

SENATE BILL NO. 105

INTRODUCED BY STANG, ELLIOTT, BIRD, LARSON

IN THE SENATE

JANUARY 8, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
FEBRUARY 4, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 5, 1993	PRINTING REPORT.
	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 6, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 8, 1993	SECOND READING, DO PASS.
FEBRUARY 9, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 42; NOES, 8.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 10, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
MARCH 19, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 27, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 29, 1993	SECOND READING, CONCURRED IN.
MARCH 31, 1993	THIRD READING, CONCURRED IN. AYES, 66; NOES, 33.
APRIL 1, 1993	RETURNED TO SENATE.

IN THE SENATE

APRIL 2, 1993

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *SENATE* BILL NO. *105*  
 2 INTRODUCED BY *Anthony* *Bill Lamm*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE CLASS E  
 5 MOTOR CARRIER CATEGORY AND THE REGULATIONS RELATED TO  
 6 TRANSPORTING LOGS; AMENDING SECTIONS 69-12-101, 69-12-102,  
 7 69-12-201, 69-12-205, 69-12-301, 69-12-321, 69-12-322,  
 8 69-12-407, AND 69-12-611, MCA; AND REPEALING SECTIONS  
 9 69-12-315, 69-12-333, 69-12-334, AND 69-12-335, MCA."

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

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

13 "69-12-101. Definitions. Unless the context requires  
 14 otherwise, in this chapter the following definitions apply:

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

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

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

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

1 association, or joint-stock association.

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

7 ~~{6}--"log"--means--a-fallen-or-felled-tree, delimbed-and~~  
 8 ~~cut-to-length-for-transportation-to-a-point-for--storage--or~~  
 9 ~~processing-~~

10 ~~{7}{6}~~ "Motor carrier" means a person or corporation,  
 11 or its lessees, trustees, or receivers appointed by any  
 12 court, operating motor vehicles upon any public highway in  
 13 this state for the transportation of persons or property for  
 14 hire on a commercial basis, either as a common carrier or  
 15 under private contract, agreement, charter, or undertaking.  
 16 The term includes any motor carrier serving the public in  
 17 the business of transportation of ashes, trash, waste,  
 18 refuse, rubbish, garbage, and organic and inorganic matter.

19 ~~{8}{7}~~ "Motor vehicle" includes vehicles or machines,  
 20 motor trucks, tractors, or other self-propelled vehicles  
 21 used for the transportation of property or persons over the  
 22 public highways of the state.

23 ~~{9}{8}~~ "Person" means an individual, firm, or  
 24 partnership.

25 ~~{10}{9}~~ "Public highway" means a public street, road,

1 highway, or way in this state.

2 ~~{11}~~(10) "Railroad" means the movement of cars on rails,  
3 regardless of the motive power used.

4 ~~{12}~~(11) "Recyclable" means any material diverted from  
5 the solid waste stream that can be reused as raw material  
6 for new products and for which markets exist."

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

8 "69-12-102. Scope of chapter -- exemptions. (1) This  
9 chapter does not affect:

10 (a) motor vehicles used in carrying property consisting  
11 of agricultural commodities ~~other-than-logs~~ (not including  
12 manufactured products of agricultural commodities) if the  
13 motor vehicles are not used in carrying other property or  
14 passengers for compensation;

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

20 (c) the transportation by means of motor vehicles in  
21 the regular course of business of employees, supplies, and  
22 materials by a person or corporation engaged exclusively in  
23 the construction or maintenance of highways or engaged  
24 exclusively in logging or mining operations, insofar as the  
25 use of employees, supplies, and materials in construction

1 and production is concerned;

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

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

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

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

16 (h) ambulances;

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

24 (j) the transportation by motor vehicle of not more  
25 than 15 passengers between their places of residence or

1 termini near their residences and their places of employment  
2 in a single daily round trip if the driver is also on--his  
3 way going to or from his the driver's place of employment;

4 (k) the transportation of property by motor carrier as  
5 part of a continuous movement if such that property, prior  
6 or subsequent to such part of a continuous movement, has  
7 been or will be transported by an air carrier;

8 (l) the operation of:

9 (i) a transportation system by a municipality or  
10 transportation district as provided in Title 7, chapter 14,  
11 part 2; or

12 (ii) municipal bus service pursuant to Title 7, chapter  
13 14, part 44;

14 (m) armored motor vehicles used exclusively for the  
15 transportation of coins, currency, silver bullion, gold  
16 bullion, and other precious metals, precious stones,  
17 valuable paintings, and other items of unusual value  
18 requiring special handling and security;

19 (n) the transportation of a commodity under an  
20 agreement between a motor carrier and an office or agency of  
21 the United States government; or

22 (o) the transportation of handicapped or elderly  
23 persons provided by private, nonprofit organizations. As  
24 used in this subsection:

25 (i) "handicapped" means an individual who has a

1 physical or mental impairment that substantially limits one  
2 or more major life activities;

3 (ii) "elderly" means a person 60 years of age or older;  
4 and

5 (iii) "private, nonprofit organization" means an  
6 organization recognized as nonprofit under section 501(c) of  
7 the Internal Revenue Code.

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

10 **Section 3.** Section 69-12-201, MCA, is amended to read:

11 "69-12-201. Supervision and regulation of motor  
12 carriers. (1) The commission has the power and authority and  
13 it is its duty to:

14 (a) supervise and regulate every motor carrier in this  
15 state;

16 (b) fix, alter, regulate, and determine specific, just,  
17 reasonable, equal, nondiscriminatory, and sufficient rates,  
18 fares, charges, and classifications for Class A and Class B  
19 motor carriers;

20 (c) regulate the properties, facilities, operations,  
21 accounts, service, practices, and affairs of all motor  
22 carriers;

23 (d) require the filing of annual and other reports,  
24 tariffs, schedules, or other data by such motor carriers;

25 (e) supervise and regulate motor carriers in all

1 matters affecting the relationship between such motor  
2 carriers and the traveling and shipping public.

3 (2) The commission may, by general order or otherwise,  
4 prescribe rules in conformity with this chapter and  
5 applicable to any and all motor carriers.

6 (3) The commission may fix and determine reasonable  
7 maximum or minimum rates for the operations of any Class C  
8 motor carrier when rates are required for the best interests  
9 of public transportation.

10 ~~{4}--The commission may fix and determine reasonable~~  
11 ~~maximum or minimum rates for the operations of any Class B~~  
12 ~~motor carrier operating under contract when rates are~~  
13 ~~required for the best interests of public transportation--"~~

14 **Section 4.** Section 69-12-205, MCA, is amended to read:

15 "69-12-205. Rules to reflect differences between  
16 carrier classes. All rules in relation to schedules,  
17 service, tariffs, rates, facilities, accounts, and reports  
18 must have due regard for the differences existing between  
19 Class A, Class B, Class C, and Class D, ~~and--Class--E~~ motor  
20 carriers, as defined in this chapter, and must be just,  
21 fair, and reasonable to the classes of motor carriers in  
22 their relations to each other and to the public. In fixing  
23 the tariff or rates to be charged by Class A and Class B  
24 motor carriers for the carrying of persons or property, or  
25 both, the commission shall take into consideration the kind

1 and character of service to be performed, the public  
2 necessity of the service, and the effect of the tariff and  
3 rates upon other transportation agencies, if any, and shall,  
4 as far as possible, avoid detrimental or unreasonable  
5 competition with existing railroad service or service  
6 furnished by a motor carrier."

7 **Section 5.** Section 69-12-301, MCA, is amended to read:

8 "69-12-301. Classification of motor carriers. (1) Motor  
9 carriers are divided into five four classes to be known as:

- 10 (a) Class A motor carriers;
- 11 (b) Class B motor carriers;
- 12 (c) Class C motor carriers; and
- 13 (d) Class D motor carriers; ~~and~~
- 14 ~~{e}--Class E motor carriers.~~

15 (2) Class A motor carriers include all motor carriers  
16 operating between fixed termini or over a regular route and  
17 under regular rates or charges, based upon either  
18 station-to-station rates or upon a mileage rate or scale.

19 (3) Class B motor carriers include all motor carriers  
20 operating under regular rates or charges based upon either  
21 station-to-station rates or upon a mileage rate or scale and  
22 not between fixed termini or over a regular route.

23 (4) Class C motor carriers include all motor carriers  
24 operating motor vehicles for distributing, delivering, or  
25 collecting wares, merchandise, or commodities or

transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers include all motor carriers operating motor vehicles transporting (including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, organic and inorganic matter, and recyclables.

~~(6) Class E motor carriers include all motor carriers operating motor vehicles transporting logs if the remuneration is fixed in and transportation services are furnished under a written contract or agreement.~~

**Section 6.** Section 69-12-321, MCA, is amended to read:

"69-12-321. Hearing on application for motor carrier certificate. (1) Upon the filing of an application by a Class A, Class B, Class C, or Class D ~~or Class E~~ motor carrier, except a Class C motor carrier authorized to operate under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer of authority, the commission shall give notice of the filing of the application to any interested party. The commission shall fix a time and place for a hearing on the application whenever a protest or a request for a hearing is received. The hearing must be set for a date not later than 60 days after receipt of a protest or a hearing request by the commission. Whenever no protests or hearing requests are

received, the commission may act on the application without a hearing as prescribed by commission rules.

(2) A motor carrier referred to in 69-12-322, the department of transportation, the governing board or boards of any county, town, or city into or through which the route or service as proposed may extend, and any person or corporation concerned are interested parties to the proceedings and may offer testimony for or against the granting of the certificate.

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

(4) However, an application by a Class A, Class B, Class C, or Class D ~~or Class E~~ motor carrier for a certificate may be disallowed without a public hearing when it appears from the records of the commission that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over the route or in the territory and affecting transportation facilities have materially changed since the previous public investigation and finding and that public convenience and necessity now require the motor carrier operation."

**Section 7.** Section 69-12-322, MCA, is amended to read:

"69-12-322. Notice of hearing. (1) Whenever a hearing is scheduled, whether as a result of a protest or request or upon the commission's own motion, the commission shall cause a copy of the petition and notice of hearing to be served upon an officer or owner of any motor carrier that in the opinion of the commission might be affected by the granting of the certificate and shall notify any other affected party at least 10 days before the date of hearing.

(2) Notice of the hearing must be published:

(a) in the legal advertising section of a local newspaper or newspapers determined by the commission to have a circulation sufficient to reach the consuming public in the area under consideration for applications for Class C or ~~Class---E~~ authority and geographically limited Class B authority; and

(b) in appropriate newspapers determined by the commission to have sufficient statewide circulation in the case of applications for Class A authority and geographically broad contemplated Class B authority."

**Section 8.** Section 69-12-407, MCA, is amended to read:

"69-12-407. Records and reports. (1) All records, books, accounts, and files of every Class A, Class B, Class C, and Class D~~7~~-~~and-Class-E~~ motor carrier in this state, so far as they relate to the business of transportation

conducted by the motor carrier, must at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of Class A, Class B, Class C, and Class D~~7~~-~~and-Class-E~~ motor carriers, and every motor carrier authorized to operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according to the uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in business shall file with the commission a report, under oath, on a form 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 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 information it requires 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 D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

~~(4) In addition to other reporting requirements, the commission shall require the holder of a Class E motor carrier certificate to demonstrate that the carrier is entitled to possess the Class E motor certificate under the requirements of 69-12-315."~~

**Section 9.** Section 69-12-611, MCA, is amended to read:

"69-12-611. Leasing of power equipment. (1) All Class A, Class B, Class C, and Class D ~~and Class E~~ motor 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 power units must be in writing.

(2) All leases must contain:

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

(b) a complete description of each vehicle involved;

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

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

(e) the amount of compensation to be paid for use of the vehicle while under the lease and the method by which the 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 must be maintained in each leased vehicle at all times. Each leased power unit must display in a conspicuous place on both sides of the 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 10.** Repealer. Sections 69-12-315, 69-12-333, 69-12-334, and 69-12-335, MCA, are repealed.

-End-

APPROVED BY COMMITTEE  
ON HIGHWAYS & TRANSPORTATION

1  
2 INTRODUCED BY *Sen. Mike* *Bill No. 105* *Bad-Lawn*  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE CLASS E  
5 MOTOR CARRIER CATEGORY AND THE REGULATIONS RELATED TO  
6 TRANSPORTING LOGS; AMENDING SECTIONS 69-12-101, 69-12-102,  
7 69-12-201, 69-12-205, 69-12-301, 69-12-321, 69-12-322,  
8 69-12-407, AND 69-12-611, MCA; AND REPEALING SECTIONS  
9 69-12-315, 69-12-333, 69-12-334, AND 69-12-335, MCA."

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

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

13 "69-12-101. Definitions. Unless the context requires  
14 otherwise, in this chapter the following definitions apply:

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

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

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

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

1 association, or joint-stock association.

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

7 ~~(6) "Log" means a fallen or felled tree, delimbed and~~  
8 ~~cut to length for transportation to a point for storage or~~  
9 ~~processing.~~

10 ~~(7) (6)~~ "Motor carrier" means a person or corporation,  
11 or its lessees, trustees, or receivers appointed by any  
12 court, operating motor vehicles upon any public highway in  
13 this state for the transportation of persons or property for  
14 hire on a commercial basis, either as a common carrier or  
15 under private contract, agreement, charter, or undertaking.  
16 The term includes any motor carrier serving the public in  
17 the business of transportation of ashes, trash, waste,  
18 refuse, rubbish, garbage, and organic and inorganic matter.

19 ~~(8) (7)~~ "Motor vehicle" includes vehicles or machines,  
20 motor trucks, tractors, or other self-propelled vehicles  
21 used for the transportation of property or persons over the  
22 public highways of the state.

23 ~~(9) (8)~~ "Person" means an individual, firm, or  
24 partnership.

25 ~~(10) (9)~~ "Public highway" means a public street, road,

highway, or way in this state.

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

{12}(11) "Recyclable" means any material diverted from the solid waste stream that can be reused as raw material for new products and for which markets exist."

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

"69-12-102. Scope of chapter -- exemptions. (1) This chapter does not affect:

(a) motor vehicles used in carrying property consisting of agricultural commodities other-than-togs (not including manufactured products of agricultural commodities) 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;

(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;

(j) the transportation by motor vehicle of not more than 15 passengers between their places of residence or

1 termini near their residences and their places of employment  
 2 in a single daily round trip if the driver is also on--his  
 3 way going to or from his the driver's place of employment;

4 (k) the transportation of property by motor carrier as  
 5 part of a continuous movement if such that property, prior  
 6 or subsequent to such part of a continuous movement, has  
 7 been or will be transported by an air carrier;

8 (l) the operation of:

9 (i) a transportation system by a municipality or  
 10 transportation district as provided in Title 7, chapter 14,  
 11 part 2; or

12 (ii) municipal bus service pursuant to Title 7, chapter  
 13 14, part 44;

14 (m) armored motor vehicles used exclusively for the  
 15 transportation of coins, currency, silver bullion, gold  
 16 bullion, and other precious metals, precious stones,  
 17 valuable paintings, and other items of unusual value  
 18 requiring special handling and security;

19 (n) the transportation of a commodity under an  
 20 agreement between a motor carrier and an office or agency of  
 21 the United States government; or

22 (o) the transportation of handicapped or elderly  
 23 persons provided by private, nonprofit organizations. As  
 24 used in this subsection:

25 (i) "handicapped" means an individual who has a

1 physical or mental impairment that substantially limits one  
 2 or more major life activities;

3 (ii) "elderly" means a person 60 years of age or older;  
 4 and

5 (iii) "private, nonprofit organization" means an  
 6 organization recognized as nonprofit under section 501(c) of  
 7 the Internal Revenue Code.

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

10 **Section 3.** Section 69-12-201, MCA, is amended to read:

11 "69-12-201. Supervision and regulation of motor  
 12 carriers. (1) The commission has the power and authority and  
 13 it is its duty to:

14 (a) supervise and regulate every motor carrier in this  
 15 state;

16 (b) fix, alter, regulate, and determine specific, just,  
 17 reasonable, equal, nondiscriminatory, and sufficient rates,  
 18 fares, charges, and classifications for Class A and Class B  
 19 motor carriers;

20 (c) regulate the properties, facilities, operations,  
 21 accounts, service, practices, and affairs of all motor  
 22 carriers;

23 (d) require the filing of annual and other reports,  
 24 tariffs, schedules, or other data by such motor carriers;

25 (e) supervise and regulate motor carriers in all

1 matters affecting the relationship between such motor  
2 carriers and the traveling and shipping public.

3 (2) The commission may, by general order or otherwise,  
4 prescribe rules in conformity with this chapter and  
5 applicable to any and all motor carriers.

6 (3) The commission may fix and determine reasonable  
7 maximum or minimum rates for the operations of any Class C  
8 motor carrier when rates are required for the best interests  
9 of public transportation.

10 ~~{4}--The commission may fix and determine reasonable~~  
11 ~~maximum or minimum rates for the operations of any Class B~~  
12 ~~motor carrier operating under contract when rates are~~  
13 ~~required for the best interests of public transportation--"~~

14 **Section 4.** Section 69-12-205, MCA, is amended to read:

15 "69-12-205. Rules to reflect differences between  
16 carrier classes. All rules in relation to schedules,  
17 service, tariffs, rates, facilities, accounts, and reports  
18 must have due regard for the differences existing between  
19 Class A, Class B, Class C, and Class D, ~~and Class B~~ motor  
20 carriers, as defined in this chapter, and must be just,  
21 fair, and reasonable to the classes of motor carriers in  
22 their relations to each other and to the public. In fixing  
23 the tariff or rates to be charged by Class A and Class B  
24 motor carriers for the carrying of persons or property, or  
25 both, the commission shall take into consideration the kind

1 and character of service to be performed, the public  
2 necessity of the service, and the effect of the tariff and  
3 rates upon other transportation agencies, if any, and shall,  
4 as far as possible, avoid detrimental or unreasonable  
5 competition with existing railroad service or service  
6 furnished by a motor carrier."

7 **Section 5.** Section 69-12-301, MCA, is amended to read:

8 "69-12-301. Classification of motor carriers. (1) Motor  
9 carriers are divided into five four classes to be known as:

10 (a) Class A motor carriers;

11 (b) Class B motor carriers;

12 (c) Class C motor carriers; and

13 (d) Class D motor carriers; ~~and~~

14 ~~{e}--Class E motor carriers.~~

15 (2) Class A motor carriers include all motor carriers  
16 operating between fixed termini or over a regular route and  
17 under regular rates or charges, based upon either  
18 station-to-station rates or upon a mileage rate or scale.

19 (3) Class B motor carriers include all motor carriers  
20 operating under regular rates or charges based upon either  
21 station-to-station rates or upon a mileage rate or scale and  
22 not between fixed termini or over a regular route.

23 (4) Class C motor carriers include all motor carriers  
24 operating motor vehicles for distributing, delivering, or  
25 collecting wares, merchandise, or commodities or

1 transporting persons, where the remuneration is fixed in and  
2 the transportation service furnished under a contract,  
3 charter, agreement, or undertaking.

4 (5) Class D motor carriers include all motor carriers  
5 operating motor vehicles transporting (including pickup and  
6 disposal) ashes, trash, waste, refuse, rubbish, garbage,  
7 organic and inorganic matter, and recyclables.

8 ~~{6}--Class-E-motor-carriers-include-all-motor-carriers~~  
9 ~~operating---motor---vehicles---transporting---logs---if---the~~  
10 ~~remuneration-is-fixed-in---and---transportation---services---are~~  
11 ~~furnished-under-a-written-contract-or-agreement--"~~

12 **Section 6.** Section 69-12-321, MCA, is amended to read:

13 "69-12-321. Hearing on application for motor carrier  
14 certificate. (1) Upon the filing of an application by a  
15 Class A, Class B, Class C, or Class D, ~~or Class E~~ motor  
16 carrier, except a Class C motor carrier authorized to  
17 operate under the terms of a contract as provided in  
18 69-12-324, or upon the filing of a request for a transfer of  
19 authority, the commission shall give notice of the filing of  
20 the application to any interested party. The commission  
21 shall fix a time and place for a hearing on the application  
22 whenever a protest or a request for a hearing is received.  
23 The hearing must be set for a date not later than 60 days  
24 after receipt of a protest or a hearing request by the  
25 commission. Whenever no protests or hearing requests are

1 received, the commission may act on the application without  
2 a hearing as prescribed by commission rules.

3 (2) A motor carrier referred to in 69-12-322, the  
4 department of transportation, the governing board or boards  
5 of any county, town, or city into or through which the route  
6 or service as proposed may extend, and any person or  
7 corporation concerned are interested parties to the  
8 proceedings and may offer testimony for or against the  
9 granting of the certificate.

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

12 (4) However, an application by a Class A, Class B,  
13 Class C, or Class D, ~~or Class E~~ motor carrier for a  
14 certificate may be disallowed without a public hearing when  
15 it appears from the records of the commission that the route  
16 or territory sought to be served by the applicant has  
17 previously been made the basis of a public investigation and  
18 finding by the commission that public convenience and  
19 necessity do not require the proposed motor carrier service  
20 unless it is made to affirmatively appear in the application  
21 by a recital of the facts that conditions obtaining over the  
22 route or in the territory and affecting transportation  
23 facilities have materially changed since the previous public  
24 investigation and finding and that public convenience and  
25 necessity now require the motor carrier operation."

**Section 7.** Section 69-12-322, MCA, is amended to read:

"69-12-322. Notice of hearing. (1) Whenever a hearing is scheduled, whether as a result of a protest or request or upon the commission's own motion, the commission shall cause a copy of the petition and notice of hearing to be served upon an officer or owner of any motor carrier that in the opinion of the commission might be affected by the granting of the certificate and shall notify any other affected party at least 10 days before the date of hearing.

(2) Notice of the hearing must be published:

(a) in the legal advertising section of a local newspaper or newspapers determined by the commission to have a circulation sufficient to reach the consuming public in the area under consideration for applications for Class C or ~~Class---B~~ authority and geographically limited Class B authority; and

(b) in appropriate newspapers determined by the commission to have sufficient statewide circulation in the case of applications for Class A authority and geographically broad contemplated Class B authority."

**Section 8.** Section 69-12-407, MCA, is amended to read:

"69-12-407. Records and reports. (1) All records, books, accounts, and files of every Class A, Class B, Class C, and Class D~~y~~-~~and-Class-B~~ motor carrier in this state, so far as they relate to the business of transportation

conducted by the motor carrier, must at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of Class A, Class B, Class C, and Class D~~y~~-~~and-Class-B~~ motor carriers, and every motor carrier authorized to operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according to the uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in business shall file with the commission a report, under oath, on a form 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 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 information it requires 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 D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

~~(4) In addition to other reporting requirements, the commission shall require the holder of a Class B motor carrier certificate to demonstrate that the carrier is entitled to possess the Class B motor certificate under the requirements of 69-12-315.~~

**Section 9.** Section 69-12-611, MCA, is amended to read:

"69-12-611. Leasing of power equipment. (1) All Class A, Class B, Class C, and Class D, ~~and Class B~~ motor 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 power units must be in writing.

(2) All leases must contain:

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

(b) a complete description of each vehicle involved;

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

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

(e) the amount of compensation to be paid for use of the vehicle while under the lease and the method by which the 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 must be maintained in each leased vehicle at all times. Each leased power unit must display in a conspicuous place on both sides of the 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 10.** Repealer. Sections 69-12-315, 69-12-333, 69-12-334, and 69-12-335, MCA, are repealed.

-End-



APPROVED BY COMMITTEE  
ON HIGHWAYS & TRANSPORTATION

INTRODUCED BY

*SENATE* BILL NO. *105*  
*Bill Lamm*

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE CLASS E MOTOR CARRIER CATEGORY AND THE REGULATIONS RELATED TO TRANSPORTING LOGS; AMENDING SECTIONS 69-12-101, 69-12-102, 69-12-201, 69-12-205, 69-12-301, 69-12-321, 69-12-322, 69-12-407, AND 69-12-611, MCA; AND REPEALING SECTIONS 69-12-315, 69-12-333, 69-12-334, AND 69-12-335, 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}--"log"--means--a-fallen-or-felled-tree,delimbed-and cut-to-length-for-transportation-to-a-point-for--storage--or processing.~~

~~{7}{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 matter.

~~{8}{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.

~~{9}{8}~~ "Person" means an individual, firm, or partnership.

~~{10}{9}~~ "Public highway" means a public street, road,

1 highway, or way in this state.

2 ~~(11)~~(10) "Railroad" means the movement of cars on rails,  
3 regardless of the motive power used.

4 ~~(12)~~(11) "Recyclable" means any material diverted from  
5 the solid waste stream that can be reused as raw material  
6 for new products and for which markets exist."

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

8 "69-12-102. Scope of chapter -- exemptions. (1) This  
9 chapter does not affect:

10 (a) motor vehicles used in carrying property consisting  
11 of agricultural commodities other-than-logs (not including  
12 manufactured products of agricultural commodities) if the  
13 motor vehicles are not used in carrying other property or  
14 passengers for compensation;

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

20 (c) the transportation by means of motor vehicles in  
21 the regular course of business of employees, supplies, and  
22 materials by a person or corporation engaged exclusively in  
23 the construction or maintenance of highways or engaged  
24 exclusively in logging or mining operations, insofar as the  
25 use of employees, supplies, and materials in construction

1 and production is concerned;

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

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

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

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

16 (h) ambulances;

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

24 (j) the transportation by motor vehicle of not more  
25 than 15 passengers between their places of residence or

1 termini near their residences and their places of employment  
2 in a single daily round trip if the driver is also on--his  
3 way going to or from his the driver's place of employment;

4 (k) the transportation of property by motor carrier as  
5 part of a continuous movement if such that property, prior  
6 or subsequent to such part of a continuous movement, has  
7 been or will be transported by an air carrier;

8 (l) the operation of:

9 (i) a transportation system by a municipality or  
10 transportation district as provided in Title 7, chapter 14,  
11 part 2; or

12 (ii) municipal bus service pursuant to Title 7, chapter  
13 14, part 44;

14 (m) armored motor vehicles used exclusively for the  
15 transportation of coins, currency, silver bullion, gold  
16 bullion, and other precious metals, precious stones,  
17 valuable paintings, and other items of unusual value  
18 requiring special handling and security;

19 (n) the transportation of a commodity under an  
20 agreement between a motor carrier and an office or agency of  
21 the United States government; or

22 (o) the transportation of handicapped or elderly  
23 persons provided by private, nonprofit organizations. As  
24 used in this subsection:

25 (i) "handicapped" means an individual who has a

1 physical or mental impairment that substantially limits one  
2 or more major life activities;

3 (ii) "elderly" means a person 60 years of age or older;  
4 and

5 (iii) "private, nonprofit organization" means an  
6 organization recognized as nonprofit under section 501(c) of  
7 the Internal Revenue Code.

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

10 **Section 3.** Section 69-12-201, MCA, is amended to read:

11 "69-12-201. Supervision and regulation of motor  
12 carriers. (1) The commission has the power and authority and  
13 it is its duty to:

14 (a) supervise and regulate every motor carrier in this  
15 state;

16 (b) fix, alter, regulate, and determine specific, just,  
17 reasonable, equal, nondiscriminatory, and sufficient rates,  
18 fares, charges, and classifications for Class A and Class B  
19 motor carriers;

20 (c) regulate the properties, facilities, operations,  
21 accounts, service, practices, and affairs of all motor  
22 carriers;

23 (d) require the filing of annual and other reports,  
24 tariffs, schedules, or other data by such motor carriers;

25 (e) supervise and regulate motor carriers in all

matters affecting the relationship between such motor carriers and the traveling and shipping public.

(2) The commission may, by general order or otherwise, prescribe rules in conformity with this chapter and applicable to any and all motor carriers.

(3) The commission may fix and determine reasonable maximum or minimum rates for the operations of any Class C motor carrier when rates are required for the best interests of public transportation.

~~{4}--The commission may fix and determine reasonable maximum or minimum rates for the operations of any Class B motor carrier operating under contract when rates are required for the best interests of public transportation--~~

**Section 4.** 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, service, tariffs, rates, facilities, accounts, and reports must have due regard for the differences existing between Class A, Class B, Class C, and Class D, ~~and Class E~~ motor carriers, as defined in this chapter, and must be just, fair, and reasonable to the classes of motor carriers in their relations to each other and to the public. In fixing the tariff or rates to be charged by Class A and Class B motor carriers for the carrying of persons or property, or both, the commission shall take into consideration the kind

and character of service to be performed, the public necessity of the service, and the effect of the tariff and rates upon other transportation agencies, if any, and shall, as far as possible, avoid detrimental or unreasonable competition with existing railroad service or service furnished by a motor carrier."

**Section 5.** Section 69-12-301, MCA, is amended to read:

"69-12-301. Classification of motor carriers. (1) Motor carriers are divided into five four classes to be known as:

- (a) Class A motor carriers;
- (b) Class B motor carriers;
- (c) Class C motor carriers; and
- (d) Class D motor carriers; ~~and~~
- ~~{e}--Class E motor carriers.~~

(2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

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

(4) Class C motor carriers include all motor carriers operating motor vehicles for distributing, delivering, or collecting wares, merchandise, or commodities or

transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers include all motor carriers operating motor vehicles transporting (including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, organic and inorganic matter, and recyclables.

~~(6) Class B motor carriers include all motor carriers operating motor vehicles transporting logs if the remuneration is fixed in and transportation services are furnished under a written contract or agreement.~~

**Section 6.** Section 69-12-321, MCA, is amended to read:

"69-12-321. Hearing on application for motor carrier certificate. (1) Upon the filing of an application by a Class A, Class B, Class C, or Class D ~~or Class B~~ motor carrier, except a Class C motor carrier authorized to operate under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer of authority, the commission shall give notice of the filing of the application to any interested party. The commission shall fix a time and place for a hearing on the application whenever a protest or a request for a hearing is received. The hearing must be set for a date not later than 60 days after receipt of a protest or a hearing request by the commission. Whenever no protests or hearing requests are

received, the commission may act on the application without a hearing as prescribed by commission rules.

(2) A motor carrier referred to in 69-12-322, the department of transportation, the governing board or boards of any county, town, or city into or through which the route or service as proposed may extend, and any person or corporation concerned are interested parties to the proceedings and may offer testimony for or against the granting of the certificate.

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

(4) However, an application by a Class A, Class B, Class C, or Class D ~~or Class B~~ motor carrier for a certificate may be disallowed without a public hearing when it appears from the records of the commission that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over the route or in the territory and affecting transportation facilities have materially changed since the previous public investigation and finding and that public convenience and necessity now require the motor carrier operation."

**Section 7.** Section 69-12-322, MCA, is amended to read:

"69-12-322. Notice of hearing. (1) Whenever a hearing is scheduled, whether as a result of a protest or request or upon the commission's own motion, the commission shall cause a copy of the petition and notice of hearing to be served upon an officer or owner of any motor carrier that in the opinion of the commission might be affected by the granting of the certificate and shall notify any other affected party at least 10 days before the date of hearing.

(2) Notice of the hearing must be published:

(a) in the legal advertising section of a local newspaper or newspapers determined by the commission to have a circulation sufficient to reach the consuming public in the area under consideration for applications for Class C or ~~Class---B~~ authority and geographically limited Class B authority; and

(b) in appropriate newspapers determined by the commission to have sufficient statewide circulation in the case of applications for Class A authority and geographically broad contemplated Class B authority."

**Section 8.** Section 69-12-407, MCA, is amended to read:

"69-12-407. Records and reports. (1) All records, books, accounts, and files of every Class A, Class B, Class C, and Class ~~Dy-and-Class-B~~ motor carrier in this state, so far as they relate to the business of transportation

conducted by the motor carrier, must at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of Class A, Class B, Class C, and Class ~~Dy-and-Class-B~~ motor carriers, and every motor carrier authorized to operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according to the uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in business shall file with the commission a report, under oath, on a form 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 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 information it requires 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 D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

~~{4}--In-addition-to-other--reporting--requirements--the commission--shall--require--the--holder--of--a--Class-B-motor carrier-certificate--to--demonstrate--that--the--carrier--is entitled--to--possess--the--Class-B-motor-certificate-under-the requirements-of-69-12-315--"~~

**Section 9.** Section 69-12-611, MCA, is amended to read:

"69-12-611. Leasing of power equipment. (1) All Class A, Class B, Class C, and Class D ~~and Class B~~ motor 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 power units must be in writing.

(2) All leases must contain:

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

(b) a complete description of each vehicle involved;

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

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

(e) the amount of compensation to be paid for use of the vehicle while under the lease and the method by which the 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 must be maintained in each leased vehicle at all times. Each leased power unit must display in a conspicuous place on both sides of the 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 10. Repealer.** Sections 69-12-315, 69-12-333, 69-12-334, and 69-12-335, MCA, are repealed.

-End-

## 1 SENATE BILL NO. 105

2 INTRODUCED BY STANG, ELLIOTT, BIRD, LARSON

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE CLASS E  
5 MOTOR CARRIER CATEGORY AND THE REGULATIONS RELATED TO  
6 TRANSPORTING LOGS; AMENDING SECTIONS 69-12-101, 69-12-102,  
7 69-12-201, 69-12-205, 69-12-301, 69-12-321, 69-12-322,  
8 69-12-407, AND 69-12-611, MCA; AND REPEALING SECTIONS  
9 69-12-315, 69-12-333, 69-12-334, AND 69-12-335, MCA."

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

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

13 "69-12-101. Definitions. Unless the context requires  
14 otherwise, in this chapter the following definitions apply:

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

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

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

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

1 association, or joint-stock association.

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

7 ~~{6}--"bog"--means--a-fallen-or-felled-tree,-delimbed-and~~  
8 ~~cut-to-length-for-transportation-to-a-point-for--storage--or~~  
9 ~~processing-~~

10 ~~{7}{6}~~ "Motor carrier" means a person or corporation,  
11 or its lessees, trustees, or receivers appointed by any  
12 court, operating motor vehicles upon any public highway in  
13 this state for the transportation of persons or property for  
14 hire on a commercial basis, either as a common carrier or  
15 under private contract, agreement, charter, or undertaking.  
16 The term includes any motor carrier serving the public in  
17 the business of transportation of ashes, trash, waste,  
18 refuse, rubbish, garbage, and organic and inorganic matter.

19 ~~{8}{7}~~ "Motor vehicle" includes vehicles or machines,  
20 motor trucks, tractors, or other self-propelled vehicles  
21 used for the transportation of property or persons over the  
22 public highways of the state.

23 ~~{9}{8}~~ "Person" means an individual, firm, or  
24 partnership.

25 ~~{10}{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.

~~(11)~~ "Recyclable" means any material diverted from the solid waste stream that can be reused as raw material for new products and for which markets exist."

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

"69-12-102. Scope of chapter -- exemptions. (1) This chapter does not affect:

(a) motor vehicles used in carrying property consisting of agricultural commodities ~~other than logs~~ (not including manufactured products of agricultural commodities) 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;

(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;

(j) the transportation by motor vehicle of not more than 15 passengers between their places of residence or

1 termini near their residences and their places of employment  
 2 in a single daily round trip if the driver is also on--his  
 3 way going to or from his the driver's place of employment;

4 (k) the transportation of property by motor carrier as  
 5 part of a continuous movement if such that property, prior  
 6 or subsequent to such part of a continuous movement, has  
 7 been or will be transported by an air carrier;

8 (l) the operation of:

9 (i) a transportation system by a municipality or  
 10 transportation district as provided in Title 7, chapter 14,  
 11 part 2; or

12 (ii) municipal bus service pursuant to Title 7, chapter  
 13 14, part 44;

14 (m) armored motor vehicles used exclusively for the  
 15 transportation of coins, currency, silver bullion, gold  
 16 bullion, and other precious metals, precious stones,  
 17 valuable paintings, and other items of unusual value  
 18 requiring special handling and security;

19 (n) the transportation of a commodity under an  
 20 agreement between a motor carrier and an office or agency of  
 21 the United States government; or

22 (o) the transportation of handicapped or elderly  
 23 persons provided by private, nonprofit organizations. As  
 24 used in this subsection:

25 (i) "handicapped" means an individual who has a

1 physical or mental impairment that substantially limits one  
 2 or more major life activities;

3 (ii) "elderly" means a person 60 years of age or older;  
 4 and

5 (iii) "private, nonprofit organization" means an  
 6 organization recognized as nonprofit under section 501(c) of  
 7 the Internal Revenue Code.

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

10 **Section 3.** Section 69-12-201, MCA, is amended to read:

11 "69-12-201. Supervision and regulation of motor  
 12 carriers. (1) The commission has the power and authority and  
 13 it is its duty to:

14 (a) supervise and regulate every motor carrier in this  
 15 state;

16 (b) fix, alter, regulate, and determine specific, just,  
 17 reasonable, equal, nondiscriminatory, and sufficient rates,  
 18 fares, charges, and classifications for Class A and Class B  
 19 motor carriers;

20 (c) regulate the properties, facilities, operations,  
 21 accounts, service, practices, and affairs of all motor  
 22 carriers;

23 (d) require the filing of annual and other reports,  
 24 tariffs, schedules, or other data by such motor carriers;

25 (e) supervise and regulate motor carriers in all

matters affecting the relationship between such motor carriers and the traveling and shipping public.

(2) The commission may, by general order or otherwise, prescribe rules in conformity with this chapter and applicable to any and all motor carriers.

(3) The commission may fix and determine reasonable maximum or minimum rates for the operations of any Class C motor carrier when rates are required for the best interests of public transportation.

~~(4) The commission may fix and determine reasonable maximum or minimum rates for the operations of any Class B motor carrier operating under contract when rates are required for the best interests of public transportation.~~

**Section 4.** 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, service, tariffs, rates, facilities, accounts, and reports must have due regard for the differences existing between Class A, Class B, Class C, and Class D, ~~and Class B~~ motor carriers, as defined in this chapter, and must be just, fair, and reasonable to the classes of motor carriers in their relations to each other and to the public. In fixing the tariff or rates to be charged by Class A and Class B motor carriers for the carrying of persons or property, or both, the commission shall take into consideration the kind

and character of service to be performed, the public necessity of the service, and the effect of the tariff and rates upon other transportation agencies, if any, and shall, as far as possible, avoid detrimental or unreasonable competition with existing railroad service or service furnished by a motor carrier."

**Section 5.** Section 69-12-301, MCA, is amended to read:

"69-12-301. Classification of motor carriers. (1) Motor carriers are divided into five four classes to be known as:

- (a) Class A motor carriers;
- (b) Class B motor carriers;
- (c) Class C motor carriers; and
- (d) Class D motor carriers; and
- ~~(e) Class B motor carriers.~~

(2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

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

(4) Class C motor carriers include all motor carriers operating motor vehicles for distributing, delivering, or collecting wares, merchandise, or commodities or

1 transporting persons, where the remuneration is fixed in and  
2 the transportation service furnished under a contract,  
3 charter, agreement, or undertaking.

4 (5) Class D motor carriers include all motor carriers  
5 operating motor vehicles transporting (including pickup and  
6 disposal) ashes, trash, waste, refuse, rubbish, garbage,  
7 organic and inorganic matter, and recyclables.

8 ~~(6) Class B motor carriers include all motor carriers~~  
9 ~~operating motor vehicles transporting logs if the~~  
10 ~~remuneration is fixed in and transportation services are~~  
11 ~~furnished under a written contract or agreement."~~

12 **Section 6.** Section 69-12-321, MCA, is amended to read:

13 "69-12-321. Hearing on application for motor carrier  
14 certificate. (1) Upon the filing of an application by a  
15 Class A, Class B, Class C, or Class D ~~or Class E~~ motor  
16 carrier, except a Class C motor carrier authorized to  
17 operate under the terms of a contract as provided in  
18 69-12-324, or upon the filing of a request for a transfer of  
19 authority, the commission shall give notice of the filing of  
20 the application to any interested party. The commission  
21 shall fix a time and place for a hearing on the application  
22 whenever a protest or a request for a hearing is received.  
23 The hearing must be set for a date not later than 60 days  
24 after receipt of a protest or a hearing request by the  
25 commission. Whenever no protests or hearing requests are

1 received, the commission may act on the application without  
2 a hearing as prescribed by commission rules.

3 (2) A motor carrier referred to in 69-12-322, the  
4 department of transportation, the governing board or boards  
5 of any county, town, or city into or through which the route  
6 or service as proposed may extend, and any person or  
7 corporation concerned are interested parties to the  
8 proceedings and may offer testimony for or against the  
9 granting of the certificate.

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

12 (4) However, an application by a Class A, Class B,  
13 Class C, or Class D ~~or Class E~~ motor carrier for a  
14 certificate may be disallowed without a public hearing when  
15 it appears from the records of the commission that the route  
16 or territory sought to be served by the applicant has  
17 previously been made the basis of a public investigation and  
18 finding by the commission that public convenience and  
19 necessity do not require the proposed motor carrier service  
20 unless it is made to affirmatively appear in the application  
21 by a recital of the facts that conditions obtaining over the  
22 route or in the territory and affecting transportation  
23 facilities have materially changed since the previous public  
24 investigation and finding and that public convenience and  
25 necessity now require the motor carrier operation."

**Section 7.** Section 69-12-322, MCA, is amended to read:

**"69-12-322. Notice of hearing.** (1) Whenever a hearing is scheduled, whether as a result of a protest or request or upon the commission's own motion, the commission shall cause a copy of the petition and notice of hearing to be served upon an officer or owner of any motor carrier that in the opinion of the commission might be affected by the granting of the certificate and shall notify any other affected party at least 10 days before the date of hearing.

(2) Notice of the hearing must be published:

(a) in the legal advertising section of a local newspaper or newspapers determined by the commission to have a circulation sufficient to reach the consuming public in the area under consideration for applications for Class C or ~~Class---B~~ authority and geographically limited Class B authority; and

(b) in appropriate newspapers determined by the commission to have sufficient statewide circulation in the case of applications for Class A authority and geographically broad contemplated Class B authority."

**Section 8.** Section 69-12-407, MCA, is amended to read:

**"69-12-407. Records and reports.** (1) All records, books, accounts, and files of every Class A, Class B, Class C, and Class ~~Dy-and-Class-B~~ motor carrier in this state, so far as they relate to the business of transportation

conducted by the motor carrier, must at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of Class A, Class B, Class C, and Class ~~Dy-and-Class-B~~ motor carriers, and every motor carrier authorized to operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according to the uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in business shall file with the commission a report, under oath, on a form 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 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 information it requires 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 D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

~~{4}--In-addition-to-other--reporting--requirements,--the commission--shall--require--the--holder--of--a--Class--E--motor carrier--certificate--to--demonstrate--that--the--carrier--is entitled--to--possess--the--Class--E--motor--certificate--under--the requirements--of--69-12-315r"~~

**Section 9.** Section 69-12-611, MCA, is amended to read:

"69-12-611. Leasing of power equipment. (1) All Class A, Class B, Class C, and Class D, ~~and Class E~~ motor 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 power units must be in writing.

(2) All leases must contain:

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

(b) a complete description of each vehicle involved;

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

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

(e) the amount of compensation to be paid for use of the vehicle while under the lease and the method by which the 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 must be maintained in each leased vehicle at all times. Each leased power unit must display in a conspicuous place on both sides of the 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 10.** Repealer. Sections 69-12-315, 69-12-333, 69-12-334, and 69-12-335, MCA, are repealed.

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