

House BILL NO. 458

INTRODUCED BY

Larson

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A MOTOR CARRIER EXEMPTION FROM A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR LOCAL GOVERNMENTS TRANSPORTING SOLID WASTE AND FOR LOCAL GOVERNMENT CONTRACTS FOR TRANSPORTING SOLID WASTE; AND AMENDING SECTIONS 69-12-102, 69-12-314, 69-12-321, AND 69-12-324, MCA."

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

Section 1. 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 (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~~ that 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~~ that 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

- 1 vehicle wrecking facility or a motor vehicle graveyard;
- 2 (h) ambulances;
- 3 (i) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix
4 asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving
5 materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely
6 for the purpose of excavation or fill;
- 7 (j) the transportation by motor vehicle of not more than 15 passengers between their places of
8 residence or termini near their residences and their places of employment in a single daily round trip if the
9 driver is also going to or from the driver's place of employment;
- 10 (k) the transportation of property by motor carrier as part of a continuous movement if that
11 property, prior or subsequent to part of a continuous movement, has been or will be transported by an air
12 carrier;
- 13 (l) the operation of:
- 14 (i) a transportation system by a municipality or transportation district as provided in Title 7, chapter
15 14, part 2; or
- 16 (ii) municipal bus service pursuant to Title 7, chapter 14, part 44;
- 17 (m) armored motor vehicles used exclusively for the transportation of coins, currency, silver bullion,
18 gold bullion, and other precious metals, precious stones, valuable paintings, and other items of unusual
19 value requiring special handling and security;
- 20 (n) the transportation of a commodity under an agreement between a motor carrier and an office
21 or agency of the United States government; ~~or~~
- 22 (o) the transportation of handicapped or elderly persons provided by private, nonprofit
23 organizations. As used in this subsection:
- 24 (i) "handicapped" means an individual who has a physical or mental impairment that substantially
25 limits one or more major life activities;
- 26 (ii) "elderly" means a person 60 years of age or older; and
- 27 (iii) "private, nonprofit organization" means an organization recognized as nonprofit under section
28 501(c) of the Internal Revenue Code.
- 29 (p) the transportation by a local government of ashes, trash, waste, refuse, rubbish, garbage, and
30 organic and inorganic matter. As used in this chapter, "local government" means a form of government

1 provided for in Title 7.

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

4
5 **Section 2.** Section 69-12-314, MCA, is amended to read:

6 **"69-12-314. Class D motor carrier certificate.** (1) Except a Class D motor carrier operating pursuant
7 to the terms and conditions of a contract as provided in 69-12-324, Class D carriers shall conduct
8 operations pursuant to a certificate of public convenience and necessity issued by the commission
9 authorizing the transportation of the commodities described in 69-12-301(5). Class D carriers when
10 applying for a new or additional authority shall file an application with the commission in accordance with
11 the requirements of this chapter and the rules of the commission.

12 (2) A motor carrier may not possess a Class D motor carrier certificate or operate as a Class D
13 motor carrier unless the motor carrier actually engages in the transportation of ashes, trash, waste, refuse,
14 rubbish, garbage, and organic and inorganic matter on a regular basis as part of the motor carrier's usual
15 business operation."

16
17 **Section 3.** Section 69-12-321, MCA, is amended to read:

18 **"69-12-321. Hearing on application for motor carrier certificate.** (1) Upon the filing of an application
19 by a Class A, Class B, Class C, or Class D motor carrier, except a Class C or Class D motor carrier
20 authorized to operate under the terms of a contract, as provided in 69-12-324, or upon the filing of a
21 request for a transfer of authority, the commission shall give notice of the filing of the application to any
22 interested party. The commission shall fix a time and place for a hearing on the application whenever a
23 protest or a request for a hearing is received. 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 commission. Whenever no protests or hearing requests
25 are received, the commission may act on the application without a hearing as prescribed by commission
26 rules.

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

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

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

11
12 **Section 4.** Section 69-12-324, MCA, is amended to read:

13 **"69-12-324. Special provisions when federal, or state, or local government contract involved.** (1)

14 The presentation of the written contract to the commission ~~shall be deemed~~ is considered sufficient proof
15 of public convenience and necessity in accordance with the terms and conditions contained within the
16 United States government ~~or~~, state government, or local government contracts. Subject to the provisions
17 of this section, a transportation movement is considered to be:

18 (a) the transportation for hire of persons between two points within the state by a motor carrier
19 pursuant to the terms of a written contract between the carrier and the United States government or an
20 agency or department ~~thereof~~ of the United States; or

21 (b) the transportation for hire of solid waste between two points within the state by a motor carrier
22 pursuant to the terms of a written contract between the carrier and the state government or an agency or
23 department ~~thereof~~ of the state government or a local government.

24 (2) The Class C certificate of public convenience and necessity issued pursuant to the terms and
25 conditions of the United States government or state government contract may be issued by the commission
26 upon receipt of an executed copy of the United States government or state government contract. The
27 certificate of public convenience and necessity may be issued thereafter without requiring the commission
28 to fix a time and place for public hearing.

29 (3) The certificate of public convenience and necessity, issued pursuant to the terms of the United
30 States government or state government contract, is authorized only for the duration of the United States

1 government ~~or~~ state government, or local government contract concerned. The certificate may be renewed
2 for another definite term if the same motor carrier is the motor carrier authorized to operate under the
3 United States government ~~or~~ state government, or local government contract."

4 -END-

APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

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- (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;
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9 driver is also going to or from the driver's place of employment;

10 (k) the transportation of property by motor carrier as part of a continuous movement if that
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21 (b) the transportation for hire of solid waste between two points within the state by a motor carrier
22 pursuant to the terms of a written contract between the carrier and the state government or an agency or
23 department ~~thereof~~ of the state government or a local government.

24 (2) The Class C certificate of public convenience and necessity issued pursuant to the terms and
25 conditions of the United States government or state government contract may be issued by the commission
26 upon receipt of an executed copy of the United States government or state government contract. The
27 certificate of public convenience and necessity may be issued thereafter without requiring the commission
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4 -END-