

SENATE BILL NO. 29

Introduced: 1/3/83

Referred to Committee on State Administration: 1/3/83

Hearing: 1/25/83

Died in Committee.

SENATE BILL NO. 29INTRODUCED BY DOVER

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE TRANSPORTATION OF GARBAGE FROM THE REGULATORY AUTHORITY OF THE PUBLIC SERVICE COMMISSION; ABOLISHING THE CLASS D MOTOR CARRIER CLASSIFICATION; AMENDING SECTIONS 69-12-101, 69-12-102, 69-12-205, 69-12-301, 69-12-321, 69-12-407, AND 69-12-611, MCA; AND REPEALING SECTION 69-12-314, MCA."

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

Section 1. Section 69-12-101, MCA, is amended to read:

"69-12-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Between fixed termini" or "over a regular route" means the termini or route between or over which a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular departures from the termini or route.

(2) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

(3) "Compensation" means the charge imposed on motor carriers for the use of the highways in this state by motor carriers under 69-12-421.

(4) "Corporation" means a corporation, company,

association, or joint-stock association.

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

(6) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by any court, operating motor vehicles upon any public highway in this state for the transportation of persons or property for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. ~~The term includes any motor carrier serving the public in the business of transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matters.~~

(7) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state.

(8) "Person" means an individual, firm, or partnership.

(9) "Public highway" means a public street, road, highway, or way in this state.

(10) "Railroad" means the movement of cars on rails, regardless of the motive power used."

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Section 2. Section 69-12-102, MCA, is amended to read:

"69-12-102. Scope of chapter -- exemptions. (1) Except as provided in 69-12-201(1)(f), this chapter does not affect:

(a) motor vehicles used in carrying property consisting of agricultural commodities (not including manufactured products thereof) if the motor vehicles are not used in carrying other property or passengers for compensation;

(b) the operation of school buses which are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities which are sponsored or supervised by school authorities;

(c) the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees, supplies, and materials in construction and production is concerned;

(d) the transportation of property by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas thereof, as determined by the

commission;

(e) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked, or disabled vehicles;

(g) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

(h) ambulances; or

(i) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely for the purpose of excavation or fill; or

~~(j) the transportation of ashes, trash, waste, refuse, rubbish, or garbage.~~

(2) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 3. Section 69-12-205, MCA, is amended to read:

"69-12-205. Rules to reflect differences between carrier classes. All rules in relation to schedules,

1 service, tariffs, rates, facilities, accounts, and reports
 2 shall have due regard for the differences existing between
 3 Class A, Class B, ~~and Class C, and Class D~~ motor carriers,
 4 as herein defined, and shall be just, fair, and reasonable
 5 to the said classes of motor carriers in their relations to
 6 each other and to the public. In fixing the tariff or rates
 7 to be charged by Class A and Class B motor carriers for the
 8 carrying of persons and/or property, the commission shall
 9 take into consideration the kind and character of service to
 10 be performed, the public necessity therefor, and the effect
 11 of such tariff and rates upon other transportation agencies,
 12 if any, and shall, as far as possible, avoid detrimental or
 13 unreasonable competition with existing railroad service or
 14 service furnished by a motor carrier."

15 Section 4. Section 69-12-301, MCA, is amended to read:

16 "69-12-301. Classification of motor carriers. (1)
 17 Motor carriers are hereby divided into four ~~three~~ classes to
 18 be known as:

- 19 (a) Class A motor carriers;
- 20 (b) Class B motor carriers;
- 21 (c) Class C motor carriers;
- 22 ~~(d) Class D motor carriers.~~

23 (2) Class A motor carriers shall embrace all motor
 24 carriers operating between fixed termini or over a regular
 25 route and under regular rates or charges, based upon either

1 station-to-station rates or upon a mileage rate or scale.

2 (3) Class B motor carriers shall embrace all motor
 3 carriers operating under regular rates or charges based upon
 4 either station-to-station rates or upon a mileage rate or
 5 scale and not between fixed termini or over a regular route.

6 (4) Class C motor carriers shall embrace all motor
 7 carriers operating motor vehicles for distributing,
 8 delivering, or collecting wares, merchandise, or commodities
 9 or transporting persons, where the remuneration is fixed in
 10 and the transportation service furnished under a contract,
 11 charter, agreement, or undertaking.

12 ~~(5) Class D motor carriers embraces all motor carriers~~
 13 ~~operating motor vehicles transporting (including pickup and~~
 14 ~~disposal) ashes, trash, waste, refuse, rubbish, garbage, and~~
 15 ~~organic and inorganic matters."~~

16 Section 5. Section 69-12-321, MCA, is amended to read:

17 "69-12-321. Hearing on application for motor carrier
 18 certificate. (1) Upon the filing of such application by a
 19 Class A, Class B, ~~or~~ Class C ~~or Class D~~ motor carrier,
 20 except a Class C motor carrier authorized to operate under
 21 the terms of a contract with the United States government
 22 (or an agency or department thereof), or upon the filing of
 23 a request for a transfer of authority, the commission shall
 24 give notice thereof to any interested party. The commission
 25 shall fix a time and place for hearing thereon whenever a

1 protest or a request for a hearing is received. The hearing
2 is to be set for a date not later than 60 days after receipt
3 of a protest or a hearing request by the commission.
4 Whenever no protests or hearing requests are received, the
5 commission may act on the application without a hearing as
6 prescribed by commission rules.

7 (2) Any motor carrier referred to in 69-12-322, the
8 department of highways, the governing board or boards of any
9 such county, town, or city into or through which the route
10 or service as proposed may extend, and any person or
11 corporation concerned are hereby declared to be interested
12 parties to the proceedings and may offer testimony for or
13 against the granting of the certificate.

14 (3) The contracting parties referred to in
15 69-12-313(4) must appear and offer testimony in support of
16 the applicant.

17 (4) However, an application by a Class A, Class B, or
18 Class C ~~or Class D~~ motor carrier for a certificate may be
19 disallowed without a public hearing thereon when it appears
20 from the records of the commission that the route or
21 territory sought to be served by the applicant has
22 previously been made the basis of a public investigation and
23 finding by the commission that public convenience and
24 necessity do not require the proposed motor carrier service
25 unless it is made to affirmatively appear in the application

1 by a recital of the facts that conditions obtaining over the
2 route or in the territory and affecting transportation
3 facilities therein have materially changed since said public
4 investigation and finding and that public convenience and
5 necessity do now require the motor carrier operation."

6 Section 6. Section 69-12-407, MCA, is amended to read:

7 "69-12-407. Records and reports. (1) All records,
8 books, accounts, and files of every Class A, Class B, and
9 Class C ~~and Class D~~ motor carrier in this state, so far as
10 the same shall relate to the business of transportation
11 conducted by such motor carrier, shall at all times be
12 subject to examination by the commission or by any
13 authorized agent or employee of the commission. The
14 commission shall prescribe a uniform system of accounts and
15 uniform reports covering the operations of such Class A,
16 Class B, and Class C ~~and Class D~~ motor carriers, and every
17 motor carrier authorized to operate as such in accordance
18 with the provisions of this chapter shall keep its records,
19 books, and accounts according to such uniform system,
20 insofar as possible.

21 (2) Before April 1 of each year, unless this deadline
22 has been extended for good cause by the commission, every
23 motor carrier authorized to engage in such business shall
24 file with the commission a report, under oath, on a form
25 prescribed and furnished by the commission. Those carriers

filing an annual report with the interstate commerce commission shall, in addition to filing the report prescribed by the public service commission, submit to the public service commission a copy of the annual report filed with the interstate commerce commission. In addition to such annual reports every motor carrier shall prepare and file with the commission, at the time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements giving to the commission such information as it shall require in order to perform its duties under this chapter.

~~{3}--In addition to other reporting requirements, the commission shall require the holder of a Class-B motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class-B motor carrier certificate under the requirements of 69-12-314.~~

Section 7. Section 69-12-611, MCA, is amended to read:

"69-12-611. Leasing of power equipment. (1) All Class A, B, and C, and D carriers subject to the jurisdiction of the commission may lease power equipment for the purpose of performing transportation movements within the state. The leasing of such power units must be in writing and effective only upon specific approval of the commission. Movement of such leased units without prior approval of the commission

is prohibited.

(2) All leases must contain:

(a) the full names and addresses of negotiating parties;

(b) a complete description of each vehicle involved;

(c) provision that the sole possession, responsibility, control, and direction of each vehicle and its driver resides with the lessee for the entire term of the lease;

(d) provision that the lessee assumes full responsibility for all regulatory fees;

(e) amount of compensation to be paid for use of the vehicle while under the lease and the method by which such compensation is determined;

(f) the renewal conditions of the lease, if any; and

(g) the term length of the lease.

(3) A copy of the lease, certified by the commission, must be maintained in each leased vehicle at all times. Each power unit so leased must display in a conspicuous place on both sides of such vehicle the identity and address of the lessor and lessee and the certificate number under which the power unit is operating.

(4) The leasing of power units by an authorized carrier to a noncertificated carrier is prohibited."

NEW SECTION. Section 8. Repealer. Section 69-12-314,

1 MCA, is repealed.

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