

HOUSE BILL NO. 73
INTRODUCED BY SCHULTZ

IN THE HOUSE

January 4, 1983	Introduced and referred to Committee on Business and Industry.
February 2, 1983	Committee recommend bill do pass as amended. Report adopted.
February 3, 1983	Bill printed and placed on members' desks.
February 4, 1983	Second reading, do pass.
February 5, 1983	Considered correctly engrossed.
February 7, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 8, 1983	Introduced and referred to Committee on Highways and Transportation.
February 10, 1983	Rereferred to Committee on State Administration.
February 15, 1983	Committee recommend bill be concurred in. Report adopted.
March 3, 1983	Second reading, concurred in.
March 5, 1983	Third reading, concurred in. Ayes, 49; Noes, 0.

IN THE HOUSE

March 5, 1983

Returned to House.

March 7, 1983

Sent to enrolling.

**Reported correctly
enrolled.**

1 HOUSE BILL NO. 73
2 INTRODUCED BY SCHULTZ
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT IN
5 MAKING A DECISION ON AN APPLICATION FOR A CLASS D MOTOR
6 CARRIER'S CERTIFICATE, THE PUBLIC SERVICE COMMISSION MUST
7 CONSIDER THE FURTHERANCE OF PUBLIC CONVENIENCE AND NECESSITY
8 AND THE PROMOTION OF COMPETITION; AMENDING SECTION
9 69-12-323, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Section 69-12-323, MCA, is amended to read:
13 "69-12-323. Decision on application. (1) The
14 commission must issue, within 180 days from and after the
15 date of the completed filing of said application, its
16 finding, order, or decision on said application and the
17 evidence presented in support thereof at the time of said
18 hearing. The commission may extend the foregoing time for
19 decision to a date requested by the applicant.
20 (2) (a) If after hearing upon application for a Class
21 A, B, or C certificate, the commission finds from the
22 evidence that public convenience and necessity require the
23 authorization of the service proposed or any part thereof,
24 as the commission shall determine, a certificate therefor
25 shall be issued. In determining whether a certificate should

1 be issued, the commission shall give reasonable
2 consideration to the transportation service being furnished
3 or that will be furnished by any railroad or other existing
4 transportation agency and shall give due consideration to
5 the likelihood of the proposed service being permanent and
6 continuous throughout 12 months of the year and the effect
7 which the proposed transportation service may have upon
8 other forms of transportation service which are essential
9 and indispensable to the communities to be affected by such
10 proposed transportation service or that might be affected
11 thereby.

12 ~~(b) If after hearing upon application for a Class D~~
13 ~~certificate, the commission finds from the evidence that~~
14 ~~public convenience and necessity would be furthered and a~~
15 ~~healthy level of competition would be promoted by the~~
16 ~~authorization of the service proposed or any part thereof,~~
17 ~~as the commission shall determine, a certificate therefor~~
18 ~~shall be issued.~~

19 (3) The commission may issue the certificate as prayed
20 for or issue it for the partial exercise only of the
21 privilege sought and may attach to the exercise of the
22 rights granted by such certificate such terms and conditions
23 as in its judgment the public convenience and necessity may
24 require. When a certificate has once been issued to a motor
25 carrier as provided in this part, such certificate shall

INTRODUCED BILL

1 continue in force until terminated by the commission for
2 cause as herein provided or until terminated by the owner's
3 failure to comply with 69-12-402."

4 NEW SECTION. Section 2. Effective date. This act is
5 effective on passage and approval.

-End-

Approved by Committee
on Business and Industry

HOUSE BILL NO. 73

INTRODUCED BY SCHULTZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT IN MAKING A DECISION ON AN APPLICATION FOR A CLASS D MOTOR CARRIER'S CERTIFICATE, THE PUBLIC SERVICE COMMISSION MUST MAY CONSIDER THE--FURTHERANCE--OF--PUBLIC--CONVENIENCE--AND NECESSITY--AND THE PROMOTION OF COMPETITION; AMENDING SECTION 69-12-323, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 69-12-323, MCA, is amended to read:

"69-12-323. Decision on application. (1) The commission must issue, within 180 days from and after the date of the completed filing of said application, its finding, order, or decision on said application and the evidence presented in support thereof at the time of said hearing. The commission may extend the foregoing time for decision to a date requested by the applicant.

(2) (a) If after hearing upon application for a ~~Class~~ ~~As-By-Order~~ certificate, the commission finds from the evidence that public convenience and necessity require the authorization of the service proposed or any part thereof, as the commission shall determine, a certificate therefor shall be issued. In determining whether a certificate should

be issued, the commission shall give reasonable consideration to the transportation service being furnished or that will be furnished by any railroad or other existing transportation agency and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout 12 months of the year and the effect which the proposed transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby.

~~(b) If after hearing upon application for a Class D certificate, the commission finds from the evidence that public convenience and necessity would be furthered and a healthy level of competition would be promoted by the authorization of the service proposed or any part thereof, as the commission shall determine, a certificate therefor shall be issued.~~ FOR PURPOSES OF CLASS D CERTIFICATES, A DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY MAY INCLUDE A CONSIDERATION OF COMPETITION.

(3) The commission may issue the certificate as prayed for or issue it for the partial exercise only of the privilege sought and may attach to the exercise of the rights granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may

1 require. When a certificate has once been issued to a motor
2 carrier as provided in this part, such certificate shall
3 continue in force until terminated by the commission for
4 cause as herein provided or until terminated by the owner's
5 failure to comply with 69-12-402."

6 ~~NEW SECTION.~~ Section 2. Effective date. This act is
7 effective on passage and approval.

-End-

HOUSE BILL NO. 73
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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT IN MAKING A DECISION ON AN APPLICATION FOR A CLASS D MOTOR CARRIER'S CERTIFICATE, THE PUBLIC SERVICE COMMISSION MUST MAY CONSIDER THE--FURTHERANCE--OF--PUBLIC--CONVENIENCE--AND NECESSITY--AND THE PROMOTION OF COMPETITION; AMENDING SECTION 69-12-323, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 69-12-323, MCA, is amended to read:

"69-12-323. Decision on application. (1) The commission must issue, within 180 days from and after the date of the completed filing of said application, its finding, order, or decision on said application and the evidence presented in support thereof at the time of said hearing. The commission may extend the foregoing time for decision to a date requested by the applicant.

(2) (a) If after hearing upon application for a ~~Class~~ ~~as-excepted~~ certificate, the commission finds from the evidence that public convenience and necessity require the authorization of the service proposed or any part thereof, as the commission shall determine, a certificate therefor shall be issued. In determining whether a certificate should

be issued, the commission shall give reasonable consideration to the transportation service being furnished or that will be furnished by any railroad or other existing transportation agency and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout 12 months of the year and the effect which the proposed transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby.

~~(b) If after hearing upon application for a Class D certificate, the commission finds from the evidence that public convenience and necessity would be furthered and a healthy level of competition would be promoted by the authorization of the service proposed or any part thereof, as the commission shall determine, a certificate therefor shall be issued.~~ FOR PURPOSES OF CLASS D CERTIFICATES, A DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY MAY INCLUDE A CONSIDERATION OF COMPETITION.

(3) The commission may issue the certificate as prayed for or issue it for the partial exercise only of the privilege sought and may attach to the exercise of the rights granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may

1 require. When a certificate has once been issued to a motor
2 carrier as provided in this part, such certificate shall
3 continue in force until terminated by the commission for
4 cause as herein provided or until terminated by the owner's
5 failure to comply with 59-12-402."

6 NEW SECTION. Section 2. Effective date. This act is
7 effective on passage and approval.

-End-

HOUSE BILL NO. 73

INTRODUCED BY SCHULTZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT IN MAKING A DECISION ON AN APPLICATION FOR A CLASS D MOTOR CARRIER'S CERTIFICATE, THE PUBLIC SERVICE COMMISSION MUST MAY CONSIDER THE--FURTHERANCE--OF--PUBLIC--CONVENIENCE--AND NECESSITY--AND THE PROMOTION OF COMPETITION; AMENDING SECTION 69-12-323, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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Section 1. Section 69-12-323, MCA, is amended to read:

"69-12-323. Decision on application. (1) The commission must issue, within 180 days from and after the date of the completed filing of said application, its finding, order, or decision on said application and the evidence presented in support thereof at the time of said hearing. The commission may extend the foregoing time for decision to a date requested by the applicant.

(2) ~~(a)~~ If after hearing upon application for a ~~Class D~~ certificate, the commission finds from the evidence that public convenience and necessity require the authorization of the service proposed or any part thereof, as the commission shall determine, a certificate therefor shall be issued. In determining whether a certificate should

be issued, the commission shall give reasonable consideration to the transportation service being furnished or that will be furnished by any railroad or other existing transportation agency and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout 12 months of the year and the effect which the proposed transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby.

~~(b) If after hearing upon application for a Class D certificate the commission finds from the evidence that public convenience and necessity would be furthered and a healthy level of competition would be promoted by the authorization of the service proposed or any part thereof, the commission shall determine a certificate therefor shall be issued FOR PURPOSES OF CLASS D CERTIFICATES. A DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY MAY INCLUDE A CONSIDERATION OF COMPETITION.~~

(3) The commission may issue the certificate as prayed for or issue it for the partial exercise only of the privilege sought and may attach to the exercise of the rights granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may

1 require. When a certificate has once been issued to a motor
2 carrier as provided in this part, such certificate shall
3 continue in force until terminated by the commission for
4 cause as herein provided or until terminated by the owner's
5 failure to comply with 69-12-402."

6 NEW SECTION. Section 2. Effective date. This act is
7 effective on passage and approval.

-End-