

SENATE BILL NO. 355 *molra*

INTRODUCED BY

Joseph
Chris Ginter *Carlson* *John* *Salvin*
Hettinger

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO TOW TRUCKS AND ABANDONED VEHICLES; CLASSIFYING TOW TRUCKS BASED ON WEIGHT; REQUIRING LIABILITY INSURANCE AND ANNUAL SAFETY INSPECTIONS FOR COMMERCIAL TOW TRUCKS; ESTABLISHING A LAW ENFORCEMENT ROTATION SYSTEM FOR THE REMOVAL OF WRECKED, DISABLED, OR ABANDONED VEHICLES; LIMITING THE USE OF NONCOMMERCIAL TOW TRUCKS; CREATING A PRIMA FACIE PRESUMPTION OF OWNERSHIP OF AN ABANDONED VEHICLE; INCREASING THE VALUE OF A JUNK VEHICLE; AMENDING SECTIONS 61-1-120, 61-8-356, 61-9-416, 61-12-402, AND 69-12-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

(1) A statement of intent is required for this bill because it requires the department of justice to adopt rules implementing the provisions of [sections 1 through 11]. At a minimum, the rules must address:

- (a) the handling of wrecked, disabled, or abandoned motor vehicles carrying hazardous materials;
- (b) the classification of noncommercially manufactured or modified tow truck equipment;
- (c) the procedure for hearing disputes over the classification of noncommercially manufactured tow truck equipment;
- (d) the protection of property taken into custody and the reclaiming of that property;
- (e) inspection fees;
- (f) the admission, suspension, or termination of tow truck operators on the law enforcement rotation system; and
- (g) the certification of inspectors.

(2) It is the intent of the legislature that the Montana highway patrol be charged with the administration of [sections 1 through 11].

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

NEW SECTION. Section 1. Short title. [Sections 1 through 11] may be cited as the "Montana



1 Professional Tow Truck Act".

2

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

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

6 (2) officers investigating accidents on the public roadways need immediately available towing and
7 recovery vehicles staffed by competent operators and adequately equipped to clear the roadways and
8 remove hazardous obstructions with minimum damage to property;

9 (3) certain standards and classifications are needed for professional tow trucks and equipment used
10 for towing and recovering wrecked, disabled, and abandoned motor vehicles or other objects creating
11 hazards on the public roadways;

12 (4) encouragement of a competitive and qualified professional towing industry requires
13 establishment of a uniform and equitable qualification system based on the equipment and the standards
14 provided in [sections 5 through 7] and a system for the fair consideration of all qualified tow truck
15 companies; and

16 (5) the use of nonqualified tow truck companies or private motor vehicles to tow or recover for hire
17 wrecked, disabled, or abandoned vehicles creates additional hazards and, except in limited situations,
18 should be prohibited. However, when a person or tow truck company responds in good faith to
19 life-threatening emergency situations, it should not be liable for civil damages for acts or omissions, other
20 than damages occasioned by gross negligence or by willful or wanton acts or omissions.

21

22 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 11], the following
23 definitions apply:

24 (1) "Commercial tow truck operator" or "operator" means a person, firm, or other entity that owns
25 or operates a commercial tow truck as defined in 61-9-416.

26 (2) "Department" means the department of justice provided for in 2-15-2001.

27 (3) "Local government" means a county, a municipality, or other local board or body that has
28 authority to enact laws relating to traffic.

29 (4) "Qualified tow truck operator" means a commercial tow truck operator:

30 (a) that has equipment that:

1 (i) meets the requirements of 61-9-416 and [sections 6 and 7]; and

2 (ii) has been classified in accordance with [section 5]; and

3 (b) that participates in the law enforcement rotation system provided for in [section 8].

4
5 **NEW SECTION. Section 4. Prohibition -- exception.** (1) A commercial tow truck operator may
6 not operate for compensation upon the public roadways of this state unless the operator complies with the
7 provisions of [sections 6 and 7].

8 (2) A commercial tow truck operator may not participate in the law enforcement rotation system
9 provided for in [section 8] unless the operator complies with the provisions of [sections 5 through 7].

10 (3) [Sections 1 through 8 and 10] do not apply to a commercial tow truck operator that does not
11 operate for compensation.

12
13 **NEW SECTION. Section 5. Classification standards.** (1) Commercial tow trucks are divided into
14 the following five classes based on the manufacturer's rating:

15 (a) Class A tow truck equipment must have a minimum manufacturer's rating of 4 tons and must
16 be mounted on a truck chassis with a minimum manufacturer's rating of 10,000 pounds gross vehicle
17 weight.

18 (b) Class B tow truck equipment must have a minimum manufacturer's rating of 8 tons and must
19 be mounted on a truck chassis with a minimum manufacturer's rating of 18,000 pounds gross vehicle
20 weight.

21 (c) Class C tow truck equipment must have a minimum manufacturer's rating of 16 tons and must
22 be mounted on a chassis that has a minimum manufacturer's rating of 32,000 pounds gross vehicle weight.

23 (d) Class D is class A, B, or C tow truck equipment that includes manufactured rollbacks and car
24 carriers with manufacturer's gross vehicle ratings ranging from 10,000 pounds to 30,000 pounds. The
25 rollbacks and car carriers must be mounted on a truck-trailer chassis that, at a minimum, is equal to the
26 minimum gross weight of the rollback or car carrier.

27 (e) Class E includes two or more tow trucks working together with a combined manufacturer's
28 rating of a minimum of 80,000 pounds with access to supportive equipment, such as forklifts, banders,
29 and air bags, for the recovery of rollovers and wrecked, disabled, and abandoned vehicles whose cargo
30 requires special handling. Class E refers to tow truck companies and not to tow truck equipment.

1 (2) (a) An operator of noncommercially manufactured or modified tow truck equipment in use on
2 October 1, 1995, that wishes to participate in the law enforcement rotation system must have its
3 equipment classified by the department within a time period set by the department. Once the equipment
4 is classified, further modifications may not be made.

5 (b) (i) The department shall establish a committee composed of members selected from the:

6 (A) board of directors of the Montana tow truck association;

7 (B) the motor carrier services division of the department of transportation; and

8 (C) the highway patrol.

9 (ii) The committee is responsible for hearing disputes that may arise regarding the classification of
10 noncommercially manufactured or modified tow truck equipment.

11 (iii) The department shall establish by rule a procedure for hearing a dispute.

12 (c) After October 1, 1995, an operator of new noncommercially manufactured or modified tow
13 truck equipment must have its equipment independently certified before participating in the law
14 enforcement rotation system.

15
16 NEW SECTION. **Section 6. Liability insurance -- storage requirements.** (1) Notwithstanding the
17 provisions of 61-6-301, a commercial tow truck operator shall continuously provide:

18 (a) insurance against loss resulting from liability imposed by law for bodily injury or death or
19 damage to property caused by the maintenance or use of a commercial tow truck, as defined in 61-9-416,
20 or occurring on the business premises of a commercial tow truck operator in an amount not less than:

21 (i) \$300,000 for class A tow trucks;

22 (ii) \$500,000 for class B tow trucks; and

23 (iii) \$750,000 for class C tow trucks;

24 (b) insurance to cover the damage to cargo or other property entrusted to the care of the
25 commercial tow truck operator; and

26 (c) garage keepers legal liability insurance.

27 (2) A commercial tow truck operator shall provide a storage facility, either a fenced lot or a
28 building, that is:

29 (a) adequate for the secure storage and safekeeping of stored vehicles;

30 (b) located in a place that is reasonably convenient for public access;

1 (c) available to public access between 8 a.m. and 5 p.m., Monday through Friday, excluding legal
2 holidays; and

3 (d) large enough to store all the vehicles towed for law enforcement agencies.
4

5 **NEW SECTION. Section 7. Inspection -- fees -- decal.** (1) The tow truck equipment of a
6 commercial tow truck operator must have an annual safety inspection. A highway patrol officer, an
7 employee of the department of transportation appointed as a peace officer in accordance with 61-12-201,
8 or an inspector certified by the department shall conduct the inspection and require the commercial tow
9 truck operator to provide proof of compliance with the provisions of [section 6].

10 (2) (a) Upon satisfactory completion of the inspection and verification of the insurance
11 requirements, a decal showing the last inspection date and the expiration date of the insurance coverage
12 must be affixed in a prominent place on the tow truck.

13 (b) If the commercial tow truck operator is participating in the law enforcement rotation system,
14 the decal must also show the classification of the operator's tow truck equipment.

15 (3) The department may establish an inspection fee that may not exceed the actual costs of the
16 inspection. The fees must be deposited in the state highway account in the state special revenue fund.
17

18 **NEW SECTION. Section 8. State law enforcement rotation system -- local government rotation
19 system.** (1) The department shall establish an equitable rotation system among qualified tow truck
20 operators that apply to the department in writing to be placed on the system. The rotation system:

21 (a) must be administered by the highway patrol in a manner that will give priority to public safety;

22 (b) must be based on the classification of equipment as provided in [section 5]; and

23 (c) may include only qualified tow truck operators.

24 (2) The rotation system is not applicable when the owner or driver of a wrecked or disabled vehicle
25 obstructing a public roadway requests a tow truck operator of the owner's or driver's choice and the
26 operator meets the insurance requirements provided in [section 6] and the safety inspection requirements
27 provided in [section 7].

28 (3) (a) (i) The law enforcement officer at the scene of the wreck shall call the qualified tow truck
29 operator that is next on the rotation list if:

30 (A) a request for a tow truck is not made by the owner or driver;

1 (B) the requested tow truck cannot respond in a timely manner; or

2 (C) the law enforcement officer determines that the requested tow truck is unable to handle the
3 wrecked or disabled vehicle.

4 (ii) If the qualified tow truck operator is not classified to handle the wrecked or disabled vehicle, the
5 officer shall call the qualified tow truck operator next on the rotation list that is classified to handle the
6 wrecked or disabled vehicle.

7 (b) If a qualified tow truck operator classified to handle the wrecked or disabled vehicle is not
8 reasonably available, the law enforcement officer may request other equipment to remove the hazard.

9 (4) The department shall administer the state law enforcement rotation system.

10 (5) A qualified tow truck operator gives implied consent to a reasonable inspection during normal
11 business hours of its premises, vehicles, and equipment by the department of transportation, highway
12 patrol, or a local government to ensure compliance with [sections 5 through 7].

13 (6) A local law enforcement agency may adopt and administer a local law enforcement rotation
14 system. A tow truck operator desiring to be placed on the local law enforcement rotation system must be
15 a qualified tow truck operator as provided in [sections 1 through 11].

16
17 **NEW SECTION. Section 9. Good faith immunity.** A person who renders assistance in an
18 emergency that is life-threatening to the occupant of a wrecked, disabled, or abandoned vehicle or that is
19 creating an immediate hazard on a public roadway or who renders emergency assistance as directed by a
20 law enforcement officer or other emergency responder at the scene of a motor vehicle accident is immune
21 from damages arising from acts or omissions related to the rendering of assistance unless the damages are
22 occasioned by the gross negligence or by the willful or wanton acts or omissions of the person rendering
23 the assistance.

24
25 **NEW SECTION. Section 10. Violation -- penalty.** A commercial tow truck operator that violates
26 a provision of [section 6 or 7] is guilty of a misdemeanor and is subject to the penalty provided in 61-8-711.

27
28 **NEW SECTION. Section 11. Rulemaking authority.** The department shall adopt reasonable and
29 necessary rules to administer the provisions of [sections 1 through 10].

30

1 **Section 12.** Section 61-1-120, MCA, is amended to read:

2 **"61-1-120. Emergency service vehicles.** "Emergency service vehicles" means emergency service
3 vehicles of state, county, or municipal departments; or public service vehicles, commercial tow trucks, or
4 commercial road service trucks, which by the nature of their operation cause a vehicular traffic hazard; ~~or~~
5 ~~authorized tow cars."~~

6
7 **Section 13.** Section 61-8-356, MCA, is amended to read:

8 **"61-8-356. Prohibition against parking or leaving vehicles on public property -- presumption of**
9 **ownership.** ~~No (1)~~ A vehicle shall may not be parked or left standing upon the right-of-way of ~~any~~ a public
10 highway for a period longer than 48 hours, ~~or~~ upon a city street, or ~~any~~ upon state, county, or city property
11 for a period longer than 5 days.

12 (2) The abandonment of a motor vehicle on a public highway, a city street, public property, or
13 private property creates a prima facie presumption that the last-registered owner of the motor vehicle is
14 responsible for the abandonment and is liable for the costs incurred in removing, storing, and disposing of
15 the abandoned vehicle, less the amount realized if the motor vehicle is sold.

16 (3) The filing of a record of a sale or a transfer of the motor vehicle or the filing of a verified theft
17 report with a law enforcement agency prior to the abandonment relieves the last-registered owner of liability
18 under subsection (2)."

19
20 **Section 14.** Section 61-9-416, MCA, is amended to read:

21 **"61-9-416. Commercial tow truck definition -- requirements.** (1) ~~A commercial tow truck used~~
22 ~~to tow a vehicle by means of a crane, hoist, towbar, towline, or dolly must be~~ "Commercial tow truck"
23 means a motor vehicle operating for compensation that is equipped with specialized equipment designed
24 and intended for towing or the recovery of wrecked, disabled, or abandoned vehicles or other objects
25 creating a hazard on the public roadways. A commercial tow truck must be equipped with:

26 (a) ~~equipped with~~ and carry not less than two red flares, two red lanterns, or two warning lights
27 or reflectors. The reflectors must be of a type approved by the department.

28 (b) ~~equipped with~~ at least two highway warning signs of a uniform type, with dimensions of 3 x
29 3 feet, lettering 5 inches high, and reflectorized orange background and black border, as prescribed by the
30 department. The signs must be designed to be visible both day and night. The warning signs must bear

1 the words "wreck ahead", "tow truck ahead", or "wrecker ahead", as prescribed by the department. When
2 a motor vehicle is disabled on the highway, the tow truck operator called to render assistance during the
3 hours of darkness shall immediately upon arrival place warning signs upon the highway as prescribed in this
4 section and shall also place not less than one red flare, red lantern, or warning light or reflector in close
5 proximity to each warning sign.

6 (c) ~~equipped with~~ and carry a dry chemical fire extinguisher of at least 5 pound capacity or an
7 equivalent alternative type of fire extinguisher, approved by the department;

8 (d) ~~equipped with~~ a lamp emitting a flashing or steady red or amber light, or both a red and amber
9 light, mounted on top of the cab of the tow truck or on the top of the crane or hoist if the light can be seen
10 from the front of the tow truck. The light from the lamp must be visible for a distance of 1,000 feet under
11 normal atmospheric conditions and must be mounted in such a manner that it can be securely fastened with
12 the lens of the lamp facing the rear of the tow truck upon which it is mounted. When standing at the
13 location from which the disabled vehicle is to be towed, the operator of the tow truck may unfasten the
14 red light and place it in any position considered advisable to warn approaching drivers. When the disabled
15 vehicle is ready for towing, the red light must be turned to the rear of the tow truck upon which it is
16 mounted and securely locked in this position. Additional red or amber lights of an approved type may be
17 displayed at either side or both sides of the tow truck as the case may warrant during the period of
18 preparation at the location from which the disabled vehicle is to be towed.

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

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

25 (g) ~~equipped with~~ and carry a portable electrical extension cord or other device for use in displaying
26 a light stop, turn, and tail lights on the rear of the disabled vehicle. The length of the extension cord may
27 not be less than the length of the combined vehicles, and whenever a disabled vehicle is towed during the
28 hours of darkness and the rear lamp or lamps on the disabled vehicle cannot be lighted, the tow truck
29 operator shall provide for the rear light that is capable of emitting a stop and a directional signal by means
30 of the extension cord or other device referred to in this subsection.

1 (2) The operator of a commercial tow truck used for the purpose of rendering assistance to other
 2 vehicles shall, when the rendering of assistance necessitates the obstruction of any portion of the roadway
 3 outside a business or residence district, place a highway warning sign as required in subsection (1)(b):

4 (a) in an area in which the posted speed limit is 45 miles an hour or less, not less than 450 feet
 5 in advance of the disabled vehicle and an equal distance to the rear of the disabled vehicle; and

6 (b) in an area in which the posted speed limit is more than 45 miles an hour, 600 feet in advance
 7 of the disabled vehicle, except on a divided highway where the disabled vehicle does not cause disruption
 8 of traffic traveling on the opposite side of the divided highway, and an equal distance to the rear of the
 9 disabled vehicle.

10 (3) The owner or operator of a commercial tow truck who complies with the requirements of
 11 sections 6 and 7 and this section may stop or park the tow truck upon a highway for the purpose of
 12 rendering assistance to a disabled vehicle, notwithstanding other provisions of this code."

13
 14 **Section 15.** Section 69-12-102, MCA, is amended to read:

15 **"69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

16 (a) motor vehicles used in carrying property consisting of agricultural commodities, {not including
 17 manufactured products of agricultural commodities}, if the motor vehicles are not used in carrying other
 18 property or passengers for compensation;

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

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

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

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

30 ~~{f} tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or~~

1 ~~disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked,~~
2 ~~or disabled vehicles;~~

3 ~~(g)~~(f) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor
4 vehicle wrecking facility or a motor vehicle graveyard;

5 ~~(h)~~(g) ambulances;

6 ~~(i)~~(h) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix
7 asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving
8 materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely
9 for the purpose of excavation or fill;

10 ~~(j)~~(i) the transportation by motor vehicle of not more than 15 passengers between their places of
11 residence or termini near their residences and their places of employment in a single daily round trip if the
12 driver is also going to or from the driver's place of employment;

13 ~~(k)~~(j) the transportation of property by motor carrier as part of a continuous movement if that
14 property, prior or subsequent to part of a continuous movement, has been or will be transported by an air
15 carrier;

16 ~~(l)~~(k) the operation of:

17 (i) a transportation system by a municipality or transportation district as provided in Title 7, chapter
18 14, part 2; or

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

20 ~~(m)~~(l) armored motor vehicles used exclusively for the transportation of coins, currency, silver
21 bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of
22 unusual value requiring special handling and security;

23 ~~(n)~~(m) the transportation of a commodity under an agreement between a motor carrier and an office
24 or agency of the United States government; or

25 ~~(o)~~(n) the transportation of ~~handicapped~~ disabled or elderly persons provided by private, nonprofit
26 organizations. As used in this subsection:

27 (i) ~~"handicapped"~~ "disabled" means an individual who has a physical or mental impairment that
28 substantially limits one or more major life activities;

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

30 (iii) "private, nonprofit organization" means an organization recognized as nonprofit under section

1 501(c) of the Internal Revenue Code.

2 (2) This chapter does not affect commercial tow trucks designed and exclusively used in towing
3 wrecked, disabled, or abandoned vehicles or while these tow trucks are rendering assistance to wrecked,
4 disabled, or abandoned vehicles. However, commercial tow truck firms shall file policies of insurance
5 showing coverage required by [section 6].

6 ~~(2)(3)~~ This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell
7 agreements."

8

9 **Section 16.** Section 61-12-402, MCA, is amended to read:

10 **"61-12-402. Notice to owner.** (1) Within 72 hours after any vehicle is removed and held by or
11 at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county in
12 which the vehicle was located at the time it was taken into custody and the place where the vehicle is
13 being held. In addition, the Montana highway patrol shall furnish the sheriff:

14 (a) a complete description of the vehicle, including year, make, model, serial number, and license
15 number if available;

16 (b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

17 (c) any available information concerning its ownership.

18 (2) The sheriff or the city police shall make reasonable efforts to ascertain the name and address
19 of the owner, lienholder, or person entitled to possession of the vehicle taken into custody under
20 61-12-401. If a name and address are ascertained, the sheriff or the city police shall notify the owner and
21 lienholder or person of the location of the vehicle.

22 (3) If the vehicle is registered in the office of the department, notice is considered to have been
23 given when a registered or certified letter addressed to the registered owner of the vehicle and lienholder,
24 if any, at the latest address shown by the records in the office of the department, return receipt requested
25 and postage prepaid, is mailed at least 30 days before the vehicle is sold.

26 (4) If the identity of the last-registered owner cannot be determined, if the registration does not
27 contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity
28 and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the
29 county where the motor vehicle was abandoned is sufficient to meet all requirements of notice pursuant
30 to this part. The notice by publication can contain multiple listings of abandoned vehicles. The notice must

1 be provided in the same manner as prescribed in 25-13-701(1)(b).

2 (5) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under
3 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the
4 owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required in
5 subsections (2) through (4). The wrecking facility shall deliver to the sheriff or the city police a certificate
6 describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled
7 to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given.

8 (6) A vehicle found by law enforcement officials to be a "junk vehicle", as defined by 75-10-501,
9 and certified as having an appraised value of ~~\$100~~ \$500 or less, as determined by the department of
10 revenue, may be directly submitted for disposal in accordance with the provisions of part 5 of chapter 10,
11 Title 75, upon a release given by the sheriff or the city police. In the release, the sheriff or the city police
12 shall include a description of the vehicle, including year, make, model, serial number, and license number
13 if available. A release provided by the sheriff or the city police under this section must be transmitted to
14 the motor vehicle wrecking facility and must be considered by that facility to meet the requirements for
15 records under 75-10-512 and 75-10-513. Vehicles described in this section may be submitted without
16 notice and without a required holding period."

17

18 **NEW SECTION. Section 17. Codification instruction.** [Sections 1 through 11] are intended to be
19 codified as an integral part of Title 61, chapter 8, and the provisions of Title 61, chapter 8, apply to
20 [sections 1 through 11].

21

22 **NEW SECTION. Section 18. Coordination instruction.** If ____ Bill No. ____ [LC 981] is passed
23 and approved and if it includes a section that repeals 69-12-102, then [section 15 of this act], amending
24 69-12-102, is void.

25

26 **NEW SECTION. Section 19. Effective date.** [This act] is effective on passage and approval.

27

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0355, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill generally revising the laws relating to tow trucks and abandoned vehicles.

ASSUMPTIONS:

1. The Highway Patrol Division in the Department of Justice estimates that the costs for development of administrative rules to implement the bill will be approximately \$1,400 in FY96.
2. The Department of Justice may establish an inspection fee that may not exceed the actual costs of the inspection. The fees must be deposited in the state highway account. The potential inspection fee revenue, if any, is assumed to be minimal.

FISCAL IMPACT:

Expenditures:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Department of Justice (Highway Patrol):		
Operating Expenses	1,400	0

Funding:

State Special Revenue (02)	1,400	0
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Dave Lewis 2.17.95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

GARY FORRESTER, PRIMARY SPONSOR DATE

Fiscal Note for SB0355, as introduced

SB 355

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2 INTRODUCED BY FORRESTER, FOSTER, GALVIN, MOLNAR, SHEA, QUILICI, PAVLOVICH, KEATING

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17 wrecked, disabled, or abandoned vehicles creates additional hazards and, except in limited situations,
18 should be prohibited. However, when a person or tow truck company responds in good faith to
19 life-threatening emergency situations, it should not be liable for civil damages for acts or omissions, other
20 than damages occasioned by gross negligence or by willful or wanton acts or omissions.

21

22 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 11], the following
23 definitions apply:

24 (1) "Commercial tow truck operator" or "operator" means a person, firm, or other entity that owns
25 or operates a commercial tow truck as defined in 61-9-416.

26 (2) "Department" means the department of justice provided for in 2-15-2001.

27 (3) "Local government" means a county, a municipality, or other local board or body that has
28 authority to enact laws relating to traffic.

29 (4) "Qualified tow truck operator" means a commercial tow truck operator:

30 (a) that has equipment that:

1 (i) meets the requirements of 61-9-416 and [sections 6 and 7]; and

2 (ii) has been classified in accordance with [section 5]; and

3 (b) that participates in the law enforcement rotation system provided for in [section 8].

4
5 **NEW SECTION. Section 4. Prohibition -- exception.** (1) A commercial tow truck operator may
6 not operate for compensation upon the public roadways of this state unless the operator complies with the
7 provisions of [sections 6(1) and 7].

8 (2) A commercial tow truck operator may not participate in the law enforcement rotation system
9 provided for in [section 8] unless the operator complies with the provisions of [sections 5 through 7].

10 (3) [Sections 1 through 8 and 10] do not apply to a commercial tow truck operator that does not
11 operate for compensation.

12
13 **NEW SECTION. Section 5. Classification standards.** (1) Commercial tow trucks are divided into
14 the following five classes based on the manufacturer's rating:

15 (a) Class A tow truck equipment must have a minimum manufacturer's rating of 4 tons and must
16 be mounted on a truck chassis with a minimum manufacturer's rating of 10,000 pounds gross vehicle
17 weight.

18 (b) Class B tow truck equipment must have a minimum manufacturer's rating of 8 tons and must
19 be mounted on a truck chassis with a minimum manufacturer's rating of 18,000 pounds gross vehicle
20 weight.

21 (c) Class C tow truck equipment must have a minimum manufacturer's rating of 16 tons and must
22 be mounted on a chassis that has a minimum manufacturer's rating of 32,000 pounds gross vehicle weight.

23 (d) Class D is class A, B, or C tow truck equipment that includes manufactured rollbacks and car
24 carriers with manufacturer's gross vehicle ratings ranging from 10,000 pounds to 30,000 pounds. The
25 rollbacks and car carriers must be mounted on a truck-trailer chassis that, at a minimum, is equal to the
26 minimum gross weight of the rollback or car carrier.

27 (e) Class E includes two or more tow trucks working together with a combined manufacturer's
28 rating of a minimum of 80,000 pounds with access to supportive equipment, such as forklifts, banders,
29 and air bags, for the recovery of rollovers and wrecked, disabled, and abandoned vehicles whose cargo
30 requires special handling. Class E refers to tow truck companies and not to tow truck equipment.

1 (2) (a) An operator of noncommercially manufactured or modified tow truck equipment in use on
 2 October 1, 1995, that wishes to participate in the law enforcement rotation system must have its
 3 equipment classified by the department within a time period set by the department. Once the equipment
 4 is classified, further modifications may not be made.

5 (b) (i) The department shall establish a committee composed of members selected from the:

6 (A) board of directors of the Montana tow truck association;

7 (B) the motor carrier services division of the department of transportation; and

8 (C) the highway patrol.

9 (ii) The committee is responsible for hearing disputes that may arise regarding the classification of
 10 noncommercially manufactured or modified tow truck equipment.

11 (iii) The department shall establish by rule a procedure for hearing a dispute.

12 (c) After October 1, 1995, an operator of new noncommercially manufactured or modified tow
 13 truck equipment must have its equipment independently certified before participating in the law
 14 enforcement rotation system.

15
 16 **NEW SECTION. Section 6. Liability insurance -- storage requirements.** (1) Notwithstanding the
 17 provisions of 61-6-301, a commercial tow truck operator shall continuously provide:

18 (a) insurance against loss resulting from liability imposed by law for bodily injury or death or
 19 damage to property caused by the maintenance or use of a commercial tow truck, as defined in 61-9-416,
 20 or occurring on the business premises of a commercial tow truck operator in an amount not less than:

21 (i) \$300,000 for class A tow trucks;

22 (ii) \$500,000 for class B tow trucks; and

23 (iii) \$750,000 for class C tow trucks;

24 (b) insurance to cover the damage to cargo or other property entrusted to the care of the
 25 commercial tow truck operator; and

26 (c) garage keepers legal liability insurance.

27 (2) A ~~commercial~~ **QUALIFIED** tow truck operator shall provide a storage facility, either a fenced lot
 28 or a building, that is:

29 (a) adequate for the secure storage and safekeeping of stored vehicles;

30 (b) located in a place that is reasonably convenient for public access;

1 (c) available to public access between 8 a.m. and 5 p.m., Monday through Friday, excluding legal
2 holidays; and

3 (d) large enough to store all the vehicles towed for law enforcement agencies.
4

5 **NEW SECTION. Section 7. Inspection -- fees -- decal.** (1) The tow truck equipment of a
6 commercial tow truck operator must have an annual safety inspection. A highway patrol officer, an
7 employee of the department of transportation appointed as a peace officer in accordance with 61-12-201,
8 or an inspector certified by the department shall conduct the inspection and require the commercial tow
9 truck operator to provide proof of compliance with the provisions of [section 6].

10 (2) (a) Upon satisfactory completion of the inspection and verification of the insurance
11 requirements, a decal showing the last inspection date and the expiration date of the insurance coverage
12 must be affixed in a prominent place on the tow truck.

13 (b) If the commercial tow truck operator is participating in the law enforcement rotation system,
14 the decal must also show the classification of the operator's tow truck equipment.

15 (3) The department may establish an inspection fee that may not exceed the actual costs of the
16 inspection. The fees must be deposited in the state highway account in the state special revenue fund.
17

18 **NEW SECTION. Section 8. State law enforcement rotation system -- local government rotation**
19 **system.** (1) The department shall establish an equitable rotation system among qualified tow truck
20 operators that apply to the department in writing to be placed on the system. The rotation system:

21 (a) must be administered by the highway patrol in a manner that will give priority to public safety;

22 (b) must be based on the classification of equipment as provided in [section 5]; and

23 (c) may include only qualified tow truck operators.

24 (2) The rotation system is not applicable when the owner or driver of a wrecked or disabled vehicle
25 obstructing a public roadway requests a tow truck operator of the owner's or driver's choice and the
26 operator meets the insurance requirements provided in [section 6] and the safety inspection requirements
27 provided in [section 7].

28 (3) (a) (i) The law enforcement officer at the scene of the wreck shall call the qualified tow truck
29 operator that is next on the rotation list if:

30 (A) a request for a tow truck is not made by the owner or driver;

1 (B) the requested tow truck cannot respond in a timely manner; or

2 (C) the law enforcement officer determines that the requested tow truck is unable to handle the
3 wrecked or disabled vehicle.

4 (ii) If the qualified tow truck operator is not classified to handle the wrecked or disabled vehicle, the
5 officer shall call the qualified tow truck operator next on the rotation list that is classified to handle the
6 wrecked or disabled vehicle.

7 (b) If a qualified tow truck operator classified to handle the wrecked or disabled vehicle is not
8 reasonably available, the law enforcement officer may request other equipment to remove the hazard.

9 (4) The department shall administer the state law enforcement rotation system. A QUALIFIED TOW
10 TRUCK OPERATOR MAY EXAMINE THE ROTATION SYSTEM SCHEDULE ESTABLISHED BY THE
11 DEPARTMENT IN ORDER TO DETERMINE IF THE SYSTEM IS BEING ADMINISTERED IN AN EQUITABLE
12 MANNER.

13 (5) A qualified tow truck operator gives implied consent to a reasonable inspection during normal
14 business hours of its premises, vehicles, and equipment by the department of transportation, highway
15 patrol, or a local government to ensure compliance with [sections 5 through 7].

16 (6) A local law enforcement agency may adopt and administer a local law enforcement rotation
17 system. A tow truck operator desiring to be placed on the local law enforcement rotation system must be
18 a qualified tow truck operator as provided in [sections 1 through 11].

19
20 NEW SECTION. Section 9. Good faith immunity. A person who renders assistance in an
21 emergency that is life-threatening to the occupant of a wrecked, disabled, or abandoned vehicle or that is
22 creating an immediate hazard on a public roadway or who renders emergency assistance as directed by a
23 law enforcement officer or other emergency responder at the scene of a motor vehicle accident is immune
24 from damages arising from acts or omissions related to the rendering of assistance unless the damages are
25 occasioned by the gross negligence or by the willful or wanton acts or omissions of the person rendering
26 the assistance.

27
28 NEW SECTION. Section 10. Violation -- penalty. A commercial tow truck operator that violates
29 a provision of [section 6 or 7] is guilty of a misdemeanor and is subject to the penalty provided in 61-8-711.
30

1 NEW SECTION. Section 11. Rulemaking authority. The department shall adopt reasonable and
 2 necessary rules to administer the provisions of [sections 1 through 10].

3
 4 **Section 12.** Section 61-1-120, MCA, is amended to read:

5 "**61-1-120. Emergency service vehicles.** "Emergency service vehicles" means emergency service
 6 vehicles of state, county, or municipal departments, or public service vehicles, commercial tow trucks, or
 7 commercial road service trucks, which by the nature of their operation cause a vehicular traffic hazard; ~~or~~
 8 ~~authorized tow cars."~~

9
 10 **Section 13.** Section 61-8-356, MCA, is amended to read:

11 "**61-8-356. Prohibition against parking or leaving vehicles on public property -- presumption of**
 12 **ownership.** ~~No (1)~~ A vehicle shall may not be parked or left standing upon the right-of-way of ~~any~~ a public
 13 highway for a period longer than 48 hours, ~~or~~ upon a city street, or ~~any~~ upon state, county, or city property
 14 for a period longer than 5 days.

15 (2) The abandonment of a motor vehicle on a public highway, a city street, public property, or
 16 private property creates a prima facie presumption that the last-registered owner of the motor vehicle is
 17 responsible for the abandonment and is liable for the costs incurred in removing, storing, and disposing of
 18 the abandoned vehicle, less the amount realized if the motor vehicle is sold.

19 (3) The filing of a record of a sale or a transfer of the motor vehicle or the filing of a verified theft
 20 report with a law enforcement agency prior to the abandonment relieves the last-registered owner of liability
 21 under subsection (2)."

22
 23 **Section 14.** Section 61-9-416, MCA, is amended to read:

24 "**61-9-416. Commercial tow truck definition -- requirements.** (1) ~~A commercial tow truck used~~
 25 ~~to tow a vehicle by means of a crane, hoist, towbar, towline, or dolly must be~~ "Commercial tow truck"
 26 means a motor vehicle operating for compensation that is equipped with specialized equipment designed
 27 and intended for towing or the recovery of wrecked, disabled, or abandoned vehicles or other objects
 28 creating a hazard on the public roadways. A commercial tow truck must be equipped with:

29 (a) ~~equipped with~~ and carry not less than two red flares, two red lanterns, or two warning lights
 30 or reflectors. The reflectors must be of a type approved by the department.

1 (b) ~~equipped with~~ at least two highway warning signs of a uniform type, with dimensions of 3 x
2 3 feet, lettering 5 inches high, and reflectorized orange background and black border, as prescribed by the
3 department. The signs must be designed to be visible both day and night. The warning signs must bear
4 the words "wreck ahead", "tow truck ahead", or "wrecker ahead", as prescribed by the department. When
5 a motor vehicle is disabled on the highway, the tow truck operator called to render assistance during the
6 hours of darkness shall immediately upon arrival place warning signs upon the highway as prescribed in this
7 section and shall also place not less than one red flare, red lantern, or warning light or reflector in close
8 proximity to each warning sign.

9 (c) ~~equipped with~~ and carry a dry chemical fire extinguisher of at least 5 pound capacity or an
10 equivalent alternative type of fire extinguisher, approved by the department;

11 (d) ~~equipped with~~ a lamp emitting a flashing or steady red or amber light, or both a red and amber
12 light, mounted on top of the cab of the tow truck or on the top of the crane or hoist if the light can be seen
13 from the front of the tow truck. The light from the lamp must be visible for a distance of 1,000 feet under
14 normal atmospheric conditions and must be mounted in such a manner that it can be securely fastened with
15 the lens of the lamp facing the rear of the tow truck upon which it is mounted. When standing at the
16 location from which the disabled vehicle is to be towed, the operator of the tow truck may unfasten the
17 red light and place it in any position considered advisable to warn approaching drivers. When the disabled
18 vehicle is ready for towing, the red light must be turned to the rear of the tow truck upon which it is
19 mounted and securely locked in this position. Additional red or amber lights of an approved type may be
20 displayed at either side or both sides of the tow truck as the case may warrant during the period of
21 preparation at the location from which the disabled vehicle is to be towed.

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

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

28 (g) ~~equipped with~~ and carry a portable electrical extension cord or other device for use in displaying
29 ~~a light~~ stop, turn, and tail lights on the rear of the disabled vehicle. The length of the extension cord may
30 not be less than the length of the combined vehicles, and whenever a disabled vehicle is towed during the

1 hours of darkness and the rear lamp or lamps on the disabled vehicle cannot be lighted, the tow truck
 2 operator shall provide for the rear light that is capable of emitting a stop and a directional signal by means
 3 of the extension cord or other device referred to in this subsection.

4 (2) The operator of a commercial tow truck used for the purpose of rendering assistance to other
 5 vehicles shall, when the rendering of assistance necessitates the obstruction of any portion of the roadway
 6 outside a business or residence district, place a highway warning sign as required in subsection (1)(b):

7 (a) in an area in which the posted speed limit is 45 miles an hour or less, not less than 450 feet
 8 in advance of the disabled vehicle and an equal distance to the rear of the disabled vehicle; and

9 (b) in an area in which the posted speed limit is more than 45 miles an hour, 600 feet in advance
 10 of the disabled vehicle, except on a divided highway where the disabled vehicle does not cause disruption
 11 of traffic traveling on the opposite side of the divided highway, and an equal distance to the rear of the
 12 disabled vehicle.

13 (3) The owner or operator of a commercial tow truck who complies with the requirements of
 14 sections 6 and 7] and this section may stop or park the tow truck upon a highway for the purpose of
 15 rendering assistance to a disabled vehicle, notwithstanding other provisions of this code."
 16

17 **Section 15.** Section 69-12-102, MCA, is amended to read:

18 **"69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

19 (a) motor vehicles used in carrying property consisting of agricultural commodities, ~~(not including~~
 20 ~~manufactured products of agricultural commodities),~~ if the motor vehicles are not used in carrying other
 21 property or passengers for compensation;

22 (b) the operation of school buses ~~which~~ that are used in conveying pupils or other students enrolled
 23 in classes to and from district or other schools or in transportation movements related to school activities
 24 ~~which~~ that are sponsored or supervised by school authorities;

25 (c) the transportation by means of motor vehicles in the regular course of business of employees,
 26 supplies, and materials by a person or corporation engaged exclusively in the construction or maintenance
 27 of highways or engaged exclusively in logging or mining operations, insofar as the use of employees,
 28 supplies, and materials in construction and production is concerned;

29 (d) the transportation of property by motor vehicle in a city, town, or village with a population of
 30 less than 500 persons according to the latest United States census or in the commercial areas thereof, as

1 determined by the commission;

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

3 ~~(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or~~
 4 ~~disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked,~~
 5 ~~or disabled vehicles;~~

6 ~~(g)~~(f) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor
 7 vehicle wrecking facility or a motor vehicle graveyard;

8 ~~(h)~~(g) ambulances;

9 ~~(i)~~(h) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix
 10 asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving
 11 materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely
 12 for the purpose of excavation or fill;

13 ~~(j)~~(i) the transportation by motor vehicle of not more than 15 passengers between their places of
 14 residence or termini near their residences and their places of employment in a single daily round trip if the
 15 driver is also going to or from the driver's place of employment;

16 ~~(k)~~(j) the transportation of property by motor carrier as part of a continuous movement if that
 17 property, prior or subsequent to part of a continuous movement, has been or will be transported by an air
 18 carrier;

19 ~~(l)~~(k) the operation of:

20 (i) a transportation system by a municipality or transportation district as provided in Title 7, chapter
 21 14, part 2; or

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

23 ~~(m)~~(l) armored motor vehicles used exclusively for the transportation of coins, currency, silver
 24 bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of
 25 unusual value requiring special handling and security;

26 ~~(n)~~(m) the transportation of a commodity under an agreement between a motor carrier and an office
 27 or agency of the United States government; or

28 ~~(o)~~(n) the transportation of ~~handicapped~~ disabled or elderly persons provided by private, nonprofit
 29 organizations. As used in this subsection:

30 (i) ~~"handicapped"~~ "disabled" means an individual who has a physical or mental impairment that

1 substantially limits one or more major life activities;

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

3 (iii) "private, nonprofit organization" means an organization recognized as nonprofit under section
4 501(c) of the Internal Revenue Code.

5 (2) This chapter does not affect commercial tow trucks designed and exclusively used in towing
6 wrecked, disabled, or abandoned vehicles or while these tow trucks are rendering assistance to wrecked,
7 disabled, or abandoned vehicles. However, commercial tow truck firms shall file policies of insurance
8 showing coverage required by [section 6].

9 ~~(2)~~(3) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell
10 agreements."

11

12 **Section 16.** Section 61-12-402, MCA, is amended to read:

13 **"61-12-402. Notice to owner.** (1) Within 72 hours after any vehicle is removed and held by or
14 at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county in
15 which the vehicle was located at the time it was taken into custody and the place where the vehicle is
16 being held. In addition, the Montana highway patrol shall furnish the sheriff:

17 (a) a complete description of the vehicle, including year, make, model, serial number, and license
18 number if available;

19 (b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

20 (c) any available information concerning its ownership.

21 (2) The sheriff or the city police shall make reasonable efforts to ascertain the name and address
22 of the owner, lienholder, or person entitled to possession of the vehicle taken into custody under
23 61-12-401. If a name and address are ascertained, the sheriff or the city police shall notify the owner and
24 lienholder or person of the location of the vehicle.

25 (3) If the vehicle is registered in the office of the department, notice is considered to have been
26 given when a registered or certified letter addressed to the registered owner of the vehicle and lienholder,
27 if any, at the latest address shown by the records in the office of the department, return receipt requested
28 and postage prepaid, is mailed at least 30 days before the vehicle is sold.

29 (4) If the identity of the last-registered owner cannot be determined, if the registration does not
30 contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity

1 and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the
2 county where the motor vehicle was abandoned is sufficient to meet all requirements of notice pursuant
3 to this part. The notice by publication can contain multiple listings of abandoned vehicles. The notice must
4 be provided in the same manner as prescribed in 25-13-701(1)(b).

5 (5) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under
6 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the
7 owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required in
8 subsections (2) through (4). The wrecking facility shall deliver to the sheriff or the city police a certificate
9 describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled
10 to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given.

11 (6) A vehicle found by law enforcement officials to be a "junk vehicle", as defined by 75-10-501,
12 and certified as having an appraised value of ~~\$100~~ \$500 or less, as determined by the department of
13 revenue, may be directly submitted for disposal in accordance with the provisions of part 5 of chapter 10,
14 Title 75, upon a release given by the sheriff or the city police. In the release, the sheriff or the city police
15 shall include a description of the vehicle, including year, make, model, serial number, and license number
16 if available. A release provided by the sheriff or the city police under this section must be transmitted to
17 the motor vehicle wrecking facility and must be considered by that facility to meet the requirements for
18 records under 75-10-512 and 75-10-513. Vehicles described in this section may be submitted without
19 notice and without a required holding period."
20

21 **NEW SECTION. Section 17. Codification instruction.** [Sections 1 through 11] are intended to be
22 codified as an integral part of Title 61, chapter 8, and the provisions of Title 61, chapter 8, apply to
23 [sections 1 through 11].
24

25 **NEW SECTION. Section 18. Coordination instruction.** If _____ Bill No. _____ [LC 981] is passed
26 and approved and if it includes a section that repeals 69-12-102, then [section 15 of this act], amending
27 69-12-102, is void.
28

29 **NEW SECTION. Section 19. Effective date.** [This act] is effective on passage and approval.
30

-END-

1 SENATE BILL NO. 355

2 INTRODUCED BY FORRESTER, FOSTER, GALVIN, MOLNAR, SHEA, QUILICI, PAVLOVICH, KEATING

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO TOW TRUCKS
5 AND ABANDONED VEHICLES; CLASSIFYING TOW TRUCKS BASED ON WEIGHT; REQUIRING LIABILITY
6 INSURANCE AND ANNUAL SAFETY INSPECTIONS FOR COMMERCIAL TOW TRUCKS; ESTABLISHING A
7 LAW ENFORCEMENT ROTATION SYSTEM FOR THE REMOVAL OF WRECKED, DISABLED, OR
8 ABANDONED VEHICLES; LIMITING THE USE OF NONCOMMERCIAL TOW TRUCKS; CREATING A PRIMA
9 FACIE PRESUMPTION OF OWNERSHIP OF AN ABANDONED VEHICLE; INCREASING THE VALUE OF A
10 JUNK VEHICLE; AMENDING SECTIONS 61-1-120, 61-8-356, 61-9-416, 61-12-402, AND 69-12-102, MCA;
11 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

THERE ARE NO CHANGES IN THIS BILL AND IT WILL
NOT BE REPRINTED. PLEASE REFER TO SECOND
READING COPY (YELLOW) FOR COMPLETE TEXT.



HOUSE STANDING COMMITTEE REPORT

March 9, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Highways and Transportation** report that **Senate Bill 355** (third reading copy -- blue) **be concurred in as amended.**

Signed: Shiell W. Anderson
Shiell Anderson, Chair

Carried by: Rep. Galvin

And, that such amendments read:

1. Page 4, line 6.

Strike: "board of directors of the Montana tow truck association"

Insert: "tow truck industry"

-END-

Committee Vote:
Yes 5, No 3.

Rep. Wells
Rep. Spri
Rep. Harden } no

SB 355
HOUSE

551401SC.Hbk

SENATE BILL NO. 355

INTRODUCED BY FORRESTER, FOSTER, GALVIN, MOLNAR, SHEA, QUILICI, PAVLOVICH, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO TOW TRUCKS AND ABANDONED VEHICLES; CLASSIFYING TOW TRUCKS BASED ON WEIGHT; REQUIRING LIABILITY INSURANCE AND ANNUAL SAFETY INSPECTIONS FOR COMMERCIAL TOW TRUCKS; ESTABLISHING A LAW ENFORCEMENT ROTATION SYSTEM FOR THE REMOVAL OF WRECKED, DISABLED, OR ABANDONED VEHICLES; LIMITING THE USE OF NONCOMMERCIAL TOW TRUCKS; CREATING A PRIMA FACIE PRESUMPTION OF OWNERSHIP OF AN ABANDONED VEHICLE; INCREASING THE VALUE OF A JUNK VEHICLE; AMENDING SECTIONS 61-1-120, 61-8-356, 61-9-416, 61-12-402, AND 69-12-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

(1) A statement of intent is required for this bill because it requires the department of justice to adopt rules implementing the provisions of [sections 1 through 11]. At a minimum, the rules must address:

- (a) the handling of wrecked, disabled, or abandoned motor vehicles carrying hazardous materials;
- (b) the classification of noncommercially manufactured or modified tow truck equipment;
- (c) the procedure for hearing disputes over the classification of noncommercially manufactured tow truck equipment;
- (d) the protection of property taken into custody and the reclaiming of that property;
- (e) inspection fees;
- (f) the admission, suspension, or termination of tow truck operators on the law enforcement rotation system; and
- (g) the certification of inspectors.

(2) It is the intent of the legislature that the Montana highway patrol be charged with the administration of [sections 1 through 11].

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

NEW SECTION. Section 1. Short title. [Sections 1 through 11] may be cited as the "Montana



1 Professional Tow Truck Act".

2

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

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

6 (2) officers investigating accidents on the public roadways need immediately available towing and
7 recovery vehicles staffed by competent operators and adequately equipped to clear the roadways and
8 remove hazardous obstructions with minimum damage to property;

9 (3) certain standards and classifications are needed for professional tow trucks and equipment used
10 for towing and recovering wrecked, disabled, and abandoned motor vehicles or other objects creating
11 hazards on the public roadways;

12 (4) encouragement of a competitive and qualified professional towing industry requires
13 establishment of a uniform and equitable qualification system based on the equipment and the standards
14 provided in [sections 5 through 7] and a system for the fair consideration of all qualified tow truck
15 companies; and

16 (5) the use of nonqualified tow truck companies or private motor vehicles to tow or recover for hire
17 wrecked, disabled, or abandoned vehicles creates additional hazards and, except in limited situations,
18 should be prohibited. However, when a person or tow truck company responds in good faith to
19 life-threatening emergency situations, it should not be liable for civil damages for acts or omissions, other
20 than damages occasioned by gross negligence or by willful or wanton acts or omissions.

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22 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 11], the following
23 definitions apply:

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25 or operates a commercial tow truck as defined in 61-9-416.

26 (2) "Department" means the department of justice provided for in 2-15-2001.

27 (3) "Local government" means a county, a municipality, or other local board or body that has
28 authority to enact laws relating to traffic.

29 (4) "Qualified tow truck operator" means a commercial tow truck operator:

30 (a) that has equipment that:

- 1 (i) meets the requirements of 61-9-416 and [sections 6 and 7]; and
2 (ii) has been classified in accordance with [section 5]; and
3 (b) that participates in the law enforcement rotation system provided for in [section 8].
4

5 **NEW SECTION. Section 4. Prohibition -- exception.** (1) A commercial tow truck operator may
6 not operate for compensation upon the public roadways of this state unless the operator complies with the
7 provisions of [sections 6(1) and 7].

8 (2) A commercial tow truck operator may not participate in the law enforcement rotation system
9 provided for in [section 8] unless the operator complies with the provisions of [sections 5 through 7].

10 (3) [Sections 1 through 8 and 10] do not apply to a commercial tow truck operator that does not
11 operate for compensation.
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13 **NEW SECTION. Section 5. Classification standards.** (1) Commercial tow trucks are divided into
14 the following five classes based on the manufacturer's rating:

15 (a) Class A tow truck equipment must have a minimum manufacturer's rating of 4 tons and must
16 be mounted on a truck chassis with a minimum manufacturer's rating of 10,000 pounds gross vehicle
17 weight.

18 (b) Class B tow truck equipment must have a minimum manufacturer's rating of 8 tons and must
19 be mounted on a truck chassis with a minimum manufacturer's rating of 18,000 pounds gross vehicle
20 weight.

21 (c) Class C tow truck equipment must have a minimum manufacturer's rating of 16 tons and must
22 be mounted on a chassis that has a minimum manufacturer's rating of 32,000 pounds gross vehicle weight.

23 (d) Class D is class A, B, or C tow truck equipment that includes manufactured rollbacks and car
24 carriers with manufacturer's gross vehicle ratings ranging from 10,000 pounds to 30,000 pounds. The
25 rollbacks and car carriers must be mounted on a truck-trailer chassis that, at a minimum, is equal to the
26 minimum gross weight of the rollback or car carrier.

27 (e) Class E includes two or more tow trucks working together with a combined manufacturer's
28 rating of a minimum of 80,000 pounds with access to supportive equipment, such as forklifts, banders,
29 and air bags, for the recovery of rollovers and wrecked, disabled, and abandoned vehicles whose cargo
30 requires special handling. Class E refers to tow truck companies and not to tow truck equipment.

1 (2) (a) An operator of noncommercially manufactured or modified tow truck equipment in use on
 2 October 1, 1995, that wishes to participate in the law enforcement rotation system must have its
 3 equipment classified by the department within a time period set by the department. Once the equipment
 4 is classified, further modifications may not be made.

5 (b) (i) The department shall establish a committee composed of members selected from the:

6 (A) ~~board of directors of the Montana tow truck association~~ TOW TRUCK INDUSTRY;

7 (B) the motor carrier services division of the department of transportation; and

8 (C) the highway patrol.

9 (ii) The committee is responsible for hearing disputes that may arise regarding the classification of
 10 noncommercially manufactured or modified tow truck equipment.

11 (iii) The department shall establish by rule a procedure for hearing a dispute.

12 (c) After October 1, 1995, an operator of new noncommercially manufactured or modified tow
 13 truck equipment must have its equipment independently certified before participating in the law
 14 enforcement rotation system.

15
 16 NEW SECTION. Section 6. Liability insurance -- storage requirements. (1) Notwithstanding the
 17 provisions of 61-6-301, a commercial tow truck operator shall continuously provide:

18 (a) insurance against loss resulting from liability imposed by law for bodily injury or death or
 19 damage to property caused by the maintenance or use of a commercial tow truck, as defined in 61-9-416,
 20 or occurring on the business premises of a commercial tow truck operator in an amount not less than:

21 (i) \$300,000 for class A tow trucks;

22 (ii) \$500,000 for class B tow trucks; and

23 (iii) \$750,000 for class C tow trucks;

24 (b) insurance to cover the damage to cargo or other property entrusted to the care of the
 25 commercial tow truck operator; and

26 (c) garage keepers legal liability insurance.

27 (2) A ~~commercial~~ QUALIFIED tow truck operator shall provide a storage facility, either a fenced lot
 28 or a building, that is:

29 (a) adequate for the secure storage and safekeeping of stored vehicles;

30 (b) located in a place that is reasonably convenient for public access;

1 (c) available to public access between 8 a.m. and 5 p.m., Monday through Friday, excluding legal
2 holidays; and

3 (d) large enough to store all the vehicles towed for law enforcement agencies.
4

5 **NEW SECTION. Section 7. Inspection -- fees -- decal.** (1) The tow truck equipment of a
6 commercial tow truck operator must have an annual safety inspection. A highway patrol officer, an
7 employee of the department of transportation appointed as a peace officer in accordance with 61-12-201,
8 or an inspector certified by the department shall conduct the inspection and require the commercial tow
9 truck operator to provide proof of compliance with the provisions of [section 6].

10 (2) (a) Upon satisfactory completion of the inspection and verification of the insurance
11 requirements, a decal showing the last inspection date and the expiration date of the insurance coverage
12 must be affixed in a prominent place on the tow truck.

13 (b) If the commercial tow truck operator is participating in the law enforcement rotation system,
14 the decal must also show the classification of the operator's tow truck equipment.

15 (3) The department may establish an inspection fee that may not exceed the actual costs of the
16 inspection. The fees must be deposited in the state highway account in the state special revenue fund.
17

18 **NEW SECTION. Section 8. State law enforcement rotation system -- local government rotation
19 system.** (1) The department shall establish an equitable rotation system among qualified tow truck
20 operators that apply to the department in writing to be placed on the system. The rotation system:

21 (a) must be administered by the highway patrol in a manner that will give priority to public safety;

22 (b) must be based on the classification of equipment as provided in [section 5]; and

23 (c) may include only qualified tow truck operators.

24 (2) The rotation system is not applicable when the owner or driver of a wrecked or disabled vehicle
25 obstructing a public roadway requests a tow truck operator of the owner's or driver's choice and the
26 operator meets the insurance requirements provided in [section 6] and the safety inspection requirements
27 provided in [section 7].

28 (3) (a) (i) The law enforcement officer at the scene of the wreck shall call the qualified tow truck
29 operator that is next on the rotation list if:

30 (A) a request for a tow truck is not made by the owner or driver;

1 (B) the requested tow truck cannot respond in a timely manner; or

2 (C) the law enforcement officer determines that the requested tow truck is unable to handle the
3 wrecked or disabled vehicle.

4 (ii) If the qualified tow truck operator is not classified to handle the wrecked or disabled vehicle, the
5 officer shall call the qualified tow truck operator next on the rotation list that is classified to handle the
6 wrecked or disabled vehicle.

7 (b) If a qualified tow truck operator classified to handle the wrecked or disabled vehicle is not
8 reasonably available, the law enforcement officer may request other equipment to remove the hazard.

9 (4) The department shall administer the state law enforcement rotation system. A QUALIFIED TOW
10 TRUCK OPERATOR MAY EXAMINE THE ROTATION SYSTEM SCHEDULE ESTABLISHED BY THE
11 DEPARTMENT IN ORDER TO DETERMINE IF THE SYSTEM IS BEING ADMINISTERED IN AN EQUITABLE
12 MANNER.

13 (5) A qualified tow truck operator gives implied consent to a reasonable inspection during normal
14 business hours of its premises, vehicles, and equipment by the department of transportation, highway
15 patrol, or a local government to ensure compliance with [sections 5 through 7].

16 (6) A local law enforcement agency may adopt and administer a local law enforcement rotation
17 system. A tow truck operator desiring to be placed on the local law enforcement rotation system must be
18 a qualified tow truck operator as provided in [sections 1 through 11].

19

20 NEW SECTION. Section 9. Good faith immunity. A person who renders assistance in an
21 emergency that is life-threatening to the occupant of a wrecked, disabled, or abandoned vehicle or that is
22 creating an immediate hazard on a public roadway or who renders emergency assistance as directed by a
23 law enforcement officer or other emergency responder at the scene of a motor vehicle accident is immune
24 from damages arising from acts or omissions related to the rendering of assistance unless the damages are
25 occasioned by the gross negligence or by the willful or wanton acts or omissions of the person rendering
26 the assistance.

27

28 NEW SECTION. Section 10. Violation -- penalty. A commercial tow truck operator that violates
29 a provision of [section 6 or 7] is guilty of a misdemeanor and is subject to the penalty provided in 61-8-711.

30

1 **NEW SECTION. Section 11. Rulemaking authority.** The department shall adopt reasonable and
2 necessary rules to administer the provisions of [sections 1 through 10].

3

4 **Section 12.** Section 61-1-120, MCA, is amended to read:

5 **"61-1-120. Emergency service vehicles.** "Emergency service vehicles" means emergency service
6 vehicles of state, county, or municipal departments, or public service vehicles, commercial tow trucks, or
7 commercial road service trucks, which by the nature of their operation cause a vehicular traffic hazard, ~~or~~
8 ~~authorized tow cars."~~

9

10 **Section 13.** Section 61-8-356, MCA, is amended to read:

11 **"61-8-356. Prohibition against parking or leaving vehicles on public property -- presumption of**
12 **ownership.** ~~No~~ (1) ~~A vehicle shall~~ may not be parked or left standing upon the right-of-way of ~~any~~ a public
13 highway for a period longer than 48 hours, ~~or~~ upon a city street, or ~~any~~ upon state, county, or city property
14 for a period longer than 5 days.

15 (2) ~~The abandonment of a motor vehicle on a public highway, a city street, public property, or~~
16 ~~private property creates a prima facie presumption that the last-registered owner of the motor vehicle is~~
17 ~~responsible for the abandonment and is liable for the costs incurred in removing, storing, and disposing of~~
18 ~~the abandoned vehicle, less the amount realized if the motor vehicle is sold.~~

19 (3) ~~The filing of a record of a sale or a transfer of the motor vehicle or the filing of a verified theft~~
20 ~~report with a law enforcement agency prior to the abandonment relieves the last-registered owner of liability~~
21 ~~under subsection (2)."~~

22

23 **Section 14.** Section 61-9-416, MCA, is amended to read:

24 **"61-9-416. Commercial tow truck definition -- requirements.** (1) ~~A commercial tow truck used~~
25 ~~to tow a vehicle by means of a crane, hoist, towbar, towline, or dolly must be~~ "Commercial tow truck"
26 means a motor vehicle operating for compensation that is equipped with specialized equipment designed
27 and intended for towing or the recovery of wrecked, disabled, or abandoned vehicles or other objects
28 creating a hazard on the public roadways. A commercial tow truck must be equipped with:

29 (a) ~~equipped with~~ and carry not less than two red flares, two red lanterns, or two warning lights
30 or reflectors. The reflectors must be of a type approved by the department.

1 (b) ~~equipped with~~ at least two highway warning signs of a uniform type, with dimensions of 3 x
2 3 feet, lettering 5 inches high, and reflectorized orange background and black border, as prescribed by the
3 department. The signs must be designed to be visible both day and night. The warning signs must bear
4 the words "wreck ahead", "tow truck ahead", or "wrecker ahead", as prescribed by the department. When
5 a motor vehicle is disabled on the highway, the tow truck operator called to render assistance during the
6 hours of darkness shall immediately upon arrival place warning signs upon the highway as prescribed in this
7 section and shall also place not less than one red flare, red lantern, or warning light or reflector in close
8 proximity to each warning sign.

9 (c) ~~equipped with~~ and carry a dry chemical fire extinguisher of at least 5 pound capacity or an
10 equivalent alternative type of fire extinguisher, approved by the department;

11 (d) ~~equipped with~~ a lamp emitting a flashing or steady red or amber light, or both a red and amber
12 light, mounted on top of the cab of the tow truck or on the top of the crane or hoist if the light can be seen
13 from the front of the tow truck. The light from the lamp must be visible for a distance of 1,000 feet under
14 normal atmospheric conditions and must be mounted in such a manner that it can be securely fastened with
15 the lens of the lamp facing the rear of the tow truck upon which it is mounted. When standing at the
16 location from which the disabled vehicle is to be towed, the operator of the tow truck may unfasten the
17 red light and place it in any position considered advisable to warn approaching drivers. When the disabled
18 vehicle is ready for towing, the red light must be turned to the rear of the tow truck upon which it is
19 mounted and securely locked in this position. Additional red or amber lights of an approved type may be
20 displayed at either side or both sides of the tow truck as the case may warrant during the period of
21 preparation at the location from which the disabled vehicle is to be towed.

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

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

28 (g) ~~equipped with~~ and carry a portable electrical extension cord or other device for use in displaying
29 a light stop, turn, and tail lights on the rear of the disabled vehicle. The length of the extension cord may
30 not be less than the length of the combined vehicles, and whenever a disabled vehicle is towed during the

1 hours of darkness and the rear lamp or lamps on the disabled vehicle cannot be lighted, the tow truck
2 operator shall provide for the rear light that is capable of emitting a stop and a directional signal by means
3 of the extension cord or other device referred to in this subsection.

4 (2) The operator of a commercial tow truck used for the purpose of rendering assistance to other
5 vehicles shall, when the rendering of assistance necessitates the obstruction of any portion of the roadway
6 outside a business or residence district, place a highway warning sign as required in subsection (1)(b):

7 (a) in an area in which the posted speed limit is 45 miles an hour or less, not less than 450 feet
8 in advance of the disabled vehicle and an equal distance to the rear of the disabled vehicle; and

9 (b) in an area in which the posted speed limit is more than 45 miles an hour, 600 feet in advance
10 of the disabled vehicle, except on a divided highway where the disabled vehicle does not cause disruption
11 of traffic traveling on the opposite side of the divided highway, and an equal distance to the rear of the
12 disabled vehicle.

13 (3) The owner or operator of a commercial tow truck who complies with the requirements of
14 sections 6 and 7 and this section may stop or park the tow truck upon a highway for the purpose of
15 rendering assistance to a disabled vehicle, notwithstanding other provisions of this code."
16

17 **Section 15.** Section 69-12-102, MCA, is amended to read:

18 "**69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

19 (a) motor vehicles used in carrying property consisting of agricultural commodities, ~~{not including~~
20 ~~manufactured products of agricultural commodities}~~, if the motor vehicles are not used in carrying other
21 property or passengers for compensation;

22 (b) the operation of school buses ~~which~~ that are used in conveying pupils or other students enrolled
23 in classes to and from district or other schools or in transportation movements related to school activities
24 ~~which~~ that are sponsored or supervised by school authorities;

25 (c) the transportation by means of motor vehicles in the regular course of business of employees,
26 supplies, and materials by a person or corporation engaged exclusively in the construction or maintenance
27 of highways or engaged exclusively in logging or mining operations, insofar as the use of employees,
28 supplies, and materials in construction and production is concerned;

29 (d) the transportation of property by motor vehicle in a city, town, or village with a population of
30 less than 500 persons according to the latest United States census or in the commercial areas thereof, as

1 determined by the commission;

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

3 ~~(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or~~
 4 ~~disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked,~~
 5 ~~or disabled vehicles;~~

6 ~~(g)~~(f) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor
 7 vehicle wrecking facility or a motor vehicle graveyard;

8 ~~(h)~~(g) ambulances;

9 ~~(i)~~(h) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix
 10 asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving
 11 materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely
 12 for the purpose of excavation or fill;

13 ~~(j)~~(i) the transportation by motor vehicle of not more than 15 passengers between their places of
 14 residence or termini near their residences and their places of employment in a single daily round trip if the
 15 driver is also going to or from the driver's place of employment;

16 ~~(k)~~(j) the transportation of property by motor carrier as part of a continuous movement if that
 17 property, prior or subsequent to part of a continuous movement, has been or will be transported by an air
 18 carrier;

19 ~~(l)~~(k) the operation of:

20 (i) a transportation system by a municipality or transportation district as provided in Title 7, chapter
 21 14, part 2; or

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

23 ~~(m)~~(l) armored motor vehicles used exclusively for the transportation of coins, currency, silver
 24 bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of
 25 unusual value requiring special handling and security;

26 ~~(n)~~(m) the transportation of a commodity under an agreement between a motor carrier and an office
 27 or agency of the United States government; or

28 ~~(o)~~(n) the transportation of ~~handicapped~~ disabled or elderly persons provided by private, nonprofit
 29 organizations. As used in this subsection:

30 (i) ~~"handicapped"~~ "disabled" means an individual who has a physical or mental impairment that

1 substantially limits one or more major life activities;

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

3 (iii) "private, nonprofit organization" means an organization recognized as nonprofit under section
4 501(c) of the Internal Revenue Code.

5 (2) This chapter does not affect commercial tow trucks designed and exclusively used in towing
6 wrecked, disabled, or abandoned vehicles or while these tow trucks are rendering assistance to wrecked,
7 disabled, or abandoned vehicles. However, commercial tow truck firms shall file policies of insurance
8 showing coverage required by [section 6].

9 ~~(2)~~(3) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell
10 agreements."

11

12 **Section 16.** Section 61-12-402, MCA, is amended to read:

13 **"61-12-402. Notice to owner.** (1) Within 72 hours after any vehicle is removed and held by or
14 at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county in
15 which the vehicle was located at the time it was taken into custody and the place where the vehicle is
16 being held. In addition, the Montana highway patrol shall furnish the sheriff:

17 (a) a complete description of the vehicle, including year, make, model, serial number, and license
18 number if available;

19 (b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

20 (c) any available information concerning its ownership.

21 (2) The sheriff or the city police shall make reasonable efforts to ascertain the name and address
22 of the owner, lienholder, or person entitled to possession of the vehicle taken into custody under
23 61-12-401. If a name and address are ascertained, the sheriff or the city police shall notify the owner and
24 lienholder or person of the location of the vehicle.

25 (3) If the vehicle is registered in the office of the department, notice is considered to have been
26 given when a registered or certified letter addressed to the registered owner of the vehicle and lienholder,
27 if any, at the latest address shown by the records in the office of the department, return receipt requested
28 and postage prepaid, is mailed at least 30 days before the vehicle is sold.

29 (4) If the identity of the last-registered owner cannot be determined, if the registration does not
30 contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity

1 and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the
2 county where the motor vehicle was abandoned is sufficient to meet all requirements of notice pursuant
3 to this part. The notice by publication can contain multiple listings of abandoned vehicles. The notice must
4 be provided in the same manner as prescribed in 25-13-701(1)(b).

5 (5) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under
6 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the
7 owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required in
8 subsections (2) through (4). The wrecking facility shall deliver to the sheriff or the city police a certificate
9 describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled
10 to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given.

11 (6) A vehicle found by law enforcement officials to be a "junk vehicle", as defined by 75-10-501,
12 and certified as having an appraised value of ~~\$100~~ \$500 or less, as determined by the department of
13 revenue, may be directly submitted for disposal in accordance with the provisions of part 5 of chapter 10,
14 Title 75, upon a release given by the sheriff or the city police. In the release, the sheriff or the city police
15 shall include a description of the vehicle, including year, make, model, serial number, and license number
16 if available. A release provided by the sheriff or the city police under this section must be transmitted to
17 the motor vehicle wrecking facility and must be considered by that facility to meet the requirements for
18 records under 75-10-512 and 75-10-513. Vehicles described in this section may be submitted without
19 notice and without a required holding period."
20

21 **NEW SECTION. Section 17. Codification instruction.** [Sections 1 through 11] are intended to be
22 codified as an integral part of Title 61, chapter 8, and the provisions of Title 61, chapter 8, apply to
23 [sections 1 through 11].
24

25 **NEW SECTION. Section 18. Coordination instruction.** If _____ Bill No. _____ [LC 981] is passed
26 and approved and if it includes a section that repeals 69-12-102, then [section 15 of this act], amending
27 69-12-102, is void.
28

29 **NEW SECTION. Section 19. Effective date.** [This act] is effective on passage and approval.
30

-END-