 4 and this section] are effective on
29 passage and approval.

30 (2) [Sections 1 through 3 and 5 through 7] are effective October 1, 1995.

1 NEW SECTION. SECTION 9. TERMINATION. [SECTION 6] TERMINATES SEPTEMBER 30, 1999.

2 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0248, as introduced

SENATE HIGHWAYS


EXHIBIT NO. 1 FDATE 3/2/95BILL NO. HB 248DESCRIPTION OF PROPOSED LEGISLATION:


A bill generally revising laws pertaining to driver licensing and examination; creating a cooperative driver testing program in conjunction with a state-approved high school traffic education course; extending the term of a driver's license in certain circumstances; providing for electronic transfer of driving records; adjusting the disposition of license fees.

ASSUMPTIONS:Department of Justice:

1. (a) In FY96, 50 of the schools expressing an interest in the cooperative driver testing program will participate in the program and in FY97, 70 schools will participate.
(b) About 6,000 (12,000 x 50%) of the total number of students participating annually in the driver education program will participate in this cooperative driver testing program in FY96 and 8,400 students (12,000 x 70%) in FY97.
(c) The same percentage of waivers issued during the pilot cooperative driver testing program will apply during FY96 and FY97. Therefore, in FY96, 5,880 (6,000 x 98%) knowledge tests will be waived through this program and in FY97, 8,230 (8,400 x 98%). In FY96 about 1,080 (6,000 x 20% less 10% sampling tested) driving skills tests will be waived through this program and in FY97 about 1,512 driving skills tests will be waived (8,400 x 20% less 10% sampling tested).
2. Staff hours currently devoted to testing and available for reassignment after implementation of the cooperative driver testing program established by HB248 (estimated to be 546 hours (0.26 FTE) in FY96 and 771 hours (0.37 FTE) in FY97 will be reassigned to provide service to the public to reduce waiting lines and to perform other duties. This will help the department to continue providing service to the public with the present law base FTE.
3. During the four-year staggered implementation phase of the conversion to eight-year driver licenses, 50% of the driver licenses issued will be four-year licenses and 50% will be eight-year licenses.
4. The percentage of driver licenses issued to individuals under the age of 21 and over the age of 75 will remain constant and the increasing population between the ages of 21 and 75 will offset any fiscal impact of HB248 on the under-21 and over-75 population.
5. Allocation percentages for the driver license fees have been adjusted so that the additional revenue from the transition to eight-year licenses will increase general fund revenue by about \$1.64 million annually during the eight-year phase-in period (\$3.28 million x 50%). The total revenues earmarked for the state special revenue accounts will remain approximately the same as under present law.

(Continued)

 1.24.95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/25/94
ERNEST BERGSAGEL, PRIMARY SPONSOR/DATE

Fiscal Note for HB0248, as introduced**HB 248**

ASSUMPTIONS:

Office of Public Instruction:

6. Under present law, the state traffic education account receives 8.75% of each driver's license fee and of each duplicate driver's license fee. The changes in the renewal cycle and the reallocation of revenues proposed in HB248 will provide the same amount of revenue to the state traffic education account from driver's license fees and motorcycle endorsements in each year of the 1997 biennium as the revenue estimated under present law.

FISCAL IMPACT:

Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
General Fund (01)	1,630,000	1,640,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The changes in the renewal cycle and the reallocation of revenues proposed in HB248 will provide the same amount of revenue to county general funds from driver's license fees and motorcycle endorsements in each year of the 1997 biennium as the revenue estimated under present law.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The annual increase in revenue due to a longer license period should be realized during the eight year implementation period until all present licenses are converted. Beginning in fiscal year 2004, except for adjustments for growth or decline in the number of active driver licenses, general fund revenue should decrease to a level approximating the 1997 biennium present law estimates. Revenue to the state special revenue accounts should decrease below 1997 biennium present law estimates because of the decrease in the applicable percentage rates.

SENATE HIGHWAYS

EXHIBIT NO. 16DATE 3/2/95BILL NO. HB 248

SENATE BILL NO. 34

INTRODUCED BY SWYSGOOD

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS PERTAINING TO COMMERCIAL MOTOR VEHICLES; REVISING DEFINITIONS; CREATING A THIRD-PARTY COMMERCIAL DRIVER TESTING PROGRAM; WAIVING DRIVING TESTS FOR A QUALIFIED APPLICANT WORKING IN A FARM-RELATED SERVICE INDUSTRY AND MEETING THE REQUIREMENTS FOR A SEASONAL COMMERCIAL DRIVER'S LICENSE; REQUIRING COMMERCIAL DRIVERS HAVING ANY MEASURABLE OR DETECTABLE ALCOHOL CONCENTRATION TO SUBMIT TO TESTING; CLARIFYING THE STATUS OF CERTAIN FERTILIZER SPREADER TRUCKS AND SPREADER TRAILERS AS COMMERCIAL MOTOR VEHICLES; AMENDING SECTIONS 61-1-134, 61-1-502, 61-5-104, 61-5-110, 61-5-117, 61-8-806, AND 61-8-808, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill to provide guidelines for the adoption of rules under 61-5-117 by which the department of justice may certify and monitor a third-party commercial driver testing program. The rules should set forth procedures to ensure that the testing is conducted according to uniform standards and by competent examiners. The rules may limit the number of participants or delay participation in a third-party testing program to ensure that it can be administered without having to add additional full-time employees to the department.

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

Section 1. Section 61-1-134, MCA, is amended to read:

"61-1-134. **Commercial motor vehicle defined -- exceptions.** (1) ~~"Commercial~~ Except as provided in subsection (2), "commercial motor vehicle" means a motor vehicle used to transport passengers or property if the vehicle:

- (a) has a gross vehicle weight or manufacturer's rated capacity of 26,001 pounds or more;
- (b) is designed to transport more than 15 passengers, including the driver;

1 (c) is a school bus as defined in 20-10-101; or

2 (d) is used to transport hazardous material.

3 (2) ~~Commercial~~ The following vehicles are not commercial motor vehicles ~~under this section do not~~
4 ~~include vehicles operated within the state of Montana that are:~~

5 (a) ~~registered as paying the 35% gross weight fee under 61-10-206;~~

6 ~~(b) a vehicle exempt from taxation, used for firefighting, and that are~~ bearing Montana tax-exempt
7 plates; ~~or~~

8 ~~(c) (b) a police emergency response and safety education units.~~ vehicle; or

9 (c) a vehicle;

10 (i) controlled and

11 ~~(3) Vehicles that are operated within the state of Montana by farmers or persons~~ a farmer or person
12 ~~employed by farmers who are transporting a farmer;~~

13 (ii) used to transport farm products, farm machinery, or farm supplies and that are operated within
14 Montana or within 150 miles of the farm headquarters ~~are not considered commercial motor vehicles under~~
15 ~~this section; and~~

16 (iii) not used to transport goods for compensation or hire.

17 (3) For purposes of this section, "farmer" means a person who operates a farm or who is directly
18 involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control
19 of that person."

20

21 **Section 2.** Section 61-1-502, MCA, is amended to read:

22 **"61-1-502. Gross vehicle weight.** "Gross vehicle weight" means the weight of a vehicle without
23 load plus the weight of any load ~~thereon~~ on the vehicle."

24

25 **Section 3.** Section 61-5-104, MCA, is amended to read:

26 **"61-5-104. Exemptions.** (1) The following persons are exempt from ~~license~~ licensure under this
27 chapter:

28 (a) a person who is a member of the armed forces of the United States while operating a motor
29 vehicle owned by or leased to the United States government and being operated on official business;

30 (b) a person who is a member of the armed forces of the United States on active duty in Montana

1 who holds a valid license issued by another state and the spouse of ~~such a~~ the person who holds a valid
2 license issued by another state and who is not employed in Montana, except as a member of the armed
3 forces; ~~if~~. If a spouse of a member of the armed forces becomes gainfully employed in Montana, the
4 spouse must be licensed, as required by 61-5-102, within 90 days of becoming ~~so~~ employed;

5 (c) a person on active duty in the armed forces of the United States ~~who has~~ and in his immediate
6 possession of a valid license issued to that person in a foreign country by the armed forces of the United
7 States, for a period of 45 days from the date of ~~his~~ the person's return to the United States;

8 (d) a person while driving or operating any road machine, farm tractor, or implement of husbandry
9 temporarily operated or moved on a highway;

10 (e) a person who is a locomotive engineer, assistant engineer, conductor, brakeman, railroad utility
11 person, or other member of the crew of a railroad locomotive or train being operated upon rails, including
12 operation on a railroad crossing a public street, road, or highway. A person employed as described in this
13 subsection is not required to display a driver's license to a law enforcement officer in connection with the
14 operation of a railroad locomotive or train within Montana.

15 (2) A nonresident who is at least 15 years of age and who ~~has~~ is in his immediate possession of
16 a valid operator's license issued to ~~him in his~~ the nonresident by the nonresident's home state or country
17 may operate a motor vehicle, except a commercial motor vehicle, in this state ~~only as an operator~~.

18 (3) A nonresident ~~who is at least 18 years of age~~ not otherwise exempt from the licensing
19 requirements of 49 CFR, part 391, and ~~who has~~ in his immediate possession of a valid commercial
20 ~~operator's driver's~~ license issued to ~~him in his~~ the nonresident by the nonresident's home state or country
21 may operate a ~~motor vehicle or~~ commercial motor vehicle in this state ~~subject to the age limits applicable~~
22 ~~to commercial vehicle operators in this state~~.

23 (4) A nonresident who is at least 18 years of age, whose home state or country does not require
24 the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than
25 90 days in any calendar year, if the motor vehicle ~~so operated~~ is duly registered in the home state or
26 country of ~~such~~ the nonresident.

27 (5) A driver's license issued under this chapter to any person who enters the United States armed
28 forces, if valid and in ~~force and~~ effect at the time that the person enters the service, continues in ~~full force~~
29 ~~and~~ effect so long as the service continues, unless the license is sooner suspended, revoked, or canceled
30 for a cause as provided by law, and for not to exceed 30 days following the date on which ~~holder of the~~

1 ~~driver's license~~ the licensee is honorably separated from the service. During the 30-day period, the license
2 is valid only when in the immediate possession of the licensee while driving and the licensee has his the
3 license and the licensee's discharge, separation, leave, or furlough papers are in ~~his~~ the licensee's
4 immediate possession."

5
6 **Section 4.** Section 61-5-110, MCA, is amended to read:

7 **"61-5-110. (Temporary) Examination of applicants.** (1) The department shall examine ~~every~~ each
8 applicant for a driver's license or motorcycle endorsement, except as otherwise provided in this section.
9 The examination must include a test of the applicant's eyesight, a knowledge test examining the applicant's
10 ability to read and understand highway signs, regulating, warning, and directing traffic, the applicant's the
11 applicant's knowledge of the traffic laws of this state, and must include an actual demonstration of, except
12 as provided in [section 6], a road test or a skills test demonstrating the applicant's ability to exercise
13 ordinary and reasonable control in the operation of a motor vehicle, quadricycle, or motorcycle. The
14 examination for the commercial driver's license may include additional items. The knowledge test and the
15 road test or the skills test must be waived for an applicant who works in a farm-related service industry and
16 who otherwise meets the requirements for a seasonal commercial driver's license as set forth in this title
17 and rules adopted by the department.

18 (2) ~~Within 90 days of receipt of an application for a commercial driver's license, the department~~
19 ~~shall give an examination to the applicant in the county where the applicant resides.~~

20 (3) Except as otherwise provided by law, a resident who has a valid driver's license issued by
21 another state may surrender that license for a Montana license of the same class, type, and endorsement
22 upon payment of the required fees. A resident who obtains a Montana driver's license in this manner is
23 exempt from the ~~written examination and actual demonstration of the operation of a motor vehicle~~
24 knowledge test and the road test or the skills test provided for in subsection (1) but is not exempt from the
25 eyesight test or, in the case of commercial drivers, any examination required by federal regulations."

26
27 **Section 5.** Section 61-5-110, MCA, is amended to read:

28 **"61-5-110. (Effective October 1, 1999) Examination of applicants.** (1) The department shall
29 examine ~~every~~ each applicant for a driver's license or motorcycle endorsement, except as otherwise
30 provided in this section. The examination must include a test of the applicant's eyesight, a knowledge test

1 examining the applicant's ability to read and understand highway signs, ~~regulating, warning, and directing~~
 2 ~~traffic, the applicant's~~ the applicant's knowledge of the traffic laws of this state, and ~~must include an actual~~
 3 ~~demonstration of a road test or a skills test demonstrating the applicant's~~ ability to exercise ordinary and
 4 reasonable control in the operation of a motor vehicle, quadricycle, or motorcycle. The examination for the
 5 commercial driver's license may include additional items. The knowledge test and the road test or the skills
 6 test must be waived for an applicant who works in a farm-related service industry and who otherwise meets
 7 the requirements for a seasonal commercial driver's license as set forth in this title and rules adopted by
 8 the department.

9 (2) ~~Within 90 days of receipt of an application for a commercial driver's license, the department~~
 10 ~~shall give an examination to the applicant in the county where the applicant resides.~~

11 (3) Except as otherwise provided by law, a resident who has a valid driver's license issued by
 12 another state may surrender that license for a Montana license of the same class, type, and endorsement
 13 upon payment of the required fees. A resident who obtains a Montana driver's license in this manner is
 14 exempt from the ~~written examination and actual demonstration of the operation of a motor vehicle~~
 15 knowledge test and the road test or the skills test provided for in subsection (1) but is not exempt from the
 16 eyesight test or, in the case of commercial drivers, any examination required by federal regulations."
 17

18 **NEW SECTION.** Section 6. (Temporary) Third-party commercial driver testing program -- test
 19 **waiver.** (1) The department may certify as a third-party commercial driver testing program any company
 20 that:

21 (a) in the course of its commercial enterprise, customarily transports or hauls any goods, including
 22 agricultural commodities, in company-owned class A commercial motor vehicles as prescribed by federal
 23 regulations;

24 (b) regularly and continuously employs a minimum number of drivers. The department shall
 25 determine the minimum number of drivers and whether they are regularly and continuously employed by
 26 the company.

27 (c) has a permanent Montana mailing address and maintains a place of business in this state that
 28 includes at least one permanent, regularly occupied structure with facilities and equipment to conduct
 29 offstreet skills testing;

30 (d) employs at least one examiner with qualifications required by rules of the department; and

1 (e) complies with rules adopted by the department under 61-5-117.

2 (2) The road test or the skills test required by 61-5-110 may be waived by the department for a
3 commercial driver's license applicant upon certification of the applicant's successful completion of the road
4 test or the skills test by a certified third-party commercial driver testing program.

5 (3) An examiner for a certified third-party commercial driver testing program may administer a road
6 test or a skills test only to a company employee who has applied to the department for a commercial
7 driver's license and who has passed the knowledge test required by 61-5-110 and by department or federal
8 rules.

9

10 **Section 7.** Section 61-5-117, MCA, is amended to read:

11 "61-5-117. **Rulemaking authority.** The department may adopt rules to implement the issuance and
12 enforcement of classified commercial driver's licenses and shall adopt rules implementing [section 6]."

13

14 **Section 8.** Section 61-8-806, MCA, is amended to read:

15 "61-8-806. **Blood, breath, or urine tests of commercial vehicle operators -- procedure -- suspension.**

16 (1) A person who operates a commercial motor vehicle upon the ways of this state open to the public is
17 considered to have given consent, subject to the provisions of 61-8-401 and 61-8-805, to a test of the
18 operator's blood, breath, or urine for the purpose of determining any measured or detected amount of
19 alcohol in the operator's body if the operator is requested to submit to the test by a peace officer having
20 reasonable grounds to believe the person to have been driving or in actual physical control of a commercial
21 motor vehicle upon the ways of this state open to the public while ~~the person's blood~~ having any
22 measurable or detectable alcohol concentration ~~was 0.04 or more~~. The peace officer may designate a
23 blood, breath, or urine test to be administered.

24 (2) A person who is unconscious or who is otherwise incapable of refusal is considered not to have
25 withdrawn the consent provided in subsection (1).

26 (3) If a commercial motor vehicle operator who is a resident of Montana refuses upon the request
27 of a peace officer to submit to a test designated by the officer as provided in subsection (1), the test may
28 not be given. On behalf of the department, the officer shall immediately seize the person's commercial
29 driver's license and forward the license to the department, along with a sworn report that the officer had
30 reasonable grounds to believe that the person had been driving or was in actual physical control of a

1 commercial motor vehicle upon ways of this state open to the public while having ~~an~~ any measurable or
2 detectable alcohol concentration ~~of 0.04 or more~~ and that the person had refused to submit to the test
3 upon the request of the officer. Upon receipt of the report, the department shall suspend the license for
4 a period provided in subsection (5).

5 (4) Upon seizure of a resident's commercial driver's license, the peace officer shall issue, on behalf
6 of the department, a temporary noncommercial driving permit. The temporary driving permit is valid for
7 72 hours after issuance.

8 (5) If a commercial motor vehicle operator refuses to submit to a test as provided in subsection (3),
9 the department shall suspend the operator's commercial driver's license:

10 (a) upon first refusal, for 1 year, with no provision for a restricted probationary license or
11 endorsement, except that if the offense occurred in a commercial motor vehicle transporting hazardous
12 materials, the suspension for a first refusal must be for 3 years;

13 (b) upon a second or subsequent refusal at any time as determined from the records of the
14 department, for life, with no provision for a restricted probationary license or endorsement unless allowed
15 by federal rules governing commercial drivers.

16 (6) A nonresident commercial motor vehicle operator who refuses to submit to a test as provided
17 in subsection (3) is subject to suspension by the department as provided in subsection (5) and must be
18 given a temporary driving permit as provided in subsection (4)."

19
20 **Section 9. Section 61-8-808, MCA, is amended to read:**

21 **"61-8-808. Right of appeal of to court.** The department shall immediately notify in writing any
22 person whose commercial driver's license has been suspended under the provisions of 61-8-806, and the
23 person may, within 30 days after receipt of notification, file a petition for a hearing on the matter in the
24 district court in the county where the person resides or in the district court in the county where the finding
25 of refusal was made. The court has jurisdiction and shall set the matter for hearing upon 10 days' written
26 notice to the county attorney of the county where the appeal is filed. The county attorney shall represent
27 the state. The court shall take testimony and examine the facts of the case, except that the issue is limited
28 to whether a peace officer had reasonable grounds to believe that the person had been driving or was in
29 actual physical control of a commercial motor vehicle upon ways of this state open to the public while the
30 person had ~~a blood~~ any measurable or detectable alcohol concentration ~~of 0.04 or more~~, whether the

1 person was ordered to submit to a test, and whether the person refused to submit to the test. The court
2 shall determine whether the petitioner is entitled to a commercial driver's license or is subject to suspension
3 as provided in this part."

4

5 **NEW SECTION.** Section 10. Codification instruction. [Section 6] is intended to be codified as an
6 integral part of Title 61, chapter 5, part 1, and the provisions of Title 61 apply to [section 6].

7

8 **NEW SECTION.** Section 11. Effective dates. (1) [Sections 1 through 3 and 7 through 10 and this
9 section] are effective on passage and approval.

10 (2) [Sections 4, 6, and 12] are effective October 1, 1995.

11 (3) [Section 5] is effective October 1, 1999.

12

13 **NEW SECTION.** Section 12. Termination. [Sections 4 and 6] terminate September 30, 1999.

14

-END-

Amendments to Senate Bill No. 390
First Reading Copy (white)Requested by Senator Jergeson
For the Committee on Highways and TransportationPrepared by Valencia Lane
(originally prepared by Brenda Nordlund of DOJ)
March 2, 1995

1. Title, line 5.
Following: "LICENSES"
Strike: ", "
Insert: "AND"
2. Title, line 6.
Following: "LICENSES"
Strike: ", AND REGISTRATION OF MOTOR VEHICLES"
Following: "SECTIONS"
Strike: "61-3-321,"
3. Title, line 7.
Strike: "63-3-325,"
Following: "61-5-111"
Strike: ", "
Following: "PROVIDING"
Strike: "AN"
Following: "EFFECTIVE"
Strike: "DATE"
Insert: "DATES AND A TERMINATION DATE"
4. Page 1, line 11 through page 3, line 8.
Strike: sections 1 and 2 in their entirety
Renumber: subsequent sections
5. Page 5, line 13.
Insert: "Section 2. Section 61-5-121, MCA, is amended to read:
"61-5-121. Disposition of fees. (1) The disposition of the fees from driver's licenses provided for in 61-5-111(7)(a), motorcycle endorsements provided for in 61-5-111(7)(b), commercial driver's licenses provided for in 61-5-111(7)(c), and duplicate driver's licenses provided for in 61-5-114 is as follows:
(a) The amount of 25% 22.25% of each driver's license fee and 25% of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404.
(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 3.75% 3.33% of each driver's license fee and 3.75% of each duplicate driver's license fee must be deposited into the county general fund.
(ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited

into the general fund.

(c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of ~~5%~~ 3.34% of each motorcycle endorsement must be deposited into the county general fund.

(ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the general fund.

(d) The amount of ~~8.75%~~ 27.25% of each driver's license fee and ~~8.75%~~ of each duplicate driver's license fee must be deposited into the state traffic education account.

(e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), the amount of ~~62.5%~~ 47.17% of each driver's license fee and 62.5% of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of ~~3.75%~~ 3.13% of each commercial driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited in the state general fund.

(g) The amount of ~~95%~~ 63.46% of each motorcycle endorsement fee must be deposited into the state traffic education account in the state special revenue fund, and the amount of 33.2% of each motorcycle endorsement fee must be deposited into the state general fund.

(2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, the county treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. The county treasurer or agent shall then remit to the state treasurer all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a) and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g).

(b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall remit all fees to the state treasurer, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g)."

Renumber: subsequent sections

6. Page 6, line 1.

Following: "~~8.75%~~"

Strike: "11.67%"

Insert: "40.88%"

7. Page 6, line 4.
Following: "~~62.5%~~"
Strike: "50%"
Insert: "20.79%"

8. Page 6, line 26.
Following: "**instruction.**"
Insert: "(1)"

9. Page 6, line 28.
Following: "["
Strike: "sections 3 and 4 of"
Following: "act]"
Strike: "are"
Insert: "is"

10. Page 6, line 29.
Insert: "(2) If House Bill No. 248 is passed and approved and if it includes one or more sections that amend 61-5-121, either temporarily or permanently, then those sections are void and are superseded by [sections 2 and 3 of this act].
(3) If Senate Bill No. 83 is passed and approved and if it includes a section that amends 61-5-121, then that section is void and is superseded by [sections 2 and 3 of this act]."

11. Page 6, line 30.
Strike: "date"
Insert: "dates"
Strike: "[This act] is"
Insert: "(1) [Sections 1, 2, 4, and 6] and this section are"
Following: "effective"
Strike: "July "
Insert: "October"

12. Page 6, line 31.
Following: line 30
Insert: "(2) [Section 3] is effective October 1, 1999."

NEW SECTION. Section 6. Termination. [Section 2]
terminates September 30, 1999."

STATEMENT OF FACTS THAT APPLIED TO HOUSE BILL #111 HEARING

DATED - January 18, 1995

DATE

3/7/95

HB 111

Chief Sponsors - Representative Charles Devaney and ~~David Gult~~, DOT
Administrator

OPPONENT TO HOUSE BILL #111


1. Fact of Laws Montana Codes Annotated and United States Codes Annotated Title 49 and Appendix there of
2. U.S.C.A. Title 49 Subchapter II Penalties to the several states to enforce S521 Civil Penalties (B) (1) (A).
3. U.S.C.A. Title 49 Subtitle IV Interstate Commerce.
4. Title 49 and the Appendix there of as set forth for the purpose to set administrative procedures for the several states to administer.
5. Title 49, "all" puts all administrative duties to be preformed by the several states that are not statutory to the Public Service Commission M.C.A. 1974 to 1978 and as of this date January 20, 1995 have not been complied with by Montana PSC, per 61-10-141(5) G.V.W.
6. Title 49, 1985 again set forth very strong language for states to comply and gave them a 60 month period to comply or lose their highway fundings. As of this date the State of Montana is still in default of said Title 49 U.S.C.A 1993 Edition.
7. Transfers to House Bill hearing Bill #111 dated January 18, 1995, Room 420 State Capital - Helena, MT.
8. Comment of Subject presented by M. David Gult, Montana D.O.T.
9. Mr. Gult recommended that the portion of M.C.A. 61-12-206 "1993" (2) be deleted.
10. This is nothing more than an attempt to subvert and circumvert U.S.C.A. Title 49 and the Appendix and U.S.C.A. 1986 Highway Safety Compact there of and the Constitution of the United States that our fore-fathers already gave to the several states.
11. This motion of Mr. Gult's also is in violation of the Declaration of Human Rights. IT WILL BE A COLD DAY IN HELL FOR THE PEOPLE OF MONTANA IF WE LET THIS MAN GET THIS MOTION IN TO STATUTORY LAW!!!!
12. 61-12-207 M.C.A. The provision this chapter 11-Part-207 and Title 49 U.S.C.A. and 61-12-208 M.C.A. should not be "Subverted" or "Circumverted."
13. 61-12-206 (2) M.C.A. has referance to 61-10-141. 61-10-141 (5) Standards and Proceedures for the enforcement compliance is as set forth under Title 49 U.S.C.A.

14. Standards and Procedures adopted pursuant to 44-1-1005 Administrative Law, 44-1-1005 is administrative in nature only and NOT STATUTORY.
15. Enforcement compliance is set forth from Title 49 as a civil procedure.
16. Any statutory enforcement under Title 49 can only be issued by a Federal Highway Safety Administrative personnel and can be issued to the offending state that is in violation of Title 49, which Montana is with vengeance and has been ruled by a Federal Judge in favor of the people and against the state agency, Title 69 - Public Service Commission Part 11 and 12.
17. 61-10-141 (5) (a) (c) and (d) are in violation of Title 49 U.S.C.A.
18. 61-10-141 (6) (a) only gives the G.V.W. the same authority of the provisions as set by 69-12-203 and 69-12-201 1985 M.C.A.
19. Under Title 49 there will never be a provision granted to the enforcement of Title 46-7-101 M.C.A.
20. 61-10-141 1993 "Amendments" Cross Reference: Public Scales Title ch. 21-Part 31, Peace Officer 45-2-101* Enforcement by Department of Transportation personnel, Title 61-12-Part 2, 206(2).
- * 45-2-101(48) "Peace officer" means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of his authority.
21. 60-3-101 Assent to Federal Law.
22. 60-2-301 Ports of entry and checking stations authorized. Montana G.V. W. is in violation of this statute. A section within the G.V.W. are using police powers.
23. Mr. Gult's reference to operation of Ports of Entry is under the following law, M.C.A. 1993 60 Part 3, 60-2 Part 3, 60-2-303 and 60-2-311. In reference to 60-2-301, the D.O.T. G.V.W at the present time is operating in violation of this statute when they are acting as police officers when they have been appointed to act as peace officers under Title 45, Rules of Civil Procedure, Free Trade agreement and G.A.T.T.
24. The use of personnel is out-lined in the M.C.A. 60-2-301, the three participants are the G.V.W., P.S.C. and Safety Inspector, are operating illegally at this time and also when the G.V.W. personnel are doing vehicle inspections and writing inspection complaints under 44-1005, when they are only under 69-12-203. It has only been 14 years ago when the P.S.C. was assigned these tasks and they have failed to perform said tasks. Why not? Mr. Anderson has been fully informed of these duties and he has refused each time. Mr. Burchett stated to the opponent that they only do random roads in transportation.

25. Further references to the illegality of Mr. Gult's proposed changes in House Bill #111 are found in the provisions of 61-9-503, Cross reference: 44-1-1005, 61-12-Part 2, 61-2-201, 61-9-501 and 61-9-512.
26. 61-9-512 is a law that the opponent feels G.V.W. personnel under Mr. Gult would harrass the public.
27. Under the illegal use of these laws, this opponent has been harrassed for the past 14 years by the G.V.W. personnel and I am still working. I have been subjected to the following:
- A. Hauled in to Justice Court on numerous occasions by these personnel.
 - B. Had all my legths broken out of my tractor and trailers do to my objections to the legality of these laws.
 - C. Had my engine sugared.
 - D. Had the towing pins in my trailer pulled out and removed.
 - E. Had my equipment almost totally destroyed.
 - F. Had tires destroyed.
 - G. Drivers of all trucks have been harrassed and fined under said laws illegally.
 - H. Had my brakes backed out of adjustment making driving very unsafe.
 - I. Statement was made in front of witnesses that the head of the G.V.W. in the Great Falls area would put this opponent out of the trucking business by constant harrassment and he did try it. He was side tracked by various Justice Courts.
- Copy of M.C.A. 61-9-512 attached. Cross References: M.A.R. Title 36 "1985", 69-12-203 1985, 1983, 44-1-1005, this is still P.S.C.'s duties and responsibilities.
28. Further references to check are 61-10-141(5), Duties of M.A.R.1985 cross reference attached.
29. Note the cross reference to 61-10-141 goes back to 69-12-201 and 69-12-203 dated 1981, 1983, 1985, then the rules of M.A.R. 1985 take over Title 36. Also see 60-1-101 and 60-1-102.
30. U.S.C.A. Title 1985 prohibits the use of any vehicle Safety Standar by any state. The states have to make their own by rules and regulations and enforced according to 49 U.S.C.A. All rules and regulations or laws must first be approved by the U.S. D.O.T. Sec-
retary in cooperation with the I.C.C.

SUMMARY

They have made it a duty of the P.S.C., G.V.W. and Mr. Gult to subsert and circumvent all rights of the citizens of Montana and the Several States and Canada. They have been using the law as put forth by Gult for the last 14 years. We in the trucking business have done our best to try and stop them.


Joseph Ray Rentmeister, Opponent to
House Bill #111
G.V.W. Trucking

Page 2 1985

(g) provide standards for the safe operation of vehicles of less than 26,000 pounds gross vehicle weight if they are:

- (i) being used to transport passengers for hire; or
- (ii) being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with rules adopted by the commission.

(2) Such standards of safety shall be the same as prescribed for motor carriers, and the same inspection standards and procedures shall apply. However, standards relating to drivers, other than drivers for motor carriers, do not apply to a vehicle operated exclusively within a 200-mile radius of its work reporting location.

(3) The commission shall have power and authority by general order or otherwise to prescribe rules in conformity with this chapter and applicable to any and all motor carriers.

(4) The commission also may fix and determine reasonable maximum or minimum rates for the operations of any Class C motor carrier when the same are required for the best interests of public transportation.

History: (1)(a) thru (1)(e), (3)En. Sec. 3, Ch. 184, L. 1931; re-en. Sec. 3847.2, R.C.M. 1935; amd. Sec. 1, Ch. 205, L. 1963; amd. Sec. 1, Ch. 182, L. 1971; amd. Sec. 20, Ch. 315, L. 1974; Sec. 8-103, R.C.M. 1947; (1)(f), (1)(g), (2)En. Sec. 2, Ch. 227, L. 1981; (4)En. Sec. 1, Ch. 201, L. 1961; Sec. 8-104.1, R.C.M. 1947; R.C.M. 1947, 8-103(part), 8-104.1; amd. Sec. 3, Ch. 226, L. 1981; amd. Sec. 2, Ch. 227, L. 1981.

Compiler's Comments

1981 Amendments: Chapter 226 added the last clause in (1)(c) after "all motor carriers" relating to implied consent for safety inspections.

Chapter 227 added subsections (1)(f), (1)(g), and (2), relating to safety standards.

Code Commissioner Changes: The Code Commissioner added "provide standards for the

safe operation of" at the beginning of (1)(g) and divided the material inserted by Ch. 227 into three subsections, (1)(f), (1)(g), and (2), for clarification and renumbered former subsections (2) and (3) as (3) and (4).

Cross-References

Officers authorized to weigh vehicles and require removal of excessive loads, 61-10-141.
Fee, 69-12-423.

69-12-202. Encouragement of common carrier motor transportation. To fully secure adequate motor transportation facilities for all users of such service and to secure the public advantages thereof, the commission shall encourage a system of common carrier motor transportation within the state for the convenience of the shipping public. The maintenance of a common carrier motor transportation system within Montana is hereby declared to be a public purpose.

History: En. Sec. 3, Ch. 184, L. 1931; re-en. Sec. 3847.2, R.C.M. 1935; amd. Sec. 1, Ch. 205, L. 1963; amd. Sec. 1, Ch. 182, L. 1971; amd. Sec. 20, Ch. 315, L. 1974; R.C.M. 1947, 8-103(part).

69-12-203. Supervisor of motor carriers. (1) The commission shall appoint a supervisor of motor carriers who shall have general responsibility to the commission for enforcement of the provisions of this chapter. The supervisor shall be either an attorney admitted to practice law in Montana or a person qualified by at least 5 years of suitable experience and training in appropriate phases of the motor carrier industry. He shall serve at the pleasure of the commission and at an annual salary to be set by the commission.

(2) The supervisor shall direct all enforcement activities in behalf of the commission, including the investigation and prosecution of violations of this

this chapter is intended primarily as a regulation of the public highways of the state.

History: En. Sec. 22, Ch. 184, L. 1931; re-en. Sec. 3847.22, R.C.M. 1935; R.C.M. 1947, 8-122.

69-12-108. Violations. Any motor carrier subject to the provisions of this chapter, as amended, or whenever any such motor carrier is a corporation, any director or officer thereof; any receiver, trustee, lessee, agent, or person acting for or employed by such corporation; any person, corporation, or association or officer, agent, or employee thereof; or any broker of property or officer, agent, or employee thereof who violates or fails to comply with or who procures, aids, or abets in the violation of any provision of this chapter, as amended, or who fails to obey, observe, or comply with any lawful order, decision, rule, direction, demand, or requirement of the commission or any part of the provisions thereof is:

(1) subject to a civil penalty, to be collected and deposited to the general fund by the commission after notice and hearing, in an amount not less than \$25 or more than \$500 for the first offense and not less than \$25 or more than \$1,000 for each subsequent offense; or

(2) subject, upon conviction in a justice's court, to a fine of not less than \$25 or more than \$500 for the first offense and not less than \$25 or more than \$1,000 for each subsequent offense.

History: En. Sec. 19, Ch. 184, L. 1931; re-en. Sec. 3847.19, R.C.M. 1935; amd. Sec. 2, Ch. 204, L. 1963; amd. Sec. 1, Ch. 209, L. 1967; amd. Sec. 1, Ch. 68, L. 1971; amd. Sec. 1, Ch. 282, L. 1977; R.C.M. 1947, 8-119; amd. Sec. 19, Ch. 43, L. 1979; amd. Sec. 1, Ch. 330, L. 1979.

Cross-References

Enforcement procedures, 69-12-209.

Revocation of certificate, 69-12-327.

Failure to display ownership identification — penalty, 69-12-408.

69-1-101 to 69-1-103
Part 2

1983
Ref-cross
69-12-202

Role of Commission

Page 1
69-12-101

69-12-201. Supervision and regulation of motor carriers and other motor vehicles used in commerce. (1) The commission is hereby vested with power and authority and it is hereby made its duty to:

(a) supervise and regulate every motor carrier in this state;

(b) fix, alter, regulate, and determine specific, just, reasonable, equal, nondiscriminatory, and sufficient rates, fares, charges, and classifications for Class A and Class B motor carriers;

(c) regulate the properties, facilities, operations, accounts, service, practices, affairs, and safety of operations of all motor carriers, each of which is considered to consent impliedly to reasonable safety inspections of its motor vehicles utilized in furtherance of its business as a motor carrier;

(d) require the filing of annual and other reports, tariffs, schedules, or other data by such motor carriers;

(e) supervise and regulate motor carriers in all matters affecting the relationship between such motor carriers and the traveling and shipping public;

(f) provide standards for the safe operation of all motor vehicles used in commerce that exceed 26,000 pounds gross vehicle weight, except farm vehicles; and

ownership

Judge upends Intrastate Commerce Act

OKLAHOMA CITY (AP) — A federal law that deregulates intrastate trucking is constitutional, a judge ruled Friday in a case that was filed by the Oklahoma Corporation Commission and drew Montana as a plaintiff.

U.S. District Judge David L. Russell ruled against the Oklahoma Corporation Commission in its attempt to prevent the law from taking effect on Sunday. Kansas and Michigan had joined in the lawsuit, along with Montana.

A U.S. Justice Department spokesman in Washington, D.C., said officials there are pleased with

the decision, and a plaintiff's attorney said he expects an appeal.

Under the new law, states will no longer control haulers' rates, routes and services within their borders. The few exceptions include moving companies that haul household goods.

Companies cannot be limited to certain market areas, and haulers can set their own rates rather than follow state-imposed standards.

Montana got involved in the lawsuit partly because the state is so rural, said Martin Jacobson, a lawyer for the Montana Public Service Commission. Regulation obligates

truck operators to serve remote areas even if they are less profitable than some other routes, and that is important in a rural state, Jacobson said. He said Montana has regulated intrastate carriers for about 70 years.

"We knew that the issues presented were somewhat complex and not without difficulty but we thought that we were on the right side of the law," said Richard Labarthe, who argued against the law for the states and the International Brotherhood of Teamsters.

On Tuesday, Labarthe told Russell the law was "a classic case of know-

it-all federal government against states' rights and state sovereignty.

He argued safety could be a casualty of deregulation as companies look for ways to trim costs.

Companies would run their equipment longer and require less training for drivers in an attempt to widen their profit margins, plain told the judge.

Russell said the new law, known as the Federal Aviation Administration Authorization Act of 1994, does not violate the 10th Amendment or other sections of the U.S. Constitution which outline the power Congress over the states.

This ruling is the direct result of the failure of the states that make up the Oklahoma Corporation Commission to follow the administrative procedures outlined in Titles 49 1980 to 1993. As per artical and statements made at hearing on House Bill #111, they have no intention of doing so, without a lot of force.

It is the intent of Title 49 U.S.C.A., U.S. Justice Department and U.S. District Court to put the force on these Public Service Commissions to adhere to the provisions of Title 49 U.S.C.A.

Title 49 and the I.C.C. states that if states do not comply that the Federal Justice Department would do it for them. This artical states the first action taken.

History: En. Sec. 5, Ch. 474, L. 1987; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 3, Ch. 672, L. 1991.

61-10-130. Custom combiner's special permit — fee — collection — distribution — not transferable. (1) In lieu of the taxes required by 15-24-301 and in lieu of motor vehicle license fees, gross vehicle weight fees, and overwidth, overlength, and overheight permits provided for in Title 61, a nonresident engaged in the business of custom combining who brings equipment into the state may pay a special permit fee of \$40 per unit. A unit shall include:

- (a) one truck suitable for hauling grain;
 - (b) one header trailer or one combine trailer; and
 - (c) pickup trucks and all other equipment, except combines, used by a nonresident and brought into the state as part of his business of custom combining.
- (2) In lieu of gross vehicle weight fees and overwidth, overlength, and overheight permits, Montana residents engaged in the business of custom combining may pay the annual farm gross vehicle weight fees and a special permit fee of \$20 per unit. A unit includes:
- (a) one truck suitable for hauling grain;
 - (b) one header trailer or one combine trailer; and
 - (c) pickup trucks used by the resident in his business of custom combining.

(3) When used to transport agricultural products, a truck authorized to be used under a custom combiner's special permit may be operated only within a 50-mile radius from the harvested field to the point of first unloading. The truck may not haul agricultural products from one commercial elevator to another commercial elevator. The truck may be operated on any highway, except a highway that is part of the federal-aid interstate system, without incurring excess weight penalties under 61-10-145 if the total gross weight of the truck does not exceed allowable weight limitations by more than 20% per axle and the maximum load per inch of tire width does not exceed 670 pounds. The truck may not be operated in excess of 40 miles per hour. No trip permit is required. If the truck exceeds the tolerance provided under this subsection, the fine or penalty imposed applies to all weight over the legal limit allowed by 61-10-107.

(4) A combine trailer authorized to be used under subsections (1)(b) or (2)(b) may be operated under the same limitations and until July 1, 1991, may be operated within the same tolerances granted trucks under subsection (3), except that the 50-mile limitation does not apply and the combine trailer may be used upon any highway of the state, including a highway that is part of the federal-aid interstate system. If the combine trailer exceeds the tolerance provided under subsection (3), the fine or penalty imposed applies to all weight over the legal limit allowed by 61-10-107.

(5) The fee required by this section must be collected by the department of transportation. Upon payment of the fee, the department of transportation must provide an identifying device to be displayed on each truck, header trailer, or combine trailer and other equipment used by the nonresident or resident in his business of custom combining in the state, which device is valid for the calendar year in which it is issued.

(6) All fees collected under this section must be distributed not later than January 31 immediately following the period of license as follows: 62 1/2% to the county general fund in the county in which the permittee declares the greatest amount of time will be spent to operate, 37 1/2% to the state special revenue fund for the department of transportation.

(7) The identifying devices and fee paid for each unit are not transferable from one vehicle to another or transferable on the sale or change of ownership.

(8) The department of transportation may adopt rules, as provided in Title 2, chapter 4, to implement the provisions of this section.

History: En. 84-6015 by Sec. 1, Ch. 371, L. 1974; amd. Sec. 1, Ch. 50, L. 1975; R.C.M. 1947, 84-6015; amd. Sec. 1, Ch. 206, L. 1979; amd. Sec. 19, Ch. 581, L. 1979; amd. Sec. 2, Ch. 48, L. 1983; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 8, Ch. 20, L. 1985; amd. Sec. 1, Ch. 183, L. 1989; Sec. 15-24-1001, MCA 1987; reds. 61-10-130 by Sec. 3, Ch. 183, L. 1989; amd. Sec. 3, Ch. 512, L. 1991.

61-10-131 through 61-10-140 reserved.

61-10-141. Officers authorized to weigh vehicles and require removal of excessive loads — enforcement of motor carrier safety standards — duty to obtain bills of lading for agricultural seeds. (1) A peace officer, officer of the highway patrol, or employee of the department of transportation may weigh any vehicle regulated by 61-10-101 through 61-10-110, except recreational vehicles as defined in 61-1-132, either by means of portable or stationary scales, and may require that the vehicle be driven to the nearest scales if those scales are within 2 miles. That person may then require the driver to unload at a designated facility that portion of the load necessary to decrease the weight of the vehicle to conform to the maximum allowable weights specified in 61-10-101 through 61-10-110. If the excess weight does not exceed 10,000 pounds, an excess weight permit may be issued in accordance with 61-10-121. The permit authorizes the driver of the excess weight load to proceed to a designated facility where the load can be safely reduced to legal limits.

(2) Commodities and material unloaded as required by this section must be cared for by the owner or operator of the vehicle at the risk of that owner or operator. Commodities or material unloaded as required by this section may not be left on the highway right-of-way.

(3) The department of transportation may establish, maintain, and operate weigh stations, either intermittently or on a continuous schedule, and may require vehicles, except passenger cars and pickup trucks under 14,000 pounds G.V.W. and recreational vehicles as defined in 61-1-132 (that are not new or used recreational vehicles traveling into or through Montana for delivery to a distributor or a dealer), to enter for the purpose of weighing and inspection for compliance with all laws pertaining to their operation and safety requirements. The department may require vehicles over 10,000 pounds to be inspected and weighed by portable scale crews.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to 44-1-1005. For the purposes of the joint enforcement, the highway patrol is designated as the lead agency. The highway patrol and the department of transportation shall cooperate to assure minimum duplication and maximum coordination of enforcement effort.

Page 1 of 2

(5) In order to enforce compliance with safety standards adopted pursuant to 44-1-1005, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the motor carrier services functions of the department of transportation. Each employee designated as a peace officer may:

- issue citations and make arrests in connection with violations of safety standards adopted under 44-1-1005;
- issue summons;
- accept bail;
- serve warrants for arrest;
- make reasonable inspections of cargo carried by commercial motor vehicles;
- make reasonable safety inspections of commercial motor vehicles utilized by motor carriers; and
- require production of documents relating to the cargo, driver, routing, or ownership of the commercial motor vehicles.

(6) In addition to other enforcement duties assigned under this section, an employee of the department of transportation has:

- the same authority to enforce provisions of the motor carriers law as that granted the public service commission under 69-12-203; and
- the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds as defined in 80-5-120 that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date the bill of lading was obtained.

History: En. Sec. 5, Ch. 171, L. 1931; re-en. Sec. 1751.5, R.C.M. 1935; amd. Sec. 4, Ch. 184, L. 1939; amd. Sec. 4, Ch. 243, L. 1961; amd. Sec. 1, Ch. 321, L. 1971; amd. Sec. 26, Ch. 316, L. 1974; amd. Sec. 3, Ch. 280, L. 1977; R.C.M. 1947, 32-1126(1) thru (4); amd. Sec. 2, Ch. 226, L. 1981; amd. Sec. 3, Ch. 686, L. 1985; amd. Sec. 121, Ch. 370, L. 1987; amd. Sec. 2, Ch. 57, L. 1989; amd. Sec. 1, Ch. 446, L. 1989; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 1, Ch. 70, L. 1993; amd. Sec. 12, Ch. 575, L. 1993.

Compiler's Comments

1993 Amendments: Chapter 70 in (1), in second sentence after "unload", substituted "at a designated facility" for "immediately" and inserted third and fourth sentences regarding issuance of and authorization under an excess weight permit; in (2), in first sentence after "carried for", deleted "and removed from the highway right-of-way" and substituted second sentence prohibiting leaving material on highway right-of-way for former language that read: "The removal shall be within a reasonable time designated by the person who has compelled the unloading"; and made minor changes in style.

Chapter 575 in (3), near middle of first sentence after "under", substituted "14,000 pounds" for "8,000 pounds" and inserted last sentence concerning inspection and weighing; in (5), in second sentence, substituted "motor carrier services" for "gross vehicle weight"; and made minor changes in style. Amendment effective January 1, 1994.

Cross-References

Public scales, Title 7, ch. 21, part 31.
Highway Patrol — jurisdiction of patrol officers, Title 44, ch. 1, part 10.

"Peace officer" defined, 45-2-101.
Enforcement by Department of Transportation personnel, Title 61, ch. 12, part 2.

61-10-142. Display of permit. A special permit issued under 61-10-121 shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any peace officer, officer of the highway patrol, or employee of the department of transportation.

History: En. 32-1127.8 by Sec. 34, Ch. 316, L. 1974; R.C.M. 1947, 32-1127.8; amd. Sec. 121, Ch. 370, L. 1987; L. 1989, 3, Ch. 512, L. 1991.

Cross-References

Jurisdiction of Highway Patrol, Title 44, ch. 1, part 10.

"Peace officer" defined, 45-2-101.

61-10-143. Confiscation — action by commission. A peace officer of the highway patrol, or employee of the department of transportation who finds a person operating a vehicle, combination of vehicles, load, object or other thing in violation of the conditions of a special permit may confiscate the permit and forward it to the commission. The commission may return it to the permittee or revoke, cancel, or suspend it without refund. The commission shall keep a record of all action taken upon confiscated permits, and if a permit is returned to the permittee, the action taken by the commission shall be endorsed on it. A permittee whose permit is suspended or revoked may, upon request, receive a hearing before the commission or person designated by the commission. The commission, after the hearing, may reinstate the permit or revise its previous action.

History: En. 32-1127.9 by Sec. 35, Ch. 316, L. 1974; R.C.M. 1947, 32-1127.9; amd. Sec. 123, Ch. 370, L. 1987; amd. Sec. 3, Ch. 512, L. 1991.

Cross-References

Highway Commission, 2-15-2-02, Title 60, 12.
Regulation of motor carriers, Title 69, ch. 2, part 1.

61-10-144. Violation of standards — tolerance. (1) It is a misdemeanor for a person, firm, or corporation to violate any provision of 61-10-101 through 61-10-110.

(2) However, the operator of a vehicle or combination of vehicles may move over the highways to the first open state scale, permanent or portable, without incurring the excess weight penalties set forth in 61-10-145 if the total gross weight of the vehicle or combination of vehicles does not exceed allowable total gross weight limitations by more than 5%, or 7% if the vehicle or combination of vehicles is transporting livestock, and if the weight carried by any axle or combination of axles does not exceed the allowable axle weight limitations by more than 5%, or 7% if the vehicle or combination of vehicles is transporting livestock. In the event the vehicle or combination of vehicles is not in excess of the allowable total gross or axle weight limitations of vehicles less than 5%, or 7% if the vehicle or combination of vehicles is transporting livestock, the department may issue a single trip permit for the fee of \$10 for allowing the vehicle or combination of vehicles to move over the highways to the first facility where its load can be safely adjusted or to its destination. Violations of total gross or axle weight limitations in excess of 5%, or 7% if the vehicle or combination of vehicles is transporting livestock, are subject to the axle weight limitations, or 7% if the vehicle or combination of vehicles is transporting livestock, or 7% if the vehicle or combination of vehicles is transporting livestock:

- may be required to be adjusted or reduced to conform to the size and weight limitations before the vehicle or combination of vehicles is moved from the point of weighing; or
- may be issued a permit as authorized by 61-10-141.
- An operator of a vehicle or combination of vehicles subject to the provisions of 61-10-107(4) may move over a highway, except any highway that

History: En. Sec. 152, Ch. 263, L. 1955; R.C.M. 1947, 32-21-155; amd. Sec. 1, Ch. 503, 1985.

Cross-References

Motor carriers safety — enforcement by tation personnel, Title 61, ch. 12, part 2.
Highway Patrol, 44-1-1005.

61-9-502. Semiannual inspection of school buses. (1) The department shall perform the semiannual inspection of school buses, one of which shall be at least 30 days prior to the beginning of the school term, and reinspect buses, if necessary, before the beginning of the school term.

(2) The department's inspection shall determine if the school buses meet minimum standards for school buses as adopted by the board of public education.

History: En. Sec. 32-21-155.1 by Sec. 2, Ch. 179, L. 1989; amd. Sec. 1, Ch. 141, L. 1973; M. 1947, 32-21-155.1; amd. Sec. 1, Ch. 503, L. 1985.

Cross-References

School bus requirements, 20-10-102.
"School bus" defined, 61-1-116.

61-9-503. Owners and drivers to comply with inspection laws. (1) A person driving a vehicle may refuse to submit the vehicle to an inspection test when required to do so by the department or an authorized officer or employee of the department.

(2) Every owner or driver, upon receiving a notice as provided in 61-9-501, shall comply therewith and shall within 5 days have the deficiencies corrected or forward notification of the correction to the department. In lieu of compliance with this subsection, the vehicle may not be operated, except as provided in subsection (3).

(3) No person may operate any vehicle after receiving a notice with reference thereto as above provided except as may be necessary to return the vehicle to the residence or place of business of the owner or driver, if within a distance of 20 miles, or to a garage until the vehicle and its equipment have been placed in proper repair and adjustment and otherwise made to conform with the requirements of this chapter.

History: En. Sec. 153, Ch. 263, L. 1955; R.C.M. 1947, 32-21-156; amd. Sec. 73, Ch. 421, 1989; amd. Sec. 1, Ch. 503, L. 1985.

References

Motor carriers safety — enforcement by tation personnel, Title 61, ch. 12, part 2.
Highway Patrol, 44-1-1005.

61-9-504. Rules. The department is hereby empowered to make additional rules governing the use of safety equipment on motor vehicles, vehicles, a combination of vehicles, that is, trailer hitches, safety chains, mounts, fenders, and other similar equipment as it shall deem advisable for the protection of the public.

History: En. Sec. 119, Ch. 263, L. 1955; amd. Sec. 1, Ch. 233, L. 1959; amd. Sec. 1, Ch. 1974; R.C.M. 1947, 32-21-122(part); amd. Sec. 1, Ch. 503, L. 1985.

References

Adoption and publication of rules, Title 2, part 3.

61-505 through 61-9-510 reserved.

61-9-511. Violation of chapter — penalty. (1) It is a misdemeanor for any person to violate any of the provisions of this chapter unless the violation is declared to be a felony.

(2) A person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction be punished by a fine of not less than \$10 or more than \$100. For a second conviction within 1 year, the person shall be punished by a fine of not less than \$25 or more than \$200. Upon a third or subsequent conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$50 or more than \$300.

(3) On failure of payment of fines, the offender in cases of misdemeanor shall be imprisoned in the county jail in the county in which the offense has been committed. The imprisonment shall be computed upon the basis of \$25 of the fine for each day's incarceration.

(4) Upon conviction, the court costs or any part of the court costs may be assessed against the defendant in the discretion of the court.

History: En. Sec. 154, Ch. 263, L. 1955; R.C.M. 1947, 32-21-157; amd. Sec. 3, Ch. 40, L. 1991; amd. Sec. 2, Ch. 109, L. 1991.

Cross-References

County jails, Title 7, ch. 32, part 22.
Allowable court costs, Title 23, ch. 10, part 1.
Classification of offenses, 45-1-201.
"Felony" defined, 45-2-101.
"Misdemeanor" defined, 45-2-101.

61-9-512. Violation of rules — penalty. (1) Any violation of any rules adopted by the department is a misdemeanor.

(2) A person convicted of a violation of any standard adopted pursuant to 44-1-1005 shall be fined not less than \$25 or more than \$500 for the first offense and not less than \$25 or more than \$1,000 for each subsequent offense.

(3) The penalties provided in subsection (2) apply to any motor carrier that is a corporation subject to the standards adopted pursuant to 44-1-1005. The penalties may be imposed against:

- (a) a director or officer of the corporation;
- (b) any receiver, trustee, lessee, agent, or person acting for or employed by the corporation; or
- (c) any broker of property or officer, agent, or employee thereof.

History: En. Sec. 119, Ch. 263, L. 1955; amd. Sec. 1, Ch. 233, L. 1959; amd. Sec. 1, Ch. 182, L. 1974; R.C.M. 1947, 32-21-122(part); amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 386, L. 1987; amd. Sec. 71, Ch. 83, L. 1989.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.
Classification of offenses, 45-1-201.
"Misdemeanor" defined, 45-2-101.
Misdemeanor — no penalty specified, 46-1S-212.

61-9-513. Violation of general lighting requirement and slow-moving vehicle provisions — penalty. Any person violating the provisions of 61-9-216 or 61-9-415 shall be subject to penalty as provided in 61-9-511.

History: En. Sec. 127, Ch. 263, L. 1955; amd. Sec. 1, Ch. 247, L. 1969; R.C.M. 1947, 32-21-130(d).

Cross-References

Classification of offenses, 45-1-201.
"Misdemeanor" defined, 45-2-101.
Minimum speed regulations, 61-8-311.

61-10-233. Excess weight — penalties. (1) The operator is subject to the penalties stated in 61-10-232 whenever the gross loaded weight of any trucks, truck tractor, trailer, or semitrailer operated upon any highway in this state exceeds the gross vehicle weight shown on:

(a) the owner's certificate of registration and payment receipt issued under 61-3-322; or

(b) the gross vehicle weight receipt issued under 61-10-227.

(2) In addition, the operator shall immediately pay to the nearest county treasurer or to the department the difference between the fee already paid and that applicable to the gross weight of his vehicle before unloading the excess, provided that it does not exceed the legal axle weight.

History: En. Sec. 6-217, Ch. 197, L. 1965; amd. Sec. 1, Ch. 37, L. 1971; amd. Sec. 120, Ch. 316, L. 1974; R.C.M. 1947, 32-3317; amd. Sec. 90, Ch. 421, L. 1979; amd. Sec. 37, Ch. 614, L. 1981.

Cross-References

Duties of County Treasurer, 7-6-2111.

"Axle" defined, 61-1-128.

"Truck" defined, 61-1-107.

"Truck tractor" defined, 61-1-108.

"Trailer" defined, 61-1-111.

61-10-234 through 61-10-240 reserved.

61-10-241. Terminated. Section 39(5), Ch. 15, Sp. L. July 1992.

History: En. Sec. 34, Ch. 15, Sp. L. July 1992.

Parts 3 through 10 reserved

Part 11

Multistate Highway Transportation Agreement

Part Cross-References

Interstate cooperative agreements for collection of taxes and fees, 60-2-311.

61-10-1101. Multistate Highway Transportation Agreement — enactment and text. The Multistate Highway Transportation Agreement is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

MULTISTATE HIGHWAY TRANSPORTATION AGREEMENT

Pursuant to and in conformity with the laws of their respective jurisdictions, the participating jurisdictions, acting by and through their officials lawfully authorized to execute this agreement, do mutually agree as follows:

Article I. Findings and Purposes

Section 1. Findings. The participating jurisdictions find that:

- the expanding regional economy depends on expanding transportation capacity;
- highway transportation is the major mode for movement of people and goods in the western states;
- uniform application in the West of more adequate vehicle size and weight standards will result in a reduction of pollution congestion, fuel

consumption, and related transportation costs, which are necessary to permit increased productivity;

(d) a number of western states, already having adopted substantially the 1964 bureau of public roads recommended vehicle size and weight standards, still find current federal limits more restrictive;

(e) the 1974 revision of federal law (23 U.S.C. 127) did not contain any substantial improvements for vehicle size and weight standards in the western states and deprives states of interstate matching money if vehicle weights and widths are increased, even though the interstate system is nearly 92% complete; and

(f) the participating jurisdictions are most capable of developing vehicle size and weight standards most appropriate for the regional economy and transportation requirements, consistent with and in recognition of principles of highway safety.

Section 2. Purposes. The purposes of this agreement are to:

(a) adhere to the principle that each participating jurisdiction should have the freedom to develop vehicle size and weight standards that it determines to be most appropriate to its economy and highway system;

(b) establish a system authorizing the operation of vehicles traveling between two or more participating jurisdictions at more adequate size and weight standards;

(c) promote uniformity among participating jurisdictions in vehicle size and weight standards on the basis of the objectives set forth in this agreement;

(d) secure uniformity, insofar as possible, of administrative procedures in the enforcement of recommended vehicle size and weight standards;

(e) provide means for the encouragement and utilization of research that will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in section 1 of this article.

Article II. Definitions

Section 1. As used in this agreement:

(a) "designated representative" means a legislator or other person authorized to represent the jurisdiction;

(b) "jurisdiction" means a state of the United States or the District of Columbia;

(c) "vehicle" means any vehicle as defined by statute to be subject to size and weight standards that operates in two or more participating jurisdictions;

Article III. General Provisions

Section 1. Qualifications for membership. Participation in this agreement is open to jurisdictions that subscribe to the findings, purposes, and objectives of this agreement and will seek legislation necessary to accomplish these objectives.

Section 2. Cooperation. The participating jurisdictions, working through their designated representatives, shall cooperate and assist each other in achieving the desired goals of this agreement pursuant to appropriate statutory authority.

61-1-209. Crosswalk. "Crosswalk" means:
(1) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway;

(2) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing by lines or other markings on the surface.
History: En. Sec. 16, Ch. 263, L. 1955; R.C.M. 1947, 32-2116.

Cross-References
Pedestrian malls, Title 7, ch. 14, part 47.
School safety patrols, 20-1-408.

61-1-210. Through highway. "Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in chapter 8 of this title.

History: En. Sec. 14, Ch. 263, L. 1955; amd. Sec. 2, Ch. 247, L. 1959; R.C.M. 1947, 32-2114(f).

Cross-References
"Throughway" defined, 60-5-102.

61-1-211. Controlled-access highway. "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

History: En. Sec. 14, Ch. 263, L. 1955; amd. Sec. 2, Ch. 247, L. 1959; R.C.M. 1947, 32-2114(g).

Cross-References
"Controlled-access highway" defined, roadway, 61-8-332.
Restricted and controlled access, 61-8-331.

61-1-212. Intersection. (1) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines or if none then the lateral boundary lines of the roadways of two highways which join one another at or approximately at right angles or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(2) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

History: En. Sec. 15, Ch. 263, L. 1955; R.C.M. 1947, 32-2115.
Cross-References
Traffic regulation at intersections, 61-8-333, 61-8-339 through 61-8-341.
"Throughway intersection area" defined, 60-5-102.

61-1-301. Department. "Department" means the department of justice acting directly or through its duly authorized officers or agents.

History: En. Sec. 7, Ch. 267, L. 1947; amd. Sec. 1, Ch. 155, L. 1969; R.C.M. 1947, 31-123(b); amd. Sec. 1, Ch. 503, L. 1985.

Cross-References
Duties of Department of Justice — records, 61-3-101.

61-1-302. Chief. "Chief" means the chief of the Montana highway patrol.

History: En. Sec. 7, Ch. 267, L. 1947; amd. Sec. 1, Ch. 155, L. 1969; R.C.M. 1947, 31-123(a).

Cross-References
Highway Patrol Chief, Title 44, ch. 1, part 2.

61-1-303. Commission. "Commission" means the state highway commission.

History: En. Sec. 10, Ch. 263, L. 1955; R.C.M. 1947, 32-2110(c).
Cross-References
Highway Commission — membership and districts, 2-15-2502.

61-1-304. Police officer. "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

History: En. Sec. 12, Ch. 263, L. 1955; R.C.M. 1947, 32-2112(part).
Cross-References
Municipal police force, Title 7, ch. 32, part 41.

61-1-305. Highway patrol officer. "Highway patrol officer" means every state officer authorized to direct or regulate traffic or to make arrest for violations of traffic regulations.

History: En. Sec. 12, Ch. 263, L. 1955; R.C.M. 1947, 32-2112(part); amd. Sec. 14, Ch. 421, L. 1979; amd. Sec. 1, Ch. 217, L. 1989.

Cross-References
Highway Patrol, Title 44, ch. 1.

61-1-306. Local authorities. "Local authorities" means every county municipal, and other local board or body having authority to enact law relating to traffic under the constitution and laws of this state.

History: En. Sec. 13, Ch. 263, L. 1955; R.C.M. 1947, 32-2113.
Cross-References
Local government officers, Title 7, ch. 4.
General provisions related to county roads, Title 7, ch. 14, part 21.

61-1-307. Person. "Person" means an individual, corporation, partnership, association, firm, or other legal entity. "Person" as used in part 1, chapter 6, means every natural person, firm, partnership, association, or corporation.

History: Ap.p. Sec. 1, Ch. 381, L. 1977; Sec. 51-609, R.C.M. 1947; Ap.p. Sec. 1, Ch. 204, L. 1951; amd. Sec. 1, Ch. 30, L. 1967; Sec. 53-418, R.C.M. 1947; R.C.M. 1947, 51-609(4), 53-418(11); amd. Sec. 15, Ch. 421, L. 1979.

(2) and (3) and may expend, as a statutory appropriation under 17-7-502, the money received for those purposes.

(5) As used in this section, "department" means the department of transportation provided for in 2-15-2501.

History: En. Secs. 1, 2, Ch. 127, L. 1993.

60-2-221. Renumbered 60-2-241 by Code Commissioner, 1989.

60-2-222. *(Temporary)* Indian historical markers. Subject to the provisions of federal law, the department shall erect at specified locations on the primary and interstate highways in Montana up to 25 markers that are clearly visible to traffic and that identify sites of significant events in the history of the Indian people of Montana. *(Terminates July 1, 1997—sec. 6, Ch. 667, L. 1989.)*

History: En. Sec. 1, Ch. 667, L. 1989.

60-2-223. *(Temporary)* Marker location and design — consultation with tribes required. (1) The preservation review board established in 2-15-1512 shall consult with each of the seven tribal governments in Montana, the Little Shell band of Indians, and the coordinator of Indian affairs before designing the markers, writing the text, and designating the general locations for the markers. The department shall determine the exact location of each marker.

(2) A marker may not be erected if the tribal government and the review board do not agree on its design and text. *(Terminates July 1, 1997—sec. 6, Ch. 667, L. 1989.)*

History: En. Sec. 2, Ch. 667, L. 1989.

60-2-224. *(Temporary)* Historical society to pay cost of markers from allocation under lodging facility tax. The Montana historical society shall pay the cost of manufacture and erection of markers provided for in 60-2-222 from funds available to the society under 15-65-121(a) after June 30, 1991, and the society shall expend up to \$10,000 each fiscal year for the purposes of 60-2-222. *(Terminates July 1, 1997—sec. 6, Ch. 667, L. 1989.)*

History: En. Sec. 3, Ch. 667, L. 1989.

60-2-225 through 60-2-240 reserved.

60-2-241. Prohibited materials. Neither the department nor any agency of state or local government may use mineral slag in road sanding or snow removal within one-fourth mile of lakes and within 100 yards of streambeds.

History: En. Sec. 1, Ch. 541, L. 1987; Sec. 60-2-221, MCA 1987; redes. 60-2-241 by Code Commissioner, 1989.

Cross-References

Streambeds, Title 75, ch. 7, part 1.

Lakeshores, Title 75, ch. 7, part 2.

Part 3

Ports of Entry, Checking Stations, and Interstate Cooperation

Part Cross-References

Time for payment of size, weight, and load

for motor vehicles — distribution, 61-10-213.

Importation of salmonid fish and eggs,

87-3-221 through 87-3-224.

60-2-301. Ports of entry and checking stations authorized. To augment and help make more efficient and effective the enforcement of certain laws of the state, the department shall establish temporary or permanent ports of entry or checking stations upon highways in the state at places which the department considers necessary and advisable.

History: En. Sec. 1, Ch. 137, L. 1965; amd. Sec. 84, Ch. 316, L. 1974; R.C.M. 1947, 32-2419.

Cross-References

Size — weight — load, Title 61, ch. 10.

60-2-302. Repealed. Sec. 1, Ch. 104, L. 1983.

History: En. Sec. 2, Ch. 137, L. 1965; amd. Sec. 85, Ch. 316, L. 1974; R.C.M. 1947, 32-2420.

60-2-303. Cooperation in use of ports of entry and checking stations. The department shall cooperate with other agencies and political subdivisions of this state in the use of the ports of entry or checking stations so that maximum use can be made of the facilities in enforcement of the law of this state.

History: En. Sec. 3, Ch. 137, L. 1965; amd. Sec. 86, Ch. 316, L. 1974; R.C.M. 1947, 32-2421.

Cross-References

Multistate Highway Transportation

Agreement, Title 61, ch. 10, part 11.

60-2-304 through 60-2-310 reserved.

60-2-311. Interstate agreements for tax and fee collection and po operation. The department may negotiate and enter into a bilateral agreement with an official of an adjoining state or province to provide for the collection by either party state or province of highway user fees, registration fees, permit fees, fuel taxes, or any other fees and taxes that may be prescribed by law or rule. An agreement may further provide for the construction a joint operation of ports of entry along state borders.

History: En. Sec. 1, Ch. 474, L. 1983.

Cross-References

Multistate Tax Compact, Title 15, ch. 1,
part 6.

Gasoline and vehicle fuels taxes, Title 15,
ch. 70.

Certificates of ownership, registration,
and taxation of motor vehicles, Title 61, ch. 3.

Gross vehicle weight fees, 61-10-1
61-10-125; Title 61, ch. 10, part 2.

Multistate Highway Transportation
Agreement for size and weight standards,
61, ch. 10, part 11.

CHAPTER 3

DISTRIBUTION AND APPORTIONMENT OF HIGHWAY FUNDS

Part 1 — Federal-Aid Funds

60-3-101. Assent to federal law.

60-3-102 through 60-3-105. Repealed.

Part 2 — State Funds

60-3-201. Distribution and use of proceeds of gasoline dealers' license tax.

60-3-202 through 60-3-205. Repealed.

FAX # 1-900-225-1600

March 6, 1995

DELIVER TO OFFICE SYMBOL #3036

SENATE HIGHWAYS
EXHIBIT NO. 3ATTENTION: Harry Tveit, Chairman
Highways & Transportation CommitteeDATE 3/7/95BILL NO. HB 111

FURTHER OPPOSITION TO HB #111

SUBMITTED BY OPPONENT JOSEPH R. RENTMEISTER

Check to incorporate with SB #378 from Line 7 (11) Title 69,
chapter 12.

Chapter 1 and 11 also apply.

Check statement of facts that applied to HS #111 hearing dated
January 18, 1995 by Opponent to HB #11, Joseph R. Rentmeister.

This Opponent is unable to be at hearing Scheduled for 1:00 P.M.,
March 7, 1995. The Opponent is asking you to please check these
Federal Laws for compliance before any state law of such ILLEGAL law
is put in M.C.A. or transfer of any civil law to statutory law.
M.C.A. 44-1-1005 is administrative only as taken from federal law
as outlined in articles enclosed numbered 1 to 5.

PLEASE NOTE:

Line 17 of bill 46-7-101. This is the making of a Police State of
Peace Officer. Check M.C.A. 45 - DUTIES OF A PEACE OFFICER.Respectfully submitted this 6th day of March, 1995 by opponent
Joseph R. Rentmeister, P.O. Box 46, Black Eagle, MT 59414.

Enclosures - 8 pages

Pages FAXED to FAX # 1-900-225-1600 - 9 Pages including this statement.

Note:

3/7/95

9:15 a.m.

Only 8 pages were delivered
to Sen. Tveit's office, with
an attached note from the
information officer re: difficulty
in assembling, as material
arrived in three separate fax
sendings.

Carla Lusk
Secretary

54th Legislature

*Bill Passed House 25 Jan 1995
69-29*

LC0406.01

1

House BILL NO. III

2

INTRODUCED BY

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BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE ARREST AUTHORITY OF DEPARTMENT OF TRANSPORTATION MOTOR CARRIER SERVICES DIVISION EMPLOYEES WHO ARE APPOINTED AS PEACE OFFICERS; AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION TO APPOINT EMPLOYEES OF ANOTHER JURISDICTION TO ENFORCE MONTANA GROSS VEHICLE WEIGHT LAWS AT JOINT WEIGH STATIONS; AND AMENDING SECTIONS 61-12-201, 61-12-206, AND 61-12-208, MCA."

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

Section 1. Section 61-12-201, MCA, is amended to read:

"61-12-201. Appointment of employees and out-of-state personnel as peace officers. (1) The director of transportation may appoint employees of the department as peace officers to carry out this part. The employees appointed may include only those employees of the department who are employed in the administration of the motor carrier services functions of the department and employees of other jurisdictions. Out-of-state personnel may be appointed only for the purpose of enforcing gross vehicle weight laws at joint weigh station facilities. Each employee appointed must be issued a certificate of appointment and execute an oath of office, which must be entered into the records of the department.

(2) The department may not terminate existing motor carrier services officers because the state enters into joint weigh station agreements."

Section 2. Section 61-12-206, MCA, is amended to read:

"61-12-206. Offenses for which arrest authorized. (1) Employees appointed under 61-12-201 may make arrests for violations of the following statutory provisions only:

~~(a)~~ (1) part 1, chapter 10, of this title;

~~(b)~~ (2) part 3, chapter 4, of this title;

~~(c)~~ (3) sections 15-24-201 through 15-24-205;

~~(d)~~ (4) Title 15, chapter 70, parts 2 and 3;



EXHIBIT 3
DATE 8-7-95
HB III

1 ~~(e)~~ (5) sections 15-71-101 through 15-71-105;

2 ~~(6)~~ section 44-1-1005 and safety rules adopted under that section;

3 ~~(f)~~ (7) section 61-3-502(1);

4 ~~(g)~~ (8) sections 61-10-201, 61-10-203, 61-10-206, 61-10-209, and 61-10-211 through 61-10-215;

5 ~~(h)~~ (9) sections 61-10-222 through 61-10-224;

6 ~~(i)~~ (10) sections 61-10-231 through 61-10-233; and

7 (11) Title 69, chapter 12.

8 ~~(12) These employees may not arrest for violations other than specified in this section."~~

9
10 Section 3. Section 61-12-208, MCA, is amended to read:

11 "61-12-208. Duty upon making an arrest -- power to fix and accept bail. ~~Such employees~~

12 Employees appointed under 61-12-201, upon making an arrest, shall deliver to the offender a form of notice

13 to appear, describing the nature of the offense, with instructions on the notice for the offender to report

14 to the nearest justice of the peace. The employee may accept a deposit for appearance justifiable for the

15 offense charged. The person who is arrested may be detained for a reasonable time for the purpose of

16 issuing the notice or of awaiting the arrival of another peace officer who has been called to the scene, or

17 the person may be transported, as provided in 46-7-101. If the employee accepts bail, ~~he~~ the employee

18 shall give a signed receipt to the offender, setting forth the amount received. The employee shall then

19 deliver the bail money to the justice of the peace before whom the offender is to appear, and the justice

20 of the peace shall give a receipt to the employee for the amount of bail money delivered. After the filing

21 of the complaint and appearance of the defendant, the justice of the peace shall assume jurisdiction and

22 may set and accept further appearance bail bond."

23 -END-

The 5th sentence of 49:304(a)(4a) is omitted as unnecessary in view of subchapter II of chapter 5 of title 5.

In subsection (a), the words "as in fact", "by order", "character", "in good faith", "in the opinion", and "hereinbefore authorized" are omitted as surplus. The word "entirely" is substituted for "solely" for consistency and clarity. The words "in interstate or foreign commerce" are omitted as unnecessary because those words were defined terms in 49:303(a) (10) and (11) and those terms have been incorporated into section 10521 of the revised title stating the jurisdiction of the Interstate Commerce Commission under chapter 105.

In subsection (b), the words "designated in such certificate", "in writing", "verified", and "reasonably" are omitted as surplus. The words "State authority" are substituted for "State board" for consistency and as being more precise. The words "terms and" are omitted as unnecessary.

In subsection (c), the words "Where an application is made in good faith for the exemption of a motor carrier under this subparagraph" are omitted as unnecessary and in view of section 10321 of the revised title giving the Commission general authority to carry out the subtitle. The words "State authority" are substituted for "State board" for consistency and as being more precise.

In subsection (e), the words "interstate or foreign commerce" are retained because they are used in a constitutional sense in the subsection rather than in the sense of statutory definitions as in the case of subsection (a).

1980 Act

This amends section 10525(d) to correct a grammatical error.

AMENDMENTS

1982—Subsecs. (e), (f). Pub. L. 97-261 added subsec. (e) and redesignated former subsec. (e) as (f).

1980—Subsec. (d). Pub. L. 96-258 substituted "class of motor carriers affects or impairs, or is likely substantially" for "class of motor carriers is, or is likely substantially".

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-261 effective Sept. 20, 1982, see section 31(e) of Pub. L. 97-261, set out as a note under section 10101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 3(d) of Pub. L. 96-258 provided that: "The amendments made by section 1(4), (5)(A), (6), (7), (8), (9), (10), (13), (14), (15), and (16) of this Act [enacting section 11351 of this title and amending this section and sections 10526, 10544, 10706, 10784, 10923, 11101, 11707, 11909, 11912, and 11914 of this title] are effective October 17, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10322, 10341, 10749 of this title.

§ 10526. Miscellaneous motor carrier transportation exemptions

(a) The Interstate Commerce Commission does not have jurisdiction under this subchapter over—

(1) a motor vehicle transporting only school children and teachers to or from school;

(2) a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;

(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel pa-

trons between the hotel and the local station of a common carrier;

(4) a motor vehicle controlled and operated by a farmer and transporting—

(A) the farmer's agricultural or horticultural commodities and products; or

(B) supplies to the farm of the farmer;

(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance;

(ii) may not exceed in each fiscal year 25 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

(iii) shall be provided only after the cooperative association or federation notifies the Commission of its intent to provide the transportation; and

(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;

(6) transportation by motor vehicle of—

(A) ordinary livestock;

(B) agricultural or horticultural commodities (other than manufactured products thereof);

(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted);

(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or by-products thereof not intended for human consumption, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and

(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under

DATE 3-7-95

HB III

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 104 of this title.

SUBCHAPTER I—DUTIES AND POWERS

§ 501. Definitions and application

(a) In this chapter—
 (1) the definitions in section 10102 of this title apply;

(2) "migrant worker" has the same meaning given that term in section 3101 of this title;

(3) "motor carrier of migrant workers" means a motor carrier of migrant workers subject to the jurisdiction of the Secretary of Transportation under section 3102(c) of this title.

(b) This chapter only applies in carrying out—

(1) chapter 31 of this title; and

(2) other duties and powers transferred to the Secretary under section 6(c) of the Department of Transportation Act (49 App. U.S.C. 1655(e)) and vested in the Interstate Commerce Commission before October 1, 1966.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2431; Pub. L. 98-216, § 2(2), Feb. 14, 1984, 98 Stat. 5.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
501(a) (1)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (1)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (2)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (3)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (4)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (5)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (6)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (7)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (8)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (9)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (10)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (11)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (12)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
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501(b) (16)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (17)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
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501(b) (24)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (25)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (26)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (27)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (28)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (29)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (30)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (31)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
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501(b) (48)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (49)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (50)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (51)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
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501(b) (89)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (90)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
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501(b) (93)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
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501(b) (95)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (96)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (97)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (98)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (99)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269
501(b) (100)	49 Stat. 1655 (e)	Act. 11, 1940, ch. 100, § 16, 5a Stat. 269

In the chapter, the source provisions are those in effect on March 31, 1967, the day before the effective date of the Department of Transportation Act (Pub. L. 89-670, 80 Stat. 931), because 491655 (X2) gave the Secretary of Transportation the same powers enumerated in 491655 (X2) that the Interstate Commerce Commission had before certain duties and powers under 491655 (e) were transferred on April 1, 1967, from the Commission to the Secretary.

Subsection (a) is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the definitions are found in the revision notes for sections 3101, 3102(c), and 10102 of the revised title.

In subsection (b), the provisions of law to which the chapter applies are only certain laws listed in 491655 (e). Those laws include the source provisions reauthorized in chapter 31 of the revised title and 45.4, 5.6 in carrying out 45.4 and 5.11, 12, 13 (provision 13) less carrying out 45.11, 12, and 13 (provision 50), and 61-64b, and 49-26(a)-(f) words before the semicolon and (h). The administrative powers of the Secretary under the chapter are based on the administrative powers of 491655 (X2). That provision lists administrative powers the Commission had under the Interstate Commerce Act (ch. 104, 24 Stat. 379) to carry out the Act, and certain other laws authorized

therefore apply only to a law listed in 491655 (e) that was a part of the Interstate Commerce Act or to which the powers of the Commission under the Act were applied. The text of 4561-64b is included because section 4 of the Act of March 4, 1907 (ch. 2939, 34 Stat. 1417), stated, "It shall be the duty of the Interstate Commerce Commission to execute and enforce the provisions of this Act, and all powers granted to the Interstate Commerce Commission are hereby extended to it in the execution of this Act." The transfer to the Secretary was executed on March 31, 1967. The Act of March 4, 1907, was reauthorized by the Act of December 28, 1969 (Pub. L. 91-169, 83 Stat. 463; section 4 was not included in the reauthorization. However, repeal by implication is not in effect and the transfer was completed on March 31, 1967. Therefore, the text of 4561-64b is included within the scope of the chapter. The text of 491655 (X2) last sentence last 14th words and (3a) last sentence last 3th words is omitted as executed.

1988
 AMENDMENTS
 1984—Subsec. (b)(2), Pub. L. 98-216 substituted "49-1655 (e)" for "49-1655 (X2)".

§ 502. General authority

(a) The Secretary of Transportation shall carry out this chapter.

(b) The Secretary may—

(1) inquire into and report on the management of the business of rail carriers and motor carriers;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers to the extent that the business of the person is related to the management of the business of that carrier; and

(3) obtain from those carriers and persons information the Secretary determines to be necessary.

(c) In carrying out this chapter as it applies to motor carriers, motor carriers of migrant workers, and motor private carriers, the Secretary may—

(1) confer and hold joint hearings with State authorities;

(2) cooperate with and use the services, records, and facilities of State authorities; and

(3) make cooperative agreements with a State to enforce the safety laws and regulations of a State and the United States related to highway transportation.

(d) The Secretary may subpoena witnesses and records related to a proceeding or investigation under this chapter from a place in the United States to the designated place of the proceeding or investigation. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding or investigation before the Secretary, may petition the district court for the judicial district in which the proceeding or investigation is conducted to enforce the subpoena. The court may punish a refusal to obey an order of the court to comply with a subpoena as a contempt of court.

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(b) LIMITATION ON STATUTORY CONSTRUCTION.—This section shall not be construed as creating any obligation or responsibility for the person tendering the loaded container or trailer to the initial carrier to ensure that the initial carrier or any other carrier involved in any intermodal transportation will comply with any State statutes or regulations prescribing weight limitations for highway transportation, beyond the requirements set forth in this section. (Added Pub. L. 102-548, § 2(a), Oct. 28, 1992, 106 Stat. 3646.)

REFERENCES IN TEXT

The Perishable Agricultural Commodities Act, 1930, referred to in subtitle (B)(2)(A), is act June 10, 1930, ch. 406, § 1, 46 Stat. 551, as amended, which is classified generally to Chapter 20A, § 4399 et seq. of Title 7, Agricultural Code. For complete classification of this Act to the Code, see section 4997 of Title 7 and Tables.

REGULATIONS

Section 2(a) of Pub. L. 102-548 provided that: "The Secretary shall initiate a proceeding to issue regulations to enforce section 508 of title 49, United States Code, within 180 days after the date of the enactment of this Act [Oct. 28, 1992], and shall issue final regulations within 270 days after such date of enactment. The Secretary may establish, by regulation, exemptions to such regulations that are in the public interest and consistent with the purposes of this Act [enacting title, and enacting provisions set out as notes under this section and section 501 of this title]."

DATA COLLECTION NEEDS

Section 3 of Pub. L. 102-548 provided that: "(a) STUDY.—The Secretary of Transportation shall conduct a study for the purpose of—

- (1) assessing—
 - (A) existing data and data collection needs with respect to the movement in intermodal transportation of loaded containers and trailers (including containers and trailers containing perishable agricultural commodities) in violation of section 508 of title 49, United States Code, and State highway motor vehicle weight laws;
 - (B) the legal and practical impediments to the collection of such data; and
 - (C) how these intermodal movements compare with other overweight domestic highway freight movements; and
 - (2) providing legislative and other recommendations for improving the collection of such data.
- (b) CONSTRUCTION.—In carrying out the study under this section, the Secretary of Transportation shall consult with the States and shippers, carriers, port authorities, and other persons involved in the intermodal transportation of loaded containers and trailers.
- (c) REPORT.—Not later than 2 years after the date of the enactment of this Act [Oct. 28, 1992], the Secretary of Transportation shall transmit to the Committee on Public Works and Transportation, the Committee on Energy and Commerce, and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the results of the study conducted under this section, together with the recommendations referred to in subsection (a)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 521 of this title.

[See main edition for text of (a)]

(b)(1)(A) If the Secretary finds that a violation of section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986, or a violation of a regulation issued under such sections or Act, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, and specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 504 of title 5, following which, the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(B) The Secretary shall, not later than 60 days after the date of enactment of this subparagraph, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2)(A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall—

- (i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and
- (ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious.

(2) CIVIL PENALTY.—(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of a recordkeeping requirement issued by the Secretary pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984 or which is a violation of section 508 of this title shall be liable to the United States for a civil penalty not to exceed \$500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single violation shall not exceed \$2,500. If the Secretary determines that a serious pattern of safety violations, other than

except that this pattern of safety violations shall not exceed \$10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to or has resulted in serious personal injury or death, the Secretary may assess a civil penalty not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (other than subparagraph (B)), except for recordkeeping violations, no civil penalty shall be assessed under this section against an employee for a violation unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed \$1,000.

[See main edition for text of (D) and (E), (3) to (19)]

(AS AMENDED Pub. L. 101-500, § 15(c)(2), Nov. 3, 1990, 104 Stat. 1220; Pub. L. 102-548, § 2(b), Oct. 28, 1992, 106 Stat. 3648.)

REFERENCES IN TEXT

Sections 12002, 12003, 12004, 12005, 12008, and 12019 of the Commercial Motor Vehicle Safety Act of 1986, referred to in subtitle (b)(1)(A), (2)(B), (3), (5)(A), and (6)(B), are classified, respectively, to sections 2701, 2702, 2703, 2704, 2707, and 2716 of the Appendix to this title. The date of enactment of this subparagraph, referred to in subtitle (b)(1)(B), means the date of enactment of Pub. L. 101-500, which was approved Nov. 3, 1990.

AMENDMENTS

1992.—Subsec. (b)(2)(A). Pub. L. 102-548 inserted "or which is a violation of section 508 of this title" after "Act of 1984".

1990.—Subsec. (b)(1). Pub. L. 101-500 designated existing provisions as subparagraph (A) and added subparagraph (B).

SUBTITLE IV—INTERSTATE COMMERCE

SUBTITLE REFERRED TO IN OTHER SECTIONS

This subtitle is referred to in section 521 of this title, sections 1282, 1463, 1635 of Appendix to this title; title 7 section 325; title 11 sections 1166, 1169; title 15 sections 19, 21, 26, 44, 1681s, 1691c, 1692s; title 16 section 813; title 18 section 2341; title 23 sections 2321, 2323; title 29 section 1841; title 33 sections 1597, title 42 sections 4916, 4917, 7153; title 45 sections 65, 151, 157, 546s, 561, 567, 741, 754, 791, 793, 854, 884, 912, 1007, 1101, 1104, 1112; title 46 App. section 834; title 47 section 601; title 48 section 751.

CHAPTER 101—GENERAL PROVISIONS

§ 10101. Transportation policy

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 102-180, § 1, Dec. 3, 1993, 107 Stat. 2044, provided that: "This Act [enacting sections 10757 and 11712 of this title, 11901 and 11909 of title 49, and 1678s, 1101, 11706, 11901, and 11909 of this title, and enacting provisions set out as notes under section 10701 of this title] may be cited as the 'Negotiated Rates Act of 1993'."

1112b, title 18 section 921; title 29 section 186; title 39 section 5201; title 42 section 4917; title 45 sections 344, 546, 702, 741, 802, 1314

CHAPTER 102—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER II—ADMINISTRATIVE

§ 10221. Powers

CHANGE OF NAME

Hasen't Been Taken

Reference to United States magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

SUBCHAPTER III—JOINT BOARDS

§ 10311. Administration

1993

USE OF GOVERNMENT TRANSPORTATION RESOURCES BY MEMBERS OF JOINT BOARDS

Provisions authorizing joint board members to use government transportation requests when traveling in connection with their duties as such were contained in the following acts:

Oct. 27, 1939, Pub. L. 103-122, title II, 107 Stat. 1218, Oct. 6, 1962, Pub. L. 102-388, title II, 106 Stat. 1541, Oct. 28, 1991, Pub. L. 102-143, title II, 105 Stat. 938, Nov. 5, 1990, Pub. L. 101-516, title II, 104 Stat. 2177, Nov. 21, 1988, Pub. L. 101-164, title II, 103 Stat. 1090.

SUBCHAPTER IV—RAIL SERVICES

PLANNING OFFICE

§ 10362. Duties

[See main edition for text of (a)]

(b) The Rail Services Planning Office shall—

[See main edition for text of (1) to (4)]

(5) maintain regulations that contain—

[See main edition for text of (A)]

(B) standards for determining emergency commuter rail passenger transportation operating payments under section 17 of the Federal Transit Act (49 App. U.S.C. 1613);

[See main edition for text of (6) to (8); (c) and (d)]

(As amended Pub. L. 102-240, title III, § 3003(b), Dec. 18, 1991, 103 Stat. 2088.)

AMENDMENTS

1991.—Subsec. (b)(5)(B). Pub. L. 102-240 substituted "Federal Transit Act" for "Urban Mass Transportation Act of 1964".

§ 10363. Director

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization Act.

chapter 292, are effective on September 14, 1978."

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 42 section 9607.

**SUBTITLE I—DEPARTMENT OF
TRANSPORTATION**

Chap.		Sec.
1.	Organization.....	101
3.	General Duties and Powers.....	301
5.	Special Authority.....	501

SUBTITLE REFERRED TO IN OTHER SECTIONS

This subtitle is referred to in section 302 of this title.

CHAPTER 1—ORGANIZATION

Sec.	
101.	Purpose.
102.	Department of Transportation.
103.	Federal Railroad Administration.
104.	Federal Highway Administration.
105.	National Highway Traffic Safety Administration.
106.	Federal Aviation Administration.
107.	Urban Mass Transportation Administration.
108.	Coast Guard.
109.	Maritime Administration.
110.	St. Lawrence Seaway Development Corporation.

§ 101. Purpose

(a) The national objectives of general welfare, economic growth and stability, and security of the United States require the development of transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation at the lowest cost consistent with those and other national objectives, including the efficient use and conservation of the resources of the United States.

(b) A Department of Transportation is necessary in the public interest and to—

(1) ensure the coordinated and effective administration of the transportation programs of the United States Government;

(2) make easier the development and improvement of coordinated transportation service to be provided by private enterprise to the greatest extent feasible;

(3) encourage cooperation of Federal, State, and local governments, carriers, labor, and other interested persons to achieve transportation objectives;

(4) stimulate technological advances in transportation;

(5) provide general leadership in identifying and solving transportation problems; and

(6) develop and recommend to the President and Congress transportation policies and programs to achieve transportation objectives considering the needs of the public, users, carriers, industry, labor, and national defense.

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
101(a).....	49:1651(a).	Oct. 15, 1968, Pub. L. 90-476, § 2(a), (b)(1); 86 Stat. 921
101(b).....	49:1651(b)(1).	

In subsections (a) and (b), the introductory declaratory words are omitted as surplus.

In subsection (a), the words "national objectives of" are inserted for clarity. The words "United States" are substituted for "Nation" and "Nation's", respectively for consistency. The word "contribute" is substituted for "conducive" because the substituted word is more commonly used. The word "those" is substituted for "utilization".

In subsection (b)(2), the word "greatest" is substituted for "maximum" for consistency.

In subsection (b)(3) and (6), the word "national" is omitted before "transportation" as unnecessary and for consistency.

In subsection (b)(3), the word "persons" is substituted for "parties" as being more precise.

In subsection (b)(6), the words "transportation objectives" are substituted for "these objectives" for clarity and consistency. The words "and appropriate" and "for approval" are omitted as surplus.

§ 102. Department of Transportation

(a) The Department of Transportation is an executive department of the United States Government at the seat of Government.

(b) The head of the Department is the Secretary of Transportation. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of Transportation appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) acts for the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has an Associate Deputy Secretary appointed by the President, by and with the advice and consent of the Senate. The Associate Deputy Secretary shall carry out powers and duties prescribed by the Secretary.

(e) The Department has 4 Assistant Secretaries and a General Counsel appointed by the President, by and with the advice and consent of the Senate. The Department also has an Assistant Secretary of Transportation for Administration appointed in the competitive service by the Secretary, with the approval of the President. They shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary or the General Counsel, in the order prescribed by the Secretary, acts for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of the Secretary and Deputy Secretary are vacant.

(e) The Department shall have a seal that shall be judicially recognized.

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EXHIBIT

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DATE 3-7-95

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an effective use of trained and qualified officers and employees of political subdivisions and local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor ve-

such uniform reporting requirements as such uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secretary; requires registrants of commercial vehicles to make a declaration of

Subsec. (d), Pub. L. 101-508, § 9114(2), substituted "January 31, 1992" for "90 days before its scheduled termination".

REFERENCES IN TEXT

DATE

3/7/95

SENATE COMMITTEE ON

Highways

BILLS BEING HEARD TODAY:

HB 86 HB 111HB 248HB 318

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
W James Kembel	City of Billings	HB 248	✓	
DAVE GALT	MDT	HB 111	✓	HB 86 X
Tom Schneider	MPEA	HB 111	amend ✓	
Jennifer Hill	MSGA	HB 86	✓	
Dan Purcell	Montana Traffic Ed	248	✓	
GEORGE BONINI	Montana Traffic Ed	248	✓	
Mike Barrett	VARIOUS CITIZENS, SLOW DOWN PROJECT	50 mph limit + nights 55 BRIGHT SON; 45 CURVES DAYS		
Mike Bullock	Traffic Ed Supr. Helena Public School	248	✓	
Gail Gray	OPI	248	✓	
Brenda Norrell	Dept of Justice	248	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY