

SENATE BILL 316

Introduced by Keating, et al.

2/02	Introduced
2/02	Referred to Highways & Transportation
2/03	Fiscal Note Requested
2/08	Fiscal Note Received
2/09	Fiscal Note Printed
2/09	Hearing
	Died in Committee

1 Senate BILL NO. 316
2 INTRODUCED BY Heating
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
5 ESTABLISHMENT OF A LAW ENFORCEMENT ROTATION SYSTEM FOR
6 UTILIZATION OF EMERGENCY TOW TRUCKS; REQUIRING
7 CLASSIFICATION OF AND LIABILITY INSURANCE FOR EMERGENCY TOW
8 TRUCKS; AND AMENDING SECTIONS 61-1-120 AND 61-9-416, MCA."
9

10 STATEMENT OF INTENT

11 A statement of intent is required for this bill because
12 it requires the department of justice to make rules to
13 implement the provisions allowing establishment of a law
14 enforcement rotation system for the designation and use of
15 qualified commercial tow truck companies that request to
16 participate in the system. It is the intent of the
17 legislature that the department of justice consult with the
18 department of highways and consider its recommendations in
19 establishing the rules. The rules should allow for fair
20 consideration of all qualified tow truck companies by an
21 officer who is summoning assistance, but priority should be
22 given to the qualified tow truck company whose base of
23 operations is closest to the emergency site.
24

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



1 NEW SECTION. Section 1. Short title. [This act] may
2 be cited as the "Montana Emergency Tow Truck Act".

3 NEW SECTION. Section 2. Purpose. The legislature
4 recognizes that:

5 (1) wrecked, disabled, and abandoned motor vehicles on
6 the public highways create hazards that imperil lives and
7 property and require expeditious removal;

8 (2) officers investigating accidents on the public
9 highways need immediately available towing vehicles manned
10 by competent operators and adequately equipped to clear the
11 highways and remove hazardous obstructions with minimum
12 damage to property;

13 (3) certain standards and classifications, including
14 minimum standards for emergency tow truck companies based on
15 intended use, are needed for emergency tow trucks and
16 equipment used for towing and recovering wrecked, disabled,
17 or abandoned motor vehicles or other objects creating
18 hazards on the public highways; and

19 (4) encouragement of a competitive and qualified
20 emergency towing industry requires establishment of a
21 uniform and equitable statewide rotation system based on the
22 classification of equipment and the standards provided in
23 [this act].

24 NEW SECTION. Section 3. Classification standards for
25 emergency tow truck equipment. (1) The highway patrol and

1 the department of highways each year shall classify the tow
2 truck equipment of those commercial tow truck companies that
3 apply in writing to be placed on a rotation system
4 established under the provisions of [section 8 or 9] in
5 accordance with the following standards:

6 (a) for class A, which includes vehicles used for the
7 towing and recovery of passenger cars, pickup trucks, small
8 trailers, and other comparable units, the tow truck
9 equipment must have a manufacturer's rating of not less than
10 4 tons and must be mounted on a truck chassis with a
11 manufacturer's capacity of 8,000 pounds gross vehicle weight
12 or more;

13 (b) for class B, which includes vehicles used for the
14 towing and recovery of medium-sized trucks, trailers, and
15 other comparable units, the tow truck equipment must have a
16 manufacturer's rating of not less than 8 tons and must be
17 mounted on a truck chassis with a manufacturer's capacity of
18 18,000 pounds gross vehicle weight or more;

19 (c) for class C, which includes vehicles used for the
20 towing and recovery of large trucks, road tractors and
21 trailers, and other comparable units, the tow truck
22 equipment must have a manufacturer's rating of not less than
23 16 tons and must be mounted on a chassis that has a minimum
24 manufacturer's capacity of 30,000 pounds gross vehicle
25 weight or more;

1 (d) for class D, which includes manufactured rollbacks
2 and car carriers that are designed for hauling and for the
3 towing of wrecked or disabled vehicles, the rollbacks and
4 car carriers must be mounted on trucks that have the minimum
5 gross vehicle weight ratings of the manufacturer of the
6 rollbacks and car carriers, which range from 10,000 pounds
7 to 32,000 pounds gross vehicle weight.

8 (2) The manufacturer's rating is the basis for the
9 classification under subsection (1).

10 (3) (a) Before October 1, 1991, the owner or operator
11 of emergency tow truck equipment may use noncommercially
12 manufactured or modified equipment in a law enforcement
13 rotation system established under [section 8 or 9] if he
14 establishes a basis for classifying the equipment in
15 accordance with subsection (1).

16 (b) After October 1, 1991, only tow truck equipment
17 commercially manufactured or commercially modified may be
18 used in a law enforcement rotation system established under
19 [section 8 or 9].

20 (4) All tow truck equipment used in a law enforcement
21 rotation system must:

22 (a) be used and operated in accordance with the
23 manufacturer's ratings;

24 (b) comply with the provisions of 61-9-416; and

25 (c) use a safety chain to secure a towed vehicle to

1 the emergency vehicle.

2 (5) The highway patrol shall cooperate with the
3 department of highways to assure minimum duplication and
4 maximum coordination of enforcement efforts.

5 NEW SECTION. **Section 4. Liability insurance and**
6 **adequate storage required.** Notwithstanding the provisions of
7 61-6-301, a commercial tow truck company, as a requirement
8 to be designated or to remain designated in a law
9 enforcement rotation system established under the provisions
10 of [section 8 or 9], shall provide:

11 (1) liability insurance for bodily injury or death or
12 damage to property caused by the maintenance or use of a
13 commercial tow truck as defined in 61-9-416 in an amount not
14 less than \$750,000 and shall continuously provide liability
15 insurance for loss of or damage to property entrusted to the
16 tow truck company in an amount not less than \$750,000; and

17 (2) a lot or building that is adequate for secure
18 storage and safekeeping of towed vehicles and for prevention
19 of vandalism to the vehicles and their contents. The storage
20 facility must be:

21 (a) located in close proximity to the towing service;

22 (b) secured by a fence or natural barrier sufficient
23 to deter trespassing or vandalism;

24 (c) staffed or available for access between 8 a.m. and
25 5 p.m., Monday through Friday, excluding legal holidays; and

1 (d) large enough to accommodate all vehicles towed by
2 the towing service for law enforcement agencies.

3 NEW SECTION. **Section 5. Inspection -- compliance --**
4 **decal.** The highway patrol or employees of the department of
5 highways appointed under 61-12-201, at least once each year
6 or more frequently when the circumstances demand, shall:

7 (1) inspect the tow trucks and equipment of requesting
8 commercial tow truck companies for the purpose of
9 classification and verification of compliance with the
10 provisions of [section 3];

11 (2) require qualified emergency tow truck companies
12 and tow truck companies requesting status as emergency tow
13 truck companies to furnish proof of compliance with the
14 provisions of [section 4];

15 (3) after the satisfactory completion of the
16 requirements in subsections (1) and (2) and verification of
17 compliance, affix in a prominent location on the tow truck
18 equipment a decal showing the classification under [section
19 3] and the expiration date of the insurance coverage
20 required under [section 4]; and

21 (4) compile current lists of qualified emergency tow
22 truck companies, including the classification of their
23 equipment under [section 3] and the status of their
24 liability insurance required under [section 4].

25 NEW SECTION. **Section 6. Violation -- penalty.** An

owner or operator of a commercial tow truck who violates any provision of [this act] while designated in a law enforcement rotation system as provided in [section 8] is guilty of a misdemeanor and is subject to the penalty provided in 61-8-711.

NEW SECTION. Section 7. Enforcement. The highway patrol shall enforce the provisions of [this act].

NEW SECTION. Section 8. Law enforcement rotation system -- standards -- rules. The department of justice shall establish by rule an equitable rotation system among qualified emergency tow truck companies. The rotation system:

- (1) must be administered by the highway patrol;
- (2) must be based on the classification of equipment provided for in [section 3];
- (3) must include only those companies and their equipment approved by the highway patrol or department of highways as provided in [sections 3 and 5]; and
- (4) is not applicable when the owner or operator of a disabled vehicle or a vehicle obstructing a public highway requests a commercial tow truck company of his choice; however, in emergency situations the officer at the scene has the option to request the most readily available approved commercial tow truck equipment. If no qualified emergency tow truck company is reasonably available, the

officer may request any equipment available to remove the immediate hazard.

NEW SECTION. Section 9. Local government rotation system. To provide uniformity, a local government law enforcement rotation system must comply with the provisions of [this act] and with the standards and classification criteria established under the provisions of [this act].

NEW SECTION. Section 10. Inspections. (1) During January of each year or at a time determined by the highway patrol and the department of highways, an emergency tow truck company that has been placed at its request in a law enforcement rotation system as provided for in [section 8 or 9] shall bring its tow truck equipment to a department of highways scale or other agreed location for inspection under [section 5].

(2) An emergency tow truck company that has requested and been placed in a law enforcement rotation system impliedly consents to reasonable inspection of its premises, vehicles, and equipment by the department of highways, the highway patrol, or a local government entity as is necessary to assure compliance with [this act].

Section 11. Section 61-1-120, MCA, is amended to read:

"61-1-120. Emergency service vehicles. "Emergency service vehicles" means emergency service vehicles of state, county, or municipal departments, or public service

1 vehicles, or commercial tow trucks, which by the nature of
2 their operation cause a vehicular traffic hazard; ~~---or~~
3 ~~authorized-tow-cars."~~

4 **Section 12.** Section 61-9-416, MCA, is amended to read:

5 "61-9-416. Commercial tow car truck definition and
6 requirements. (1) ~~Every-commercial-tow-car-used-to-tow-a~~
7 ~~vehicle-by-means-of-a-crane,hoist,towbar,towline,or~~
8 ~~dolly-shall-be~~ "Commercial tow truck" means a motor vehicle
9 equipped with specialized equipment designed and intended
10 for towing or recovery of wrecked, disabled, or abandoned
11 vehicles or other objects creating a hazard on the public
12 highways and equipped with:

13 (a) ~~equipped-with and carry carrying~~ not less than two
14 red flares or two red lanterns or two warning lights or
15 reflectors; ~~which-reflectors-shall-be~~ of a type approved by
16 the department;

17 (b) ~~equipped-with~~ at least two highway warning signs
18 of a uniform type prescribed by the department and ~~shall-be~~
19 ~~so designed as~~ to be visible both day and night. The
20 operator of a commercial tow car truck used for the purpose
21 of rendering assistance to other vehicles shall, when the
22 rendering of assistance necessitates the obstruction of any
23 portion of the roadway outside a business or residence
24 district, place a highway warning sign 200 feet in advance
25 of and 200 feet to the rear of the disabled vehicle, except

1 as otherwise provided in this section. When a motor vehicle
2 is disabled on the highway, such a tow car truck operator
3 called to render assistance during the hours of darkness
4 shall immediately upon arrival place warning signs upon the
5 highway as prescribed in this section and in addition
6 thereto shall place not less than one red flare, red
7 lantern, or warning light or reflector in close proximity to
8 each warning sign.

9 (c) ~~equipped---with~~ and ~~carry~~ carrying a fire
10 extinguisher of at least 2 quart capacity of a type capable
11 of extinguishing a fire;

12 (d) ~~equipped-with~~ a lamp emitting a flashing or steady
13 red light mounted on top of the cab of the tow car truck or
14 on the top of the crane or hoist if such the light can be
15 seen from the front of the tow car truck. The light from
16 such the lamp must be visible for a distance of 1,000 feet
17 under normal atmospheric conditions; ~~and-shall-be-mounted-in~~
18 ~~such-a-manner-that-it-can-be-securely-fastened-with-the-lens~~
19 ~~of-the-lamp-facing-the-rear-of-the-tow-car-upon-which-it-is~~
20 ~~mounted. When--standing--at--the--location--from-which--the~~
21 ~~disabled-vehicle-is-to-be-towed, the-operator of the tow-car~~
22 ~~may-unfasten--the--red--light--and-place-it in any-position~~
23 ~~deemed-advisable--to--warn--approaching-drivers.--When--the~~
24 ~~disabled--vehicle--is-ready-for-towing-the red light-must-be~~
25 ~~turned-to-rear-of-the-tow-car-upon-which-it is mounted--and~~

~~securely--locked-in-this-position--Additional-red-lights-of~~
~~an-approved-type-may-be-displayed-at-either-or-both-sides-of~~
~~the-tow-car-as-the-case-may-warrant--during--the--period--of~~
~~preparation--at-the-location-from-which-the-disabled-vehicle~~
~~is-to-be-towed. Amber flashing lights may be mounted on the~~
~~tow truck to warn other vehicles that a unit is in tow. The~~
~~amber flashing lights must be visible to approaching~~
~~vehicles and following vehicles for a distance of 1,000~~
~~feet.~~

(e) equipped-with one or more brooms, and the operator
of the tow car truck engaged to remove a disabled vehicle
from the scene of an accident shall remove all glass and
debris deposited upon the roadway by the disabled vehicle
which is to be towed;

(f) ~~equipped--with~~ and ~~carry~~ carrying a shovel, and
whenever practical the tow car truck operator engaged to
remove any disabled vehicle shall spread dirt upon that
portion of the roadway where oil or grease has been
deposited by ~~such the~~ disabled vehicle;

(g) ~~equipped---with~~ and ~~carry~~ carrying a portable
electrical extension cord for use in displaying a light on
the rear of the disabled vehicle. The length of ~~such the~~
extension cord ~~shall may~~ not be less than the length of the
combined vehicles, and whenever a disabled vehicle is towed
during the hours of darkness and the rear lamp or lamps on

the disabled vehicle cannot be lighted, the tow car truck
operator shall ~~provide-for-such~~ illuminate the rear light by
means of the extension cord ~~herein-referred-to.~~

(2) The owner or operator of a commercial tow car
truck who complies with the requirements of this section may
stop or park ~~such the~~ tow car truck upon a highway for the
purpose of rendering assistance to a disabled vehicle,
notwithstanding other provisions of this code."

NEW SECTION. **Section 13.** Extension of authority. Any
existing authority to make rules on the subject of the
provisions of [this act] is extended to the provisions of
[this act].

NEW SECTION. **Section 14.** Codification instruction.
[Sections 1 through 10] are intended to be codified as an
integral part of Title 61, chapter 8, and the provisions of
Title 61, chapter 8, apply to [sections 1 through 10].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB316, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing the establishment of a law enforcement rotation system for utilization of emergency tow trucks; requiring classification of and liability insurance for emergency tow trucks; and amending 61-1-120 and 61-9-416, MCA.


ASSUMPTIONS:

1. Current dispatch staff can handle additional workload created by this bill.
2. Two hundred officers will receive truck inspection training at four locations at a cost of \$1500 per location.
3. Agency will need to purchase decals.

FISCAL IMPACT:

	<u>FY90</u>			<u>FY91</u>		
	Current	Proposed		Current	Proposed	
<u>Expenditures:</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
Operating Expenses	\$ -0-	\$ 11,000	\$ 11,000	\$ -0-	\$ -0-	\$ -0-

Funding: Highway State Special Revenue Account

 2/8/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

2-8-89
THOMAS F. KEATING, PRIMARY SPONSOR

DATE

Fiscal Note for SB316, as introduced**SB 316**