

HB 786 INTRODUCED BY SANDS, ET AL.
TRANSFERS AUTHORITY TO HIGHWAY PATROL FOR
ENFORCEMENT OF MOTOR CARRIER LAWS

2/17 INTRODUCED
2/17 REFERRED TO HIGHWAYS & TRANSPORTATION
2/17 FISCAL NOTE REQUESTED
2/19 HEARING
2/19 TABLED IN COMMITTEE
2/23 FISCAL NOTE RECEIVED

1 House BILL NO. 786
 2 INTRODUCED BY Sander MacLennan
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING TO THE
 5 HIGHWAY PATROL ALL AUTHORITY FOR ENFORCEMENT AND
 6 ADMINISTRATION OF THE GROSS VEHICLE WEIGHT LAWS AND CERTAIN
 7 MOTOR CARRIER LAWS; PROVIDING FOR DISPOSITION OF GROSS
 8 VEHICLE WEIGHT LICENSE FEES; GRANTING RULEMAKING AUTHORITY;
 9 AMENDING SECTIONS 44-1-1001, 44-1-1005, 61-3-322, 61-3-506,
 10 61-10-126, 61-10-141 THROUGH 61-10-143, 61-10-225,
 11 61-10-226, 61-10-231, 69-12-203, AND 81-3-231, MCA;
 12 REPEALING SECTIONS 61-12-201 THROUGH 61-12-208, MCA; AND
 13 PROVIDING EFFECTIVE DATES."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 Section 1. Section 44-1-1005, MCA, is amended to read:
 17 "44-1-1005. Motor carriers safety -- enforcement. (1)
 18 The department of justice shall:
 19 (a) adopt, by rule, standards for safety of operations
 20 of motor carriers, each of whom is considered to consent
 21 impliedly to reasonable safety inspections of its motor
 22 vehicles utilized in furtherance of its business as a motor
 23 carrier;
 24 (b) provide standards for the safe operation of all
 25 motor vehicles used in commerce that exceed 26,000 pounds

1 gross vehicle weight, except farm vehicles; and
 2 (c) provide standards for the safe operation of
 3 vehicles of less than 26,000 pounds gross vehicle weight if
 4 they are used to transport passengers for hire or to
 5 transport hazardous materials of a type or quantity that
 6 requires the vehicle to be marked or placarded in accordance
 7 with rules adopted by the department.
 8 (2) Standards of safety adopted pursuant to
 9 subsections (1)(b) and (1)(c) must be the same as prescribed
 10 for motor carriers, and the same inspection standards and
 11 procedures apply. However, standards relating to drivers,
 12 other than drivers for motor carriers, do not apply to a
 13 vehicle operated exclusively within a 200-mile radius of its
 14 work reporting location.
 15 (3) The highway patrol has responsibility for
 16 enforcement of standards adopted pursuant to subsection
 17 (1)(a). Inspection of a vehicle based in Montana may, at
 18 the request of the carrier, be made at the place of business
 19 or domicile of the vehicle owner or, if that is not a
 20 practicable inspection site, at a designated location and at
 21 a mutually agreeable time. After inspection, a vehicle
 22 found to conform to the standards adopted pursuant to
 23 subsection (1)(a) is entitled to certification and
 24 identification to exempt it from further safety inspection
 25 until the next required periodic inspection or until a

1 nonconformity with standards is apparent. Nothing in this
 2 section prohibits the inspection of a motor vehicle as
 3 defined by subsection (1)(a) at a safe location on a public
 4 road.

5 ~~{4}--The department shall cooperate with the department
 6 of highways to assure minimum duplication and maximum
 7 coordination of enforcement effort."~~

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

9 "61-10-141. Officers authorized to weigh vehicles and
 10 require removal of excessive loads -- enforcement of motor
 11 carrier safety standards. (1) A peace officer, or officer of
 12 the highway patrol, ~~or employee of the department~~ may weigh
 13 any vehicle regulated by 61-10-101 through 61-10-110, either
 14 by means of portable or stationary scales, and may require
 15 that the vehicle be driven to the nearest scales if those
 16 scales are within 2 miles. ~~That person~~ The officer may then
 17 require the driver to unload immediately that portion of the
 18 load necessary to decrease the weight of the vehicle to
 19 conform to the maximum allowable weights specified in
 20 61-10-101 through 61-10-110.

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

1 the unloading.

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

9 ~~{4}--The department shall work with the highway patrol
 10 in the enforcement of safety standards adopted pursuant to
 11 44-1-1005. For the purposes of such joint enforcement, the
 12 highway patrol is designated as the lead agency. The highway
 13 patrol and the department shall cooperate to assure minimum
 14 duplication and maximum coordination of enforcement effort.~~

15 {5}{4} In order to enforce compliance with safety
 16 standards adopted pursuant to 44-1-1005, ~~the department
 17 shall designate employees as peace officers. The designated
 18 employees must be employed in the administration of the
 19 gross vehicle weight functions of the department. Each
 20 employee so designated as a peace officer a highway patrol
 21 officer may:~~

22 (a) issue citations and make arrests in connection
 23 with violations of safety standards adopted under 44-1-1005;

24 (b) issue summons;

25 (c) accept bail;

1 (d) serve warrants for arrest;

2 (e) make reasonable inspections of cargo carried by
3 commercial motor vehicles;

4 (f) make reasonable safety inspections of commercial
5 motor vehicles utilized by motor carriers; and

6 (g) require production of documents relating to the
7 cargo, driver, routing, or ownership of such vehicles.

8 ~~(6)(5)~~ In addition to other enforcement duties
9 assigned under this section, ~~an-employee-of-the-department a~~
10 highway patrol officer has ~~the--same~~ authority to enforce
11 provisions of the motor carriers law as ~~that-granted-the~~
12 public-service-commission-under provided in 69-12-203."

13 Section 3. Section 61-10-142, MCA, is amended to read:
14 "61-10-142. Display of permit. A special permit issued
15 under 61-10-121 shall be carried in the vehicle or
16 combination of vehicles to which it refers and shall be open
17 to inspection by any peace officer, or officer of the
18 highway patrol, ~~or-employee-of-the-department.~~"

19 Section 4. Section 61-10-143, MCA, is amended to read:
20 "61-10-143. Confiscation -- action by commission
21 department of justice. A peace officer, or officer of the
22 highway patrol, ~~or-employee-of-the-department~~ who finds a
23 person operating a vehicle, combination of vehicles, load,
24 object, or other thing in violation of the conditions of a
25 special permit may confiscate the permit and forward it to

1 the commission department of justice. The commission
2 department may return it to the permittee or revoke, cancel,
3 or suspend it without refund. The commission department
4 shall keep a record of all action taken upon confiscated
5 permits, and if a permit is returned to the permittee, the
6 action taken by the commission department shall be endorsed
7 on it. A permittee whose permit is suspended or revoked may,
8 upon request, receive a hearing before the commission
9 department of justice or person designated by the commission
10 department. The commission department, after the hearing,
11 may reinstate the permit or revise its previous action."

12 Section 5. Section 61-10-231, MCA, is amended to read:
13 "61-10-231. Enforcement. The highway patrol ~~and-any~~
14 ~~designated-employee-of--the--department--of--highways~~ shall
15 enforce this part and 61-3-502(1); ~~and those-persons~~ shall
16 examine and inspect the motor vehicles operating upon the
17 highways in this state and regulated by this part and
18 61-3-502(1) to ascertain whether or not those laws are being
19 complied with."

20 Section 6. Section 69-12-203, MCA, is amended to read:
21 "69-12-203. Supervisor of motor carriers. (1) The
22 commission shall appoint a supervisor of motor carriers who
23 shall have general responsibility to the commission for
24 enforcement of the provisions of this chapter. The
25 supervisor shall be either an attorney admitted to practice

1 law in Montana or a person qualified by at least 5 years of
 2 suitable experience and training in appropriate phases of
 3 the motor carrier industry. He shall serve at the pleasure
 4 of the commission and at an annual salary to be set by the
 5 commission.

6 (2) The supervisor shall direct all enforcement
 7 activities in behalf of the commission, including the
 8 investigation and prosecution of violations of this chapter,
 9 as amended, or the rules or orders prescribed thereunder by
 10 the commission. However, this section does not empower the
 11 commission or the supervisor to conduct inspections of motor
 12 carriers or make arrests for violation of this chapter.

13 ~~The--supervisor--and--whatever--field--inspectors--may~~
 14 ~~be--employed--by--the--commission--to--assist--him--shall--be--deemed~~
 15 ~~peace---officers---for---the---purpose---of---making---arrests---in~~
 16 ~~connection--with--violations--of--this--chapter,--as--amended,--and~~
 17 ~~issuing--summonses,--accepting--bail,--and--serving--warrants--of~~
 18 ~~arrest. The supervisor and field inspectors are~~ For the
 19 purpose of the enforcement of this chapter, the highway
 20 patrol is empowered to make reasonable inspections of
 21 cargoes carried by commercial motor vehicles and require
 22 production of manifests, bills of lading, leases, and other
 23 documents relating to the cargo, driver, routing, or
 24 ownership of such vehicles. ~~The scope of the inspections is~~
 25 ~~limited--to--the--enforcement--of--the--provisions--of--Title--69;~~

1 ~~chapter-12;~~"

2 Section 7. Section 44-1-1001, MCA, is amended to read:
 3 "44-1-1001. Offenses for which patrol may make
 4 arrests. (1) The highway patrol chief and all patrolmen may
 5 make arrests for the offenses listed in subsection (2) under
 6 the following circumstances:

7 (a) the offense is committed in the presence of the
 8 chief or any patrolman;

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

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

14 (2) Offenses for which arrests may be made under
 15 subsection (1) are:

16 (a) deliberate homicide;

17 (b) assault with a deadly weapon;

18 (c) arson;

19 (d) criminal mischief;

20 (e) burglary;

21 (f) theft;

22 (g) kidnapping;

23 (h) illegal transportation of narcotics; or

24 (i) violation of the Dyer Act regarding the
 25 transportation of stolen automobiles.

1 (3) The highway patrol chief and all highway patrol
 2 officers may make arrests for violations of the following:

3 (a) Title 61, chapter 4, part 3;

4 (b) Title 61, chapter 10, part 1;

5 (c) 15-24-201 through 15-24-205;

6 (d) 15-70-302 through 15-70-307;

7 (e) 15-70-311 through 15-70-314;

8 (f) 61-3-502;

9 (g) 61-10-201 through 61-10-215;

10 (h) 61-10-222 through 61-10-224;

11 (i) 61-10-231 through 61-10-233; and

12 (j) Title 69, chapter 12."

13 Section 8. Section 61-3-322, MCA, is amended to read:

14 "61-3-322. Certificates of registration -- issuance.

15 (1) Upon completion of the application for registration on
 16 forms furnished by the department, the county treasurer
 17 shall file one copy in his office and issue to the applicant
 18 two copies of the application marked "Owner's Certificate of
 19 Registration and Payment Receipt", one of which shall be
 20 marked "file copy".

21 (2) The certificate of registration shall contain upon
 22 the face thereof the information described in 61-3-202(2).

23 (3) Every owner, upon receiving a registration
 24 receipt, shall write his signature thereon with pen and ink
 25 in the space provided. Every registration receipt or a

1 notarized photostatic copy or a duplicate thereof furnished
 2 by the department shall at all times be carried in the
 3 vehicle to which it refers or shall be carried by the person
 4 driving or in control of such vehicle, who shall display it
 5 upon demand of a police officer or any officer or employee
 6 of the department ~~or the highway department~~.

7 (4) The county treasurer shall daily forward to the
 8 department one copy of all applications for registration
 9 received that day.

10 (5) It shall not be necessary for the county treasurer
 11 to segregate the amount of taxes or fees for state, county,
 12 school district, and municipal purposes in the receipt."

13 Section 9. Section 61-3-506, MCA, is amended to read:

14 "61-3-506. Rules. The department of revenue shall
 15 adopt rules for the payment of property taxes and fees in
 16 lieu of property taxes and the department of ~~highways~~
 17 justice shall adopt rules for the payment of new car taxes
 18 under the provisions of 61-3-313 through 61-3-316 and
 19 61-3-501. The department of revenue may adopt rules for the
 20 proration of taxes and fees in lieu of taxes for the
 21 implementation and administration of 61-3-313 through
 22 61-3-316 and 61-3-501, but shall specifically provide that
 23 new car taxes shall be for a 12-month period."

24 Section 10. Section 61-10-126, MCA, is amended to
 25 read:

1 "61-10-126. Deposit of fees. All fees collected under
2 61-10-101 through 61-10-125 shall be forwarded to the state
3 treasurer for deposit ~~in-the-state-highway-account~~ in the
4 state special revenue fund to the credit of the department
5 of justice."

6 Section 11. Section 61-10-225, MCA, is amended to
7 read:

8 "61-10-225. Disposition of fees collected by county
9 treasurer. At the time of collecting the fees provided for
10 in 61-10-222, each county treasurer shall retain 5% of the
11 fees collected by him for the cost of administration and for
12 deposit in the general fund of the county. The remaining 95%
13 shall be remitted monthly to the state treasurer for deposit
14 to the credit of the department of highways justice. The
15 remittance shall be made on forms furnished to the county
16 treasurer by the department."

17 Section 12. Section 61-10-226, MCA, is amended to
18 read:

19 "61-10-226. Deposit of ~~state--highway--money~~ license
20 fees and other receipts. ~~(1)--Any-reference-to-the-state~~
21 ~~highway-fund-means-the-state-highway-account--in--the--state~~
22 ~~special-revenue-fund.~~

23 ~~(2)~~(1) Money received for the use of the department of
24 justice from the receipt or transfer of GVW license fees, as
25 provided by law, or from other state sources shall be

1 deposited in the state special revenue fund to the credit of
2 the department.

3 ~~(3)~~(2) Money received from the federal government or
4 other agencies shall be deposited in a federal or other
5 special revenue fund to the credit of the department.

6 ~~(4)~~(3) Money collected for the department as
7 authorized by law shall be credited to such fund or funds by
8 the state treasurer.

9 ~~(5)~~(4) Money received from the counties shall be
10 deposited in the state special revenue fund to the credit of
11 the department."

12 Section 13. Section 81-3-231, MCA, is amended to read:

13 "81-3-231. Penalties. (1) A person is guilty of a
14 misdemeanor and is punishable as provided in subsection (6)
15 of this section if he removes livestock or causes livestock
16 to be removed from a county in this state:

17 (a) without having the livestock inspected before
18 removal if an inspection is required by law;

19 (b) without obtaining a market consignment permit or
20 transportation permit if the permits are required by law;

21 (c) and does obtain a market consignment permit for
22 livestock but does not deliver the livestock transported
23 thereunder to the livestock market designated in the market
24 consignment permit;

25 (d) and does obtain a transportation permit for the

1 livestock but does not deliver the livestock transported
2 thereunder to the destination as shown on the transportation
3 permit and fails to have the livestock so transported
4 inspected at the point of destination or does not file a
5 loading tally with the carrier as provided in 81-4-607.

6 (2) A person who sells livestock or offers livestock
7 for sale at a livestock market without having the livestock
8 inspected or removes livestock or causes livestock to be
9 removed from a livestock market without obtaining a release
10 is guilty of a misdemeanor and is punishable as provided in
11 subsection (6) of this section.

12 (3) A person who ships by railroad carrier and the
13 railroad carrier transporting livestock for which a loading
14 tally has been filed as provided by 81-4-607 and for which
15 shipment of livestock an inspection has not been made which
16 after shipment causes or permits the livestock to leave the
17 custody of the railroad carrier at a place other than where
18 this state regularly maintains a stock inspector is guilty
19 of a misdemeanor and is punishable as provided in subsection
20 (6) of this section.

21 (4) A person who has in his charge livestock being
22 removed from a county in the state for which an inspection
23 certificate, a market consignment permit, or a market
24 release certificate has been issued and fails to have in his
25 possession accompanying the livestock the inspection

1 certificate, market consignment permit, or a market release
2 certificate as issued for the livestock, or who, having the
3 certificate of inspection, market consignment permit, or
4 market release certificate, fails to exhibit it to a
5 sheriff, deputy sheriff, constable, ~~gross--vehicle--weight~~
6 ~~enforcement---officer~~, highway patrolman, state stock
7 inspector, or deputy state stock inspector at his request is
8 guilty of a misdemeanor and is punishable as provided in
9 subsection (6) of this section.

10 (5) Except as specifically otherwise provided, a
11 person violating any of the provisions of this part is
12 guilty of a misdemeanor and is punishable as provided in
13 subsection (6) of this section.

14 (6) Upon conviction under this section, a person,
15 firm, association, or corporation shall be fined not less
16 than \$50 or more than \$500 or imprisoned in the county jail
17 for a period of not more than 6 months or both fined and
18 imprisoned. Of all fines assessed and collected under this
19 section, 50% shall be paid into the state treasury and
20 credited to the state special revenue fund for the use of
21 the department and 50% shall be paid into the general fund
22 of the county in which the conviction occurred."

23 NEW SECTION. Section 14. Extension of authority. Any
24 existing authority of the department of justice to make
25 rules on the subject of the provisions of this act is

1 extended to the provisions of this act.

2 NEW SECTION. Section 15. Transfer of personnel. It is
3 the intention of the legislature that persons employed by
4 the department of highways to enforce the provisions of
5 Title 61, chapter 10, and persons employed by the public
6 service commission to enforce the provisions of Title 69,
7 chapter 12, on January 1, 1987, must be employed by the
8 department of justice in the performance of duties similar
9 to those they performed prior to January 1, 1987.

10 NEW SECTION. Section 16. Repealer. Sections 61-12-201
11 through 61-12-208, MCA, are repealed.

12 NEW SECTION. Section 17. Severability. If a part of
13 this act is invalid, all valid parts that are severable from
14 the invalid part remain in effect. If a part of this act is
15 invalid in one or more of its applications, the part remains
16 in effect in all valid applications that are severable from
17 the invalid applications.

18 NEW SECTION. Section 18. Effective dates. (1) This
19 section and section 14 are effective on passage and
20 approval.

21 (2) The remaining provisions of this act are effective
22 July 1, 1987.

23 NEW SECTION. Section 19. Functions transferred --
24 name change -- code commissioner instruction. (1) The
25 functions of the department of highways contained in

1 60-2-301, 60-2-303, 60-2-311, 61-10-107, 61-10-109,
2 61-10-110, 61-10-121, 61-10-122, 61-10-124, 61-10-128,
3 61-10-144, 61-10-209, 61-10-212, 61-10-225, 61-10-227, and
4 87-3-224 are transferred to the department of justice.

5 (2) The code commissioner is instructed to substitute
6 the term "department of justice" or "department" meaning the
7 department of justice wherever the terms "department of
8 highways", "highway department", or "department" meaning the
9 department of highways appear in the provisions of the
10 Montana Code Annotated listed in subsection (1) or in
11 legislation enacted by the 50th legislature relating to
12 enforcement or administration of the gross vehicle weight
13 laws.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB786, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act transferring to the Highway Patrol all authority for enforcement and administration of the gross vehicle weight laws and certain motor carrier laws; providing for disposition of gross vehicle weight license fees; granting rulemaking authority; amending sections 44-1-1001, 44-1-1005, 61-3-322, 61-3-506, 61-10-126, 61-10-141 through 61-10-143, 61-10-225, 61-10-226, 61-10-231, 69-12-203, and 81-3-231, MCA; repealing sections 61-12-201 through 61-12-208, MCA; and providing effective dates.

ASSUMPTIONS:

1. 5 FTE Motor Carrier Enforcement Officers transferred from Public Service Commission (PSC) to Department of Justice.
2. No funds would be transferred from the PSC. PSC is funded by a tax on the regulated companies and that tax would be reduced to equal any reduction in their budget.
3. 110.03 FTE Gross Vehicle Weight Division transferred from Department of Highways.
4. All Gross Vehicle Weight Fees will be collected by the Department of Justice and deposited in the department's special earmarked revenue fund.

FISCAL IMPACT:

	FY88			FY89		
	Current Law Highway/PSC	Proposed Law Highway/PSC/Justice	Difference	Current Law Highway/PSC	Proposed Law Highway/PSC/Justice	Difference
FTE	115.03	117.03	2.0	115.03	117.03	2.0

Expenditures:

	FY88 Current Law	FY88 Proposed Law	FY88 Difference	FY89 Current Law	FY89 Proposed Law	FY89 Difference
Personal Services	\$ 2,695,051	\$ 2,734,001	\$ 38,950	\$ 2,695,051	\$ 2,734,001	\$ 38,950
Operating Expenses	897,082	927,282	30,200	903,681	935,181	31,500
Equipment	54,920	54,920	---	54,120	54,120	---
TOTAL	\$ 3,647,053	\$ 3,716,203	\$ 69,150	\$ 3,652,852	\$ 3,723,302	\$ 70,450

Funding:

	FY88 Current Law	FY88 Proposed Law	FY88 Difference	FY89 Current Law	FY89 Proposed Law	FY89 Difference
PSC Tax	\$ 149,746	\$ 0	(\$ 149,746)	\$ 149,746	\$ 0	(\$ 149,746)
Gross Vehicle Weight Fees	3,497,307	3,716,203	218,896	3,503,106	3,723,302	220,196
TOTAL	\$ 3,647,053	\$ 3,716,203	\$ 69,150	\$ 3,652,852	\$ 3,723,302	\$ 70,450

David L. Hunter DATE 2/23/87
 DAVID L. HUNTER, BUDGET DIRECTOR

Office of Budget and Program Planning

Jack Sands DATE _____
 JACK SANDS, PRIMARY SPONSOR

Fiscal Note for HB786, as introduced.

HB 786

Fiscal Note Request, HB786, as introduced.

Form BD-15

Page 2

FISCAL IMPACT:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenues:</u>						
<u>Gross Vehicle Weight Fees</u>						
Department of Highways	\$23,037,582	\$ 0	(\$23,037,582)	\$23,500,582	\$ 0	(\$23,500,582)
Department of Justice	\$ 0	\$ 23,037,582	\$23,037,582	\$ 0	\$ 23,500,582	\$23,500,582

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Loss of approximately \$20,000,000 annually to the Highway earmarked account for construction and maintenance of Montana highways.

HB 786