

HOUSE BILL NO. 887

2/19 Introduced
2/19 Referred to Highways & Transportation
2/20 Fiscal Note Requested
2/21 Hearing
3/06 Fiscal Note Received
Died in Committee

1 HOUSE BILL NO. 887
2 INTRODUCED BY Sands

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOCATING TO THE
5 HIGHWAY PATROL RESPONSIBILITY FOR ENFORCEMENT OF MOTOR
6 CARRIER LAWS AND GROSS VEHICLE WEIGHT LAWS; AMENDING
7 SECTIONS 44-1-1001, 44-1-1005, 61-10-141 THROUGH 61-10-143,
8 61-10-231, AND 69-12-203, MCA."
9

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

11 Section 1. Section 44-1-1005, MCA, is amended to read:
12 "44-1-1005. Enforcement of motor carriers law. A
13 highway patrolman has the same authority to enforce
14 provisions of the motor carriers law as that granted the
15 public service commission under 69-12-203, except that and
16 the highway patrol has primary responsibility for
17 enforcement of standards adopted pursuant to 69-12-201(1)(f)
18 with regard to vehicles based in Montana and for making
19 inspections thereof at the request of the carrier.
20 Inspection of a vehicle based in Montana may be made at the
21 place of business or domicile of the vehicle owner or, if
22 that is not a practicable inspection site, at a designated
23 location and at a mutually agreeable time. After
24 inspection, a vehicle found to conform to the standards
25 adopted pursuant to 69-12-201(1)(f) is entitled to

1 certification and identification to exempt it from further
2 safety inspection until the next required periodic
3 inspection or until a nonconformity with standards is
4 apparent. Nothing in this section shall prohibit the
5 inspection of a motor vehicle as defined by 69-12-201(1)(f)
6 at a safe location on a public road. ~~The division shall~~
7 ~~cooperate with the public service commission and the~~
8 ~~department of highways to assure minimum duplication and~~
9 ~~maximum coordination of enforcement effort."~~

10 Section 2. Section 61-10-141, MCA, is amended to read:

11 "61-10-141. Officers authorized to weigh vehicles and
12 require removal of excessive loads. (1) A peace officer, or
13 officer of the highway patrol, or employee of the department
14 may weigh any vehicle regulated by 61-10-101 through
15 61-10-110, either by means of portable or stationary scales,
16 and may require that the vehicle be driven to the nearest
17 scales if those scales are within 2 miles. That person
18 officer may then require the driver to unload immediately
19 that portion of the load necessary to decrease the weight of
20 the vehicle to conform to the maximum allowable weights
21 specified in 61-10-101 through 61-10-110.

22 (2) Commodities and material unloaded as required by
23 this section shall be cared for and removed from the highway
24 right-of-way by the owner or operator of the vehicle at the
25 risk of that owner or operator. The removal shall be within

1 a reasonable time designated by the person who has compelled
2 the unloading.

3 (3) The department may establish, maintain, and
4 operate weigh stations, either intermittently or on a
5 continuous schedule, and may require vehicles, except
6 passenger cars and pickup trucks under 8,000 pounds G.V.W.,
7 to enter for the purpose of weighing and inspection for
8 compliance with all laws pertaining to their operation and
9 safety requirements.

10 ~~(4) In addition to other enforcement duties assigned
11 under this section, an employee of the department has the
12 same authority to enforce provisions of the motor carriers
13 law as that granted the public service commission under
14 69-12-203. This section does not relieve the public service
15 commission from its responsibility as the lead agency as
16 required in 69-12-201 through 69-12-203 and 69-12-205. The
17 commission, highway patrol, and the department shall
18 cooperate to assure minimum duplication and maximum
19 coordination of enforcement effort.~~

20 Section 3. Section 61-10-142, MCA, is amended to read:

21 "61-10-142. Display of permit. A special permit issued
22 under 61-10-121 shall be carried in the vehicle or
23 combination of vehicles to which it refers and shall be open
24 to inspection by any peace officer, or officer of the
25 highway patrol, ~~or employee of the department.~~"

1 Section 4. Section 61-10-143, MCA, is amended to read:

2 "61-10-143. Confiscation -- action by commission. A
3 peace officer, or officer of the highway patrol, ~~or employee~~
4 ~~of the department~~ who finds a person operating a vehicle,
5 combination of vehicles, load, object, or other thing in
6 violation of the conditions of a special permit may
7 confiscate the permit and forward it to the commission. The
8 commission may return it to the permittee or revoke, cancel,
9 or suspend it without refund. The commission shall keep a
10 record of all action taken upon confiscated permits, and if
11 a permit is returned to the permittee, the action taken by
12 the commission shall be endorsed on it. A permittee whose
13 permit is suspended or revoked may, upon request, receive a
14 hearing before the commission or person designated by the
15 commission. The commission, after the hearing, may reinstate
16 the permit or revise its previous action."

17 Section 5. Section 61-10-231, MCA, is amended to read:

18 "61-10-231. Enforcement. The highway patrol ~~and any~~
19 ~~designated employee of the department of highways~~ shall
20 enforce this part and 61-3-502(1), ~~and those persons~~ shall
21 examine and inspect the motor vehicles operating upon the
22 highways in this state and regulated by this part and
23 61-3-502(1) to ascertain whether or not those laws are being
24 complied with."

25 Section 6. Section 69-12-203, MCA, is amended to read:

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

11 (2) The supervisor shall direct all enforcement
 12 activities in behalf of the commission, including the
 13 investigation and prosecution of violations of this chapter,
 14 as amended, or the rules or orders prescribed thereunder by
 15 the commission. However, this section does not empower the
 16 commission or the supervisor to make inspections of motor
 17 vehicles or arrests for violations of this chapter.

18 (3) ~~The supervisor and whatever field inspectors may~~
 19 ~~be employed by the commission to assist him shall be deemed~~
 20 ~~peace officers for the purpose of making arrests in~~
 21 ~~connection with violations of this chapter, as amended, and~~
 22 ~~issuing summonses, accepting bail, and serving warrants of~~
 23 ~~arrest. The supervisor and field inspectors are~~ The highway
 24 patrol is empowered to make reasonable inspections of
 25 cargoes carried by commercial motor vehicles, make

1 reasonable safety inspections of commercial motor vehicles
 2 utilized by motor carriers, and require production of
 3 manifests, bills of lading, leases, and other documents
 4 relating to the cargo, driver, routing, or ownership of such
 5 vehicles. ~~The scope of the inspections is limited to the~~
 6 ~~enforcement of the provisions of Title 69, chapter 12.~~

7 Section 7. Section 44-1-1001, MCA, is amended to read:

8 "44-1-1001. Offenses for which patrolmen may make
 9 arrests. (1) The highway patrol chief and all patrolmen may
 10 make arrests for the offenses listed in subsection (2) under
 11 the following circumstances:

12 (a) the offense is committed in the presence of the
 13 chief or any patrolman;

14 (b) the offense is committed in a rural district and a
 15 request for assistance is made by a peace officer; or

16 (c) the offense is committed in a city or town with a
 17 population of less than 2,500 and a request for assistance
 18 is made by a peace officer or the mayor of the city or town.

19 (2) Offenses for which arrests may be made under
 20 subsection (1) are:

21 (a) deliberate homicide;

22 (b) assault with a deadly weapon;

23 (c) arson;

24 (d) criminal mischief;

25 (e) burglary;

- 1 (f) theft;
 2 (g) kidnapping;
 3 (h) illegal transportation of narcotics; or
 4 (i) violation of the Dyer Act regarding the
 5 transportation of stolen automobiles.

6 (3) The highway patrol chief and all patrolmen may
 7 make arrests for violations of the following statutory
 8 provisions:

- 9 (a) Title 61, chapter 4, part 3;
 10 (b) Title 61, chapter 10, part 1;
 11 (c) sections 15-24-201 through 15-24-205;
 12 (d) sections 15-70-302 through 15-70-307;
 13 (e) sections 15-70-311 through 15-70-314;
 14 (f) section 61-3-502(1);
 15 (g) sections 61-10-201 through 61-10-215;
 16 (h) sections 61-10-222 through 61-10-224;
 17 (i) sections 61-10-231 through 61-10-233; and
 18 (j) sections 69-12-201(1)(f) and 69-12-203."

19 NEW SECTION. Section 8. Assumption of existing rules
 20 -- effective date. (1) The department of justice, division
 21 of motor vehicles, shall adopt and assume any existing rules
 22 of the department of revenue, the department of highways,
 23 and the public service commission pertinent to the
 24 provisions of this act and necessary to implement the
 25 enforcement responsibilities in this act.

1 (2) The division shall make such rules effective
 2 October 1, 1985.

3 NEW SECTION. Section 9. Extension of authority. Any
 4 existing authority of the department of justice, division of
 5 motor vehicles, to make rules on the subject of the
 6 provisions of this act is extended to the provisions of this
 7 act.

-End-