

SENATE BILL NO. 378

INTRODUCED BY Swygood

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING STATE REGULATION FOR CERTAIN MOTOR CARRIERS; TRANSFERRING THE SINGLE-STATE REGISTRATION PERMIT PROGRAM TO THE DEPARTMENT OF TRANSPORTATION; AMENDING SECTIONS 30-14-803, 39-2-304, 69-12-101, 69-12-102, AND 69-12-301, MCA; REPEALING SECTION 69-12-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 5] grants rulemaking authority to the department of transportation. It is the intent of [section 1] to transfer the administration of the single-state registration system for interstate motor carriers from the public service commission to the department of transportation. At a minimum, the rules must address:

- (1) the implementation of the single-state registration system currently administered by the public service commission; and
- (2) imposition of a fee to defray the costs of administering the single-state registration permit.

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

NEW SECTION. Section 1. Cooperative or reciprocal registration -- filing of insurance -- fee. (1)

The department may enter into written agreements with agencies of other states to allow for the cooperative or reciprocal state registration of interstate or international motor carriers and authorize the agency of a participating state to:

- (a) issue interstate motor carrier registrations, stamps, and permits;
- (b) accept filings of insurance, financial responsibility, and orders;
- (c) collect and disburse fees;
- (d) share and exchange information for audit, reporting, and enforcement purposes; and
- (e) perform any other function that the department determines is justified to facilitate the cooperative or reciprocal registration.

1 (2)(a) The department may impose a fee set by rule on an interstate or international motor carrier
2 for the administration of this section. The fee must be paid on each motor vehicle operated by the motor
3 carrier on the public highways of this state. At the time of initial registration and each succeeding year,
4 at a time set by the department, the motor carrier shall pay the fee to the department.

5 (b) The department shall remit the fee to the state treasurer for deposit in the general fund.
6

7 **NEW SECTION. Section 2. Identification of ownership of certain large motor vehicles.** (1)(a) A
8 person may not operate a motor vehicle or combination of vehicles, except farm vehicles, having a gross
9 weight of more than 10,000 pounds upon the highways of the state unless there is displayed on both sides
10 of each vehicle operated under its own power, either alone or in combination:

11 (i) the name or trade name and city and state of the person or corporation under whose jurisdiction
12 the vehicle is being operated; or

13 (ii) the trade name and department of transportation number of the person or corporation under
14 whose jurisdiction the vehicle is being operated.

15 (b) The display of name must be in letters in sharp contrast to the background and in size, shape,
16 and color readily legible in daylight from a distance of 50 feet while the vehicle is not in motion. The
17 display must be kept and maintained to remain legible. The display may be accomplished either by painting
18 the information on the vehicle or through the use of a decal or a removable device that is prepared so that
19 it meets the identification and legibility requirements of this section.

20 (2) This section does not apply to motor vehicles being:

21 (a) transported to dealers from point of manufacture;

22 (b) transported from one dealer to another;

23 (c) demonstrated to a prospective buyer; or

24 (d) delivered to a buyer from a dealer or a manufacturer.
25

26 **NEW SECTION. Section 3. For hire defined.** "For hire" means an action performed for
27 remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained
28 through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived
29 for transportation service.
30

1 NEW SECTION. **Section 4. Motor carrier defined.** "Motor carrier" means a person or corporation,
2 or its lessees, trustees, or receivers appointed by a court, operating motor vehicles upon a public highway
3 in this state for the transportation of property for hire on a commercial basis. The term does not include
4 motor carriers regulated under Title 69, chapter 12.

5
6 NEW SECTION. **Section 5. Rulemaking authority.** The department of transportation may adopt
7 and enforce rules for the administration of the single state registration system, including the setting of a
8 fee, and for other matters necessary to carry out the provisions of [sections 1 and 2].

9
10 **Section 6.** Section 30-14-803, MCA, is amended to read:
11 **"30-14-803. Definitions.** As used in this part, unless the context requires otherwise, the following
12 definitions apply:

13 (1) "Affiliate" means a person who, other than through a franchise or marketing agreement,
14 controls, is controlled by, or is under common control with any other person.

15 (2) "Cost of doing business", in the absence of proof of lesser cost, means 1% of the delivered
16 cost of motor fuel for wholesale sales and 6% of the delivered cost of motor fuel for retail sales and in
17 other cases includes all costs incurred in the conduct of business, including but not limited to:

- 18 (a) labor, including salaries of executives and officers;
19 (b) rent that is not less than the fair market value based on current use;
20 (c) interest on borrowed capital;
21 (d) depreciation;
22 (e) selling cost;
23 (f) maintenance of equipment;
24 (g) losses due to breakage or damage;
25 (h) credit card fees or other charges;
26 (i) credit losses; and
27 (j) all licenses, taxes, insurance, and advertising.

28 (3) "Customary discount for cash" means an allowance, whether part of a larger discount or not,
29 made to a wholesaler or retailer when a person pays for motor fuel within a limited or specified time.

30 (4) "Delivered cost of motor fuel" means:

1 (a) for a distributor or retailer, the lower of the most recent cost of motor fuel to the distributor or
2 retailer or the lowest replacement cost of motor fuel to the distributor or retailer within 5 days prior to the
3 date of sale, in the quantity last purchased, whether within or before the 5-day period, less all trade
4 discounts except customary discounts for cash plus transportation costs and ~~any~~ taxes that may be
5 required by law if not already included in the invoice cost; or

6 (b) for a refiner, that refiner's posted rack price to the wholesale class of trade at the terminal used
7 by the refiner to obtain the motor fuel, plus transportation costs and ~~any~~ taxes that may be required by law.
8 If the refiner does not regularly sell to the wholesale class of trade at the terminal or does not post a
9 terminal price, the refiner may use as its rack price the posted price of any other refiner at a terminal within
10 the general trade area that has products readily available for sale to the wholesale class of trade.

11 (5) "Distributor" means a person engaged in the purchase of motor fuel for resale to a retail motor
12 fuel outlet.

13 (6) "Motor fuel" means gasoline, as defined in 15-70-201, alcohol blended with gasoline to produce
14 gasohol, and special fuel as defined in 15-70-301.

15 (7) "Person" means an individual, a sole proprietorship, a partnership, a corporation, any other form
16 of business entity, or ~~any~~ an individual acting on behalf of any of them.

17 (8) "Posted rack price" means the f.o.b. terminal price for a particular motor fuel that a refiner,
18 producer, or person offers for sale or transfer to itself or ~~any~~ a related or unrelated person.

19 (9) "Refiner" means a person engaged in the production or refining of motor fuel, whether the
20 production or refining occurs in this state or elsewhere, and includes ~~any~~ an affiliate of the person.

21 (10) "Retailer" means a person engaged in the business of selling motor fuel at a retail motor fuel
22 outlet.

23 (11) "Retail motor fuel outlet" means a place of business where motor fuel is sold and delivered
24 into the tanks of motor vehicles regardless of whether the income from the selling and delivery of the fuel
25 is the primary source of revenue of that business.

26 (12) "Sale" means a transfer, gift, sale, offer for sale, or advertisement for sale in any manner or
27 by any means of motor fuel, including a transfer of motor fuel by a person to ~~himself~~ that person or to ~~his~~
28 an affiliate.

29 (13) "Transfer price" means the price used by a person to transfer motor fuel to ~~himself~~ that person
30 or to an affiliate for resale at a retail motor fuel outlet.

1 (14) "Transportation cost" means the actual cost of transportation of motor fuel ~~or, in the absence~~
2 ~~of proof of actual cost, the common carrier rates fixed by the public service commission for the immediate~~
3 ~~market area concerned.~~

4 (15) "Wholesaler" means a person engaged in the business of making sales at wholesale to a retail
5 motor fuel outlet."

6
7 **Section 7.** Section 39-2-304, MCA, is amended to read:

8 **"39-2-304. Lie detector tests prohibited -- regulation of blood and urine testing.** (1) A person, firm,
9 corporation, or other business entity or its representative ~~thereof~~ may not require:

10 (a) as a condition for employment or continuation of employment, ~~any~~ a person to take a polygraph
11 test or any form of a mechanical lie detector test;

12 (b) as a condition for employment, ~~any~~ a person to submit to a blood or urine test, except for
13 employment in:

14 (i) hazardous work environments;

15 (ii) jobs the primary responsibility of which is security, public safety, or fiduciary responsibility; or

16 (iii) jobs involving the intrastate commercial transportation of persons or commodities by a
17 commercial motor carrier or an employee subject to driver qualification requirements; and

18 (c) as a condition for continuation of employment, ~~any~~ an employee to submit to a blood or urine
19 test unless the employer has reason to believe that the employee's faculties are impaired on the job as a
20 result of alcohol consumption or illegal drug use, except that drug testing may be conducted at an
21 employee's regular biennial physical for employment in jobs involving the intrastate commercial motor
22 carrier transportation of persons or commodities.

23 (2) Prior to the administration of a drug or alcohol test, the person, firm, corporation, or other
24 business entity or its representative shall adopt the written testing procedure that is provided in 49 CFR,
25 part 40, and make it available to all persons subject to testing.

26 (3) The person, firm, corporation, or other business entity or its representative shall provide a copy
27 of drug or alcohol test results to the person tested and provide ~~him~~ the person the opportunity, at the
28 expense of the person requiring the test, to obtain a confirmatory test of the blood or urine by an
29 independent laboratory selected by the person tested. The person tested must be given the opportunity to
30 rebut or explain the results of either test or both tests.

1 (4) Adverse action may not be taken against a person tested under subsections (1)(b), (1)(c), (2),
2 and (3) if the person tested presents a reasonable explanation or medical opinion indicating that the results
3 of the test were not caused by alcohol consumption or illegal drug use.

4 (5) A person who violates this section is guilty of a misdemeanor.

5 (6) As used in this section:

6 (a) "commercial motor carrier" has the meaning provided in 69-12-101 and in [section 4]; and

7 (b) "intrastate" means commerce or trade that is begun, carried on, and completed wholly in this
8 state."

9
10 **Section 8.** Section 69-12-101, MCA, is amended to read:

11 **"69-12-101. Definitions.** Unless the context requires otherwise, in this chapter the following
12 definitions apply:

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

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

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

20 (4) "Corporation" means a corporation, company, association, or joint-stock association.

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

24 (6) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is
25 transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator,
26 licensed disposal well, or licensed land farm. As used in this subsection, "land farm" means a part of a
27 facility at which petroleum-contaminated material is applied onto or incorporated into the soil surface.

28 (7) "Household goods" means any of the following:

29 (a) personal effects and property used or to be used in a dwelling when they are a part of the
30 equipment or supply of the dwelling. The term does not include property moving from a factory or store

1 unless the property is purchased by a householder for use in a dwelling and is transported at the request
 2 of the householder.

3 (b) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions,
 4 hospitals, or other establishments when those items are a part of the stock, equipment, or supply of the
 5 stores, offices, museums, institutions, hospitals, or other establishments. The term does not include the
 6 stock-in-trade of an establishment, whether consignor or consignee, other than used furniture and used
 7 fixtures, except when transported as incidental to moving of the establishment or a portion of the
 8 establishment from one location to another.

9 (c) articles, including objects of art, displays, and exhibitions that because of their unusual nature
 10 or value, require the specialized handling and equipment usually employed in moving household goods and
 11 other similar articles.

12 ~~(6)(8)~~ "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed
 13 by ~~any~~ a court, operating motor vehicles upon ~~any~~ a public highway in this state for the transportation of
 14 ~~persons or property~~ passengers, household goods, or garbage for hire on a commercial basis, either as a
 15 common carrier or under private contract, agreement, charter, or undertaking. ~~The term includes any motor~~
 16 ~~carrier serving the public in the business of transportation of ashes, trash, waste, refuse, rubbish, garbage,~~
 17 ~~and organic and inorganic matter.~~

18 ~~(7)(9)~~ "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled
 19 vehicles used for the transportation of property or persons over the public highways of the state.

20 ~~(8)(10)~~ "Person" means an individual, firm, or partnership.

21 ~~(9)(11)~~ "Public highway" means a public street, road, highway, or way in this state.

22 ~~(10)(12)~~ "Railroad" means the movement of cars on rails, regardless of the motive power used.

23 ~~(11)(13)~~ "Recyclable" means any material diverted from the solid waste stream that can be reused
 24 in the production of heat or energy or as raw material for new products and for which markets exist."

25

26 **Section 9.** Section 69-12-102, MCA, is amended to read:

27 **"69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

28 (a) ~~motor vehicles used in carrying property consisting of agricultural commodities (not including~~
 29 ~~manufactured products of agricultural commodities) if the motor vehicles are not used in carrying other~~
 30 ~~property or passengers for compensation;~~

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

4 ~~(c)~~(b) the transportation by means of motor vehicles in the regular course of business of
5 employees, ~~supplies, and materials~~ by a person or corporation engaged exclusively in the construction or
6 maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of
7 employees, ~~supplies, and materials~~ in construction and production is concerned;

8 ~~(c)~~(c) the transportation of ~~property~~ household goods and garbage by motor vehicle in a city, town,
9 or village with a population of less than 500 persons according to the latest United States census or in the
10 commercial areas ~~thereof~~ of a city, town, or village, as determined by the commission;

11 ~~(d)~~(d) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

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

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

17 ~~(h)~~(f) ambulances;

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

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

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

28 ~~(h)~~(h) the operation of:

29 (i) a transportation system by a municipality or transportation district as provided in Title 7, chapter
30 14, part 2; or

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

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

5 ~~(n)(i)~~ the transportation of ~~a commodity~~ household goods or garbage under an agreement between
6 a motor carrier and an office or agency of the United States government; or

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

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

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

12 (iii) "private, nonprofit organization" means an organization recognized as nonprofit under section
13 501(c) of the Internal Revenue Code.

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

16

17 **Section 10.** Section 69-12-301, MCA, is amended to read:

18 **"69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into four classes to be
19 known as:

20 (a) Class A motor carriers;

21 (b) Class B motor carriers;

22 (c) Class C motor carriers; and

23 (d) Class D motor carriers.

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

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

30 (4) Class C motor carriers include all motor carriers ~~operating motor vehicles for distributing,~~

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

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

7
8 NEW SECTION. Section 11. Codification instruction. (1) [Sections 1, 2, and 5] are intended to
9 be codified as an integral part of Title 61, chapter 3, part 7, and the provisions of Title 61, chapter 3, part
10 7, apply to [sections 1, 2, and 5].

11 (2) [Section 3] is intended to be codified as an integral part of Title 61, chapter 1, part 5, and the
12 provisions of Title 61, chapter 1, part 5, apply to [section 3].

13 (3) [Section 4] is intended to be codified as an integral part of Title 61, chapter 1, part 3, and the
14 provisions of Title 61, chapter 1, part 3, apply to [section 4].

15
16 NEW SECTION. Section 12. Repealer. Section 69-12-103, MCA, is repealed.

17
18 NEW SECTION. Section 13. Effective date. [This act] is effective July 1, 1995.

19 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0378, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act eliminating state regulation for certain motor carriers; transferring the single-state registration permit program to the Department of Transportation.

ASSUMPTIONS:

1. The fiscal impact shown below is relative to the Executive Budget. However, actions have already been taken by the joint subcommittee on natural resources to reduce the budget for the Public Service Commission (PSC) by 6.00 FTE plus \$16,302 per year in travel expenditures. The actions taken by the joint subcommittee were predicated on the federal preemption on state regulation of the motor carrier industry, consistent with the intent of SB378. Therefore, the fiscal impact shown below for the PSC is already partially reflected in the PSC budget as approved by the joint subcommittee.
2. The public service commission tax rate is established by the Department of Revenue based on the appropriations for the PSC. A reduction in the PSC budget would cause the tax rate to be reduced accordingly, effective October 1, 1995.
3. Report and authority application fees of about \$18,800 per year are deposited to the general fund. About 300 carriers would be preempted from PSC regulation; current report fees are \$25 per carrier. Authority application fees are based on FY94 actual motor carrier requests.
4. The Department of Transportation would assume responsibility for the single-state registration permit program. The department's Montana Tax and Revenue System (MOTRS), which is currently under development, will contain a subsystem capable of handling the single-state registration permit program. Development and operation of MOTRS is currently funded in the budget.
5. The DOT Motor Carrier Services Division would require 1.00 FTE (grade 9) to process single-state registration permit applications.

FISCAL IMPACT:

Public Service Commission:

<u>Expenditures:</u>	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
FTE *	(6.00)	(6.00)
Personal Services *	(189,591)	(190,286)
Operating Expenses **	(42,793)	(42,793)
Equipment	<u>(15,500)</u>	<u>(16,100)</u>
Total	(247,884)	(249,179)
<u>Funding:</u>		
Public Service Comm. Account (02)	(247,884)	(249,179)

Motor Carrier Services:

FTE	1.00	1.00
Personal Services	21,674	21,747
<u>Funding:</u>		
Highway Special Revenues (02)	21,674	21,747

* Actions already taken by joint subcommittee on natural resources.

** Subcommittee has reduced operating expenses by \$16,302 per fiscal year.

(continued)

Dave Lewis 2-17-95
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Chuck Swysgood 2-17-95
 CHUCK SWYSGOOD, PRIMARY SPONSOR DATE

Fiscal Note for SB0378, as introduced

SB 378

Net Impact on fund balances:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
General Fund (Cost) (01)	(18,800)	(18,800)
Highway Special Revenue (02)	(21,674)	(21,747)
PSC Account (02)	0	0

APPROVED BY COM ON
HIGHWAYS & TRANSPORTATION

1 SENATE BILL NO. 378

2 INTRODUCED BY SWYSGOOD

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING STATE REGULATION FOR CERTAIN MOTOR
5 CARRIERS; TRANSFERRING THE SINGLE-STATE REGISTRATION PERMIT PROGRAM TO THE
6 DEPARTMENT OF TRANSPORTATION; AMENDING SECTIONS 30-14-803, 39-2-304, 69-12-101,
7 69-12-102, AND 69-12-301, MCA; REPEALING ~~SECTION~~ SECTIONS 69-12-103 AND 69-12-405, MCA;
8 AND PROVIDING AN EFFECTIVE DATE."

9
10 STATEMENT OF INTENT

11 A statement of intent is required for this bill because [section 5] grants rulemaking authority to the
12 department of transportation. It is the intent of [section 1] to transfer the administration of the single-state
13 registration system for interstate motor carriers from the public service commission to the department of
14 transportation. At a minimum, the rules must address:

15 (1) the implementation of the single-state registration system currently administered by the public
16 service commission; and

17 (2) imposition of a fee to defray the costs of administering the single-state registration permit.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20
21 NEW SECTION. **Section 1. Cooperative or reciprocal registration -- filing of insurance -- fee.** (1)

22 The department may enter into written agreements with agencies of other states to allow for the
23 cooperative or reciprocal state registration of interstate or international motor carriers and authorize the
24 agency of a participating state to:

25 (a) issue interstate motor carrier registrations, stamps, and permits;

26 (b) accept filings of insurance, financial responsibility, and orders;

27 (c) collect and disburse fees;

28 (d) share and exchange information for audit, reporting, and enforcement purposes; and

29 (e) perform any other function that the department determines is justified to facilitate the
30 cooperative or reciprocal registration.

1 (2)(a) The department may impose a fee set by rule on an interstate or international motor carrier
2 for the administration of this section. The fee must be paid on each motor vehicle operated by the motor
3 carrier on the public highways of this state. At the time of initial registration and each succeeding year,
4 at a time set by the department, the motor carrier shall pay the fee to the department.

5 (b) The department shall remit the fee to the state treasurer for deposit in the general fund.
6

7 **NEW SECTION. Section 2. Identification of ownership of certain large motor vehicles.** (1)(a) A
8 person may not operate a motor vehicle or combination of vehicles, except farm vehicles, having a gross
9 weight of more than 10,000 pounds upon the highways of the state unless there is displayed on both sides
10 of each vehicle operated under its own power, either alone or in combination:

11 (i) the name or trade name and city and state of the person or corporation under whose jurisdiction
12 the vehicle is being operated; or

13 (ii) the trade name and department of transportation number of the person or corporation under
14 whose jurisdiction the vehicle is being operated.

15 (b) The display of name must be in letters in sharp contrast to the background and in size, shape,
16 and color readily legible in daylight from a distance of 50 feet while the vehicle is not in motion. The
17 display must be kept and maintained to remain legible. The display may be accomplished either by painting
18 the information on the vehicle or through the use of a decal or a removable device that is prepared so that
19 it meets the identification and legibility requirements of this section.

20 (2) This section does not apply to motor vehicles being:

21 (a) transported to dealers from point of manufacture;

22 (b) transported from one dealer to another;

23 (c) demonstrated to a prospective buyer; or

24 (d) delivered to a buyer from a dealer or a manufacturer.
25

26 **NEW SECTION. Section 3. For hire defined.** "For hire" means an action performed for
27 remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained
28 through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived
29 for transportation service.
30

1 **NEW SECTION. Section 4. Motor carrier defined.** "Motor carrier" means a person or corporation,
2 or its lessees, trustees, or receivers appointed by a court, operating motor vehicles upon a public highway
3 in this state for the transportation of property for hire on a commercial basis. The term does not include
4 motor carriers regulated under Title 69, chapter 12.

5
6 **NEW SECTION. Section 5. Rulemaking authority.** The department of transportation may adopt
7 and enforce rules for the administration of the single state registration system, including the setting of a
8 fee, and for other matters necessary to carry out the provisions of [sections 1 and 2].

9
10 **Section 6.** Section 30-14-803, MCA, is amended to read:

11 **"30-14-803. Definitions.** As used in this part, unless the context requires otherwise, the following
12 definitions apply:

13 (1) "Affiliate" means a person who, other than through a franchise or marketing agreement,
14 controls, is controlled by, or is under common control with any other person.

15 (2) "Cost of doing business", in the absence of proof of lesser cost, means 1% of the delivered
16 cost of motor fuel for wholesale sales and 6% of the delivered cost of motor fuel for retail sales and in
17 other cases includes all costs incurred in the conduct of business, including but not limited to:

18 (a) labor, including salaries of executives and officers;

19 (b) rent that is not less than the fair market value based on current use;

20 (c) interest on borrowed capital;

21 (d) depreciation;

22 (e) selling cost;

23 (f) maintenance of equipment;

24 (g) losses due to breakage or damage;

25 (h) credit card fees or other charges;

26 (i) credit losses; and

27 (j) all licenses, taxes, insurance, and advertising.

28 (3) "Customary discount for cash" means an allowance, whether part of a larger discount or not,
29 made to a wholesaler or retailer when a person pays for motor fuel within a limited or specified time.

30 (4) "Delivered cost of motor fuel" means:

1 (a) for a distributor or retailer, the lower of the most recent cost of motor fuel to the distributor or
2 retailer or the lowest replacement cost of motor fuel to the distributor or retailer within 5 days prior to the
3 date of sale, in the quantity last purchased, whether within or before the 5-day period, less all trade
4 discounts except customary discounts for cash plus transportation costs and ~~any~~ taxes that may be
5 required by law if not already included in the invoice cost; or

6 (b) for a refiner, that refiner's posted rack price to the wholesale class of trade at the terminal used
7 by the refiner to obtain the motor fuel, plus transportation costs and ~~any~~ taxes that may be required by law.
8 If the refiner does not regularly sell to the wholesale class of trade at the terminal or does not post a
9 terminal price, the refiner may use as its rack price the posted price of any other refiner at a terminal within
10 the general trade area that has products readily available for sale to the wholesale class of trade.

11 (5) "Distributor" means a person engaged in the purchase of motor fuel for resale to a retail motor
12 fuel outlet.

13 (6) "Motor fuel" means gasoline, as defined in 15-70-201, alcohol blended with gasoline to produce
14 gasohol, and special fuel as defined in 15-70-301.

15 (7) "Person" means an individual, a sole proprietorship, a partnership, a corporation, any other form
16 of business entity, or ~~any~~ an individual acting on behalf of any of them.

17 (8) "Posted rack price" means the f.o.b. terminal price for a particular motor fuel that a refiner,
18 producer, or person offers for sale or transfer to itself or ~~any~~ a related or unrelated person.

19 (9) "Refiner" means a person engaged in the production or refining of motor fuel, whether the
20 production or refining occurs in this state or elsewhere, and includes ~~any~~ an affiliate of the person.

21 (10) "Retailer" means a person engaged in the business of selling motor fuel at a retail motor fuel
22 outlet.

23 (11) "Retail motor fuel outlet" means a place of business where motor fuel is sold and delivered
24 into the tanks of motor vehicles regardless of whether the income from the selling and delivery of the fuel
25 is the primary source of revenue of that business.

26 (12) "Sale" means a transfer, gift, sale, offer for sale, or advertisement for sale in any manner or
27 by any means of motor fuel, including a transfer of motor fuel by a person to ~~himself~~ that person or to his
28 an affiliate.

29 (13) "Transfer price" means the price used by a person to transfer motor fuel to ~~himself~~ that person
30 or to an affiliate for resale at a retail motor fuel outlet.

1 (14) "Transportation cost" means the actual cost of transportation of motor fuel ~~or, in the absence~~
 2 ~~of proof of actual cost, the common carrier rates fixed by the public service commission for the immediate~~
 3 ~~market area concerned.~~

4 (15) "Wholesaler" means a person engaged in the business of making sales at wholesale to a retail
 5 motor fuel outlet."
 6

7 **Section 7.** Section 39-2-304, MCA, is amended to read:

8 **"39-2-304. Lie detector tests prohibited -- regulation of blood and urine testing.** (1) A person, firm,
 9 corporation, or other business entity or its representative ~~thereof~~ may not require:

10 (a) as a condition for employment or continuation of employment, ~~any~~ a person to take a polygraph
 11 test or any form of a mechanical lie detector test;

12 (b) as a condition for employment, ~~any~~ a person to submit to a blood or urine test, except for
 13 employment in:

14 (i) hazardous work environments;

15 (ii) jobs the primary responsibility of which is security, public safety, or fiduciary responsibility; or

16 (iii) jobs involving the intrastate commercial transportation of persons or commodities by a
 17 commercial motor carrier or an employee subject to driver qualification requirements; and

18 (c) as a condition for continuation of employment, ~~any~~ an employee to submit to a blood or urine
 19 test unless the employer has reason to believe that the employee's faculties are impaired on the job as a
 20 result of alcohol consumption or illegal drug use, except that drug testing may be conducted at an
 21 employee's regular biennial physical for employment in jobs involving the intrastate commercial motor
 22 carrier transportation of persons or commodities.

23 (2) Prior to the administration of a drug or alcohol test, the person, firm, corporation, or other
 24 business entity or its representative shall adopt the written testing procedure that is provided in 49 CFR,
 25 part 40, and make it available to all persons subject to testing.

26 (3) The person, firm, corporation, or other business entity or its representative shall provide a copy
 27 of drug or alcohol test results to the person tested and provide ~~him~~ the person the opportunity, at the
 28 expense of the person requiring the test, to obtain a confirmatory test of the blood or urine by an
 29 independent laboratory selected by the person tested. The person tested must be given the opportunity to
 30 rebut or explain the results of either test or both tests.

1 (4) Adverse action may not be taken against a person tested under subsections (1)(b), (1)(c), (2),
2 and (3) if the person tested presents a reasonable explanation or medical opinion indicating that the results
3 of the test were not caused by alcohol consumption or illegal drug use.

4 (5) A person who violates this section is guilty of a misdemeanor.

5 (6) As used in this section:

6 (a) "commercial motor carrier" has the meaning provided in 69-12-101 and in [section 4]; and

7 (b) "intrastate" means commerce or trade that is begun, carried on, and completed wholly in this
8 state."

9
10 **Section 8.** Section 69-12-101, MCA, is amended to read:

11 **"69-12-101. Definitions.** Unless the context requires otherwise, in this chapter the following
12 definitions apply:

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

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

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

20 (4) "Corporation" means a corporation, company, association, or joint-stock association.

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

24 (6) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is
25 transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator,
26 licensed disposal well, or licensed land farm. As used in this subsection, "land farm" means a part of a
27 facility at which petroleum-contaminated material is applied onto or incorporated into the soil surface.

28 (7) "Household goods" means any of the following:

29 (a) personal effects and property used or to be used in a dwelling when they are a part of the
30 equipment or supply of the dwelling. The term does not include property moving from a factory or store

1 unless the property is purchased by a householder for use in a dwelling and is transported at the request
 2 of the householder.

3 (b) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions,
 4 hospitals, or other establishments when those items are a part of the stock, equipment, or supply of the
 5 stores, offices, museums, institutions, hospitals, or other establishments. The term does not include the
 6 stock-in-trade of an establishment, whether consignor or consignee, other than used furniture and used
 7 fixtures, except when transported as incidental to moving of the establishment or a portion of the
 8 establishment from one location to another.

9 (c) articles, including objects of art, displays, and exhibitions that because of their unusual nature
 10 or value, require the specialized handling and equipment usually employed in moving household goods and
 11 other similar articles.

12 ~~(6)(8)~~ "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed
 13 by ~~any~~ a court, operating motor vehicles upon ~~any~~ a public highway in this state for the transportation of
 14 ~~persons or property~~ passengers, household goods, or garbage for hire on a commercial basis, either as a
 15 common carrier or under private contract, agreement, charter, or undertaking. ~~The term includes any motor~~
 16 ~~carrier serving the public in the business of transportation of ashes, trash, waste, refuse, rubbish, garbage,~~
 17 ~~and organic and inorganic matter.~~

18 ~~(7)(9)~~ "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled
 19 vehicles used for the transportation of property or persons over the public highways of the state.

20 ~~(8)(10)~~ "Person" means an individual, firm, or partnership.

21 ~~(9)(11)~~ "Public highway" means a public street, road, highway, or way in this state.

22 ~~(10)(12)~~ "Railroad" means the movement of cars on rails, regardless of the motive power used.

23 ~~(11)(13)~~ "Recyclable" means any material diverted from the solid waste stream that can be reused
 24 in the production of heat or energy or as raw material for new products and for which markets exist."

25

26 **Section 9.** Section 69-12-102, MCA, is amended to read:

27 **"69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

28 (a) ~~motor vehicles used in carrying property consisting of agricultural commodities (not including~~
 29 ~~manufactured products of agricultural commodities) if the motor vehicles are not used in carrying other~~
 30 ~~property or passengers for compensation;~~

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

4 ~~(e)~~~~(b)~~ the transportation by means of motor vehicles in the regular course of business of
 5 employees, ~~supplies, and materials~~ by a person or corporation engaged exclusively in the construction or
 6 maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of
 7 employees, ~~supplies, and materials~~ in construction and production is concerned;

8 ~~(d)~~~~(c)~~ the transportation of ~~property~~ household goods and garbage by motor vehicle in a city, town,
 9 or village with a population of less than 500 persons according to the latest United States census or in the
 10 commercial areas ~~thereof~~ of a city, town, or village, as determined by the commission;

11 ~~(e)~~~~(d)~~ the transportation of newspapers, newspaper supplements, periodicals, or magazines;

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

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

17 ~~(h)~~~~(f)~~ ambulances;

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

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

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

28 ~~(h)~~~~(h)~~ the operation of:

29 (i) a transportation system by a municipality or transportation district as provided in Title 7, chapter
 30 14, part 2; or

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

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

5 ~~(n)(j)~~ the transportation of ~~a commodity~~ household goods or garbage under an agreement between
6 a motor carrier and an office or agency of the United States government; or

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

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

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

12 (iii) "private, nonprofit organization" means an organization recognized as nonprofit under section
13 501(c) of the Internal Revenue Code.

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

16

17 **Section 10.** Section 69-12-301, MCA, is amended to read:

18 **"69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into four classes to be
19 known as:

20 (a) Class A motor carriers;

21 (b) Class B motor carriers;

22 (c) Class C motor carriers; and

23 (d) Class D motor carriers.

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

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

30 (4) Class C motor carriers include all motor carriers ~~operating motor vehicles for distributing,~~

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

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

7

8 **NEW SECTION. Section 11. Codification instruction.** (1) [Sections 1, 2, and 5] are intended to
9 be codified as an integral part of Title 61, chapter 3, part 7, and the provisions of Title 61, chapter 3, part
10 7, apply to [sections 1, 2, and 5].

11 (2) [Section 3] is intended to be codified as an integral part of Title 61, chapter 1, part 5, and the
12 provisions of Title 61, chapter 1, part 5, apply to [section 3].

13 (3) [Section 4] is intended to be codified as an integral part of Title 61, chapter 1, part 3, and the
14 provisions of Title 61, chapter 1, part 3, apply to [section 4].

15

16 **NEW SECTION. Section 12. Repealer. Section SECTIONS 69-12-103 AND 69-12-405, MCA, is**
17 **ARE** repealed.

18

19 **NEW SECTION. Section 13. Effective date.** [This act] is effective July 1, 1995.

20

-END-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SENATE BILL NO. 378
INTRODUCED BY SWYSGOOD

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING STATE REGULATION FOR CERTAIN MOTOR CARRIERS; TRANSFERRING THE SINGLE-STATE REGISTRATION PERMIT PROGRAM TO THE DEPARTMENT OF TRANSPORTATION; AMENDING SECTIONS 30-14-803, 39-2-304, 69-12-101, 69-12-102, AND 69-12-301, MCA; REPEALING ~~SECTION~~ SECTIONS 69-12-103 AND 69-12-405, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 5] grants rulemaking authority to the department of transportation. It is the intent of [section 1] to transfer the administration of the single-state registration system for interstate motor carriers from the public service commission to the department of transportation. At a minimum, the rules must address:

- (1) the implementation of the single-state registration system currently administered by the public service commission; and
- (2) imposition of a fee to defray the costs of administering the single-state registration permit.

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

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 21, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Highways and Transportation** report that Senate Bill 378 (third reading copy -- blue) be concurred in as amended.

Signed: *Shiell W. Anderson*
Shiell Anderson, Chair

And, that such amendments read:

Carried by: Rep. Devaney

1. Page 6, line 25.

Following: "incinerator."

Insert: "or"

2. Page 6, lines 26 and 27.

Following: "well" on line 26

Strike: the remainder of line 26 through "surface" on line 27

Following: "_" on line 27

Insert: "The term does not include wastewater and waste tires."

-END-

Committee Vote:
Yes 16, No 2.

SB318
HOUSE

651525SC.Hdh

1 SENATE BILL NO. 378

2 INTRODUCED BY SWYSGOOD

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING STATE REGULATION FOR CERTAIN MOTOR
5 CARRIERS; TRANSFERRING THE SINGLE-STATE REGISTRATION PERMIT PROGRAM TO THE
6 DEPARTMENT OF TRANSPORTATION; AMENDING SECTIONS 30-14-803, 39-2-304, 69-12-101,
7 69-12-102, AND 69-12-301, MCA; REPEALING ~~SECTION~~ SECTIONS 69-12-103 AND 69-12-405, MCA;
8 AND PROVIDING AN EFFECTIVE DATE."
9

10 STATEMENT OF INTENT

11 A statement of intent is required for this bill because [section 5] grants rulemaking authority to the
12 department of transportation. It is the intent of [section 1] to transfer the administration of the single-state
13 registration system for interstate motor carriers from the public service commission to the department of
14 transportation. At a minimum, the rules must address:

- 15 (1) the implementation of the single-state registration system currently administered by the public
16 service commission; and
17 (2) imposition of a fee to defray the costs of administering the single-state registration permit.
18

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
20

21 NEW SECTION. **Section 1. Cooperative or reciprocal registration -- filing of insurance -- fee.** (1)
22 The department may enter into written agreements with agencies of other states to allow for the
23 cooperative or reciprocal state registration of interstate or international motor carriers and authorize the
24 agency of a participating state to:

- 25 (a) issue interstate motor carrier registrations, stamps, and permits;
26 (b) accept filings of insurance, financial responsibility, and orders;
27 (c) collect and disburse fees;
28 (d) share and exchange information for audit, reporting, and enforcement purposes; and
29 (e) perform any other function that the department determines is justified to facilitate the
30 cooperative or reciprocal registration.

1 (2) (a) The department may impose a fee set by rule on an interstate or international motor carrier
2 for the administration of this section. The fee must be paid on each motor vehicle operated by the motor
3 carrier on the public highways of this state. At the time of initial registration and each succeeding year,
4 at a time set by the department, the motor carrier shall pay the fee to the department.

5 (b) The department shall remit the fee to the state treasurer for deposit in the general fund.
6

7 **NEW SECTION. Section 2. Identification of ownership of certain large motor vehicles.** (1) (a) A
8 person may not operate a motor vehicle or combination of vehicles, except farm vehicles, having a gross
9 weight of more than 10,000 pounds upon the highways of the state unless there is displayed on both sides
10 of each vehicle operated under its own power, either alone or in combination:

11 (i) the name or trade name and city and state of the person or corporation under whose jurisdiction
12 the vehicle is being operated; or

13 (ii) the trade name and department of transportation number of the person or corporation under
14 whose jurisdiction the vehicle is being operated.

15 (b) The display of name must be in letters in sharp contrast to the background and in size, shape,
16 and color readily legible in daylight from a distance of 50 feet while the vehicle is not in motion. The
17 display must be kept and maintained to remain legible. The display may be accomplished either by painting
18 the information on the vehicle or through the use of a decal or a removable device that is prepared so that
19 it meets the identification and legibility requirements of this section.

20 (2) This section does not apply to motor vehicles being:

21 (a) transported to dealers from point of manufacture;

22 (b) transported from one dealer to another;

23 (c) demonstrated to a prospective buyer; or

24 (d) delivered to a buyer from a dealer or a manufacturer.
25

26 **NEW SECTION. Section 3. For hire defined.** "For hire" means an action performed for
27 remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained
28 through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived
29 for transportation service.
30

1 **NEW SECTION. Section 4. Motor carrier defined.** "Motor carrier" means a person or corporation,
2 or its lessees, trustees, or receivers appointed by a court, operating motor vehicles upon a public highway
3 in this state for the transportation of property for hire on a commercial basis. The term does not include
4 motor carriers regulated under Title 69, chapter 12.

5
6 **NEW SECTION. Section 5. Rulemaking authority.** The department of transportation may adopt
7 and enforce rules for the administration of the single-state registration system, including the setting of a
8 fee, and for other matters necessary to carry out the provisions of [sections 1 and 2].

9
10 **Section 6.** Section 30-14-803, MCA, is amended to read:

11 **"30-14-803. Definitions.** As used in this part, unless the context requires otherwise, the following
12 definitions apply:

13 (1) "Affiliate" means a person who, other than through a franchise or marketing agreement,
14 controls, is controlled by, or is under common control with any other person.

15 (2) "Cost of doing business", in the absence of proof of lesser cost, means 1% of the delivered
16 cost of motor fuel for wholesale sales and 6% of the delivered cost of motor fuel for retail sales and in
17 other cases includes all costs incurred in the conduct of business, including but not limited to:

18 (a) labor, including salaries of executives and officers;

19 (b) rent that is not less than the fair market value based on current use;

20 (c) interest on borrowed capital;

21 (d) depreciation;

22 (e) selling cost;

23 (f) maintenance of equipment;

24 (g) losses due to breakage or damage;

25 (h) credit card fees or other charges;

26 (i) credit losses; and

27 (j) all licenses, taxes, insurance, and advertising.

28 (3) "Customary discount for cash" means an allowance, whether part of a larger discount or not,
29 made to a wholesaler or retailer when a person pays for motor fuel within a limited or specified time.

30 (4) "Delivered cost of motor fuel" means:

1 (a) for a distributor or retailer, the lower of the most recent cost of motor fuel to the distributor or
2 retailer or the lowest replacement cost of motor fuel to the distributor or retailer within 5 days prior to the
3 date of sale, in the quantity last purchased, whether within or before the 5-day period, less all trade
4 discounts except customary discounts for cash plus transportation costs and ~~any~~ taxes that may be
5 required by law if not already included in the invoice cost; or

6 (b) for a refiner, that refiner's posted rack price to the wholesale class of trade at the terminal used
7 by the refiner to obtain the motor fuel, plus transportation costs and ~~any~~ taxes that may be required by law.
8 If the refiner does not regularly sell to the wholesale class of trade at the terminal or does not post a
9 terminal price, the refiner may use as its rack price the posted price of any other refiner at a terminal within
10 the general trade area that has products readily available for sale to the wholesale class of trade.

11 (5) "Distributor" means a person engaged in the purchase of motor fuel for resale to a retail motor
12 fuel outlet.

13 (6) "Motor fuel" means gasoline, as defined in 15-70-201, alcohol blended with gasoline to produce
14 gasohol, and special fuel as defined in 15-70-301.

15 (7) "Person" means an individual, a sole proprietorship, a partnership, a corporation, any other form
16 of business entity, or ~~any~~ an individual acting on behalf of any of them.

17 (8) "Posted rack price" means the f.o.b. terminal price for a particular motor fuel that a refiner,
18 producer, or person offers for sale or transfer to itself or ~~any~~ a related or unrelated person.

19 (9) "Refiner" means a person engaged in the production or refining of motor fuel, whether the
20 production or refining occurs in this state or elsewhere, and includes ~~any~~ an affiliate of the person.

21 (10) "Retailer" means a person engaged in the business of selling motor fuel at a retail motor fuel
22 outlet.

23 (11) "Retail motor fuel outlet" means a place of business where motor fuel is sold and delivered into
24 the tanks of motor vehicles regardless of whether the income from the selling and delivery of the fuel is the
25 primary source of revenue of that business.

26 (12) "Sale" means a transfer, gift, sale, offer for sale, or advertisement for sale in any manner or
27 by any means of motor fuel, including a transfer of motor fuel by a person to ~~himself~~ that person or to his
28 an affiliate.

29 (13) "Transfer price" means the price used by a person to transfer motor fuel to ~~himself~~ that person
30 or to an affiliate for resale at a retail motor fuel outlet.

1 (14) "Transportation cost" means the actual cost of transportation of motor fuel ~~or, in the absence~~
2 ~~of proof of actual cost, the common carrier rates fixed by the public service commission for the immediate~~
3 ~~market area concerned.~~

4 (15) "Wholesaler" means a person engaged in the business of making sales at wholesale to a retail
5 motor fuel outlet."
6

7 **Section 7.** Section 39-2-304, MCA, is amended to read:

8 **"39-2-304. Lie detector tests prohibited -- regulation of blood and urine testing.** (1) A person,
9 firm, corporation, or other business entity or its representative ~~thereof~~ may not require:

10 (a) as a condition for employment or continuation of employment, ~~any~~ a person to take a polygraph
11 test or any form of a mechanical lie detector test;

12 (b) as a condition for employment, ~~any~~ a person to submit to a blood or urine test, except for
13 employment in:

14 (i) hazardous work environments;

15 (ii) jobs the primary responsibility of which is security, public safety, or fiduciary responsibility; or

16 (iii) jobs involving the intrastate commercial transportation of persons or commodities by a
17 commercial motor carrier or an employee subject to driver qualification requirements; and

18 (c) as a condition for continuation of employment, ~~any~~ an employee to submit to a blood or urine
19 test unless the employer has reason to believe that the employee's faculties are impaired on the job as a
20 result of alcohol consumption or illegal drug use, except that drug testing may be conducted at an
21 employee's regular biennial physical for employment in jobs involving the intrastate commercial motor
22 carrier transportation of persons or commodities.

23 (2) Prior to the administration of a drug or alcohol test, the person, firm, corporation, or other
24 business entity or its representative shall adopt the written testing procedure that is provided in 49 CFR,
25 part 40, and make it available to all persons subject to testing.

26 (3) The person, firm, corporation, or other business entity or its representative shall provide a copy
27 of drug or alcohol test results to the person tested and provide ~~him~~ the person the opportunity, at the
28 expense of the person requiring the test, to obtain a confirmatory test of the blood or urine by an
29 independent laboratory selected by the person tested. The person tested must be given the opportunity
30 to rebut or explain the results of either test or both tests.

1 (4) Adverse action may not be taken against a person tested under subsections (1)(b), (1)(c), (2),
2 and (3) if the person tested presents a reasonable explanation or medical opinion indicating that the results
3 of the test were not caused by alcohol consumption or illegal drug use.

4 (5) A person who violates this section is guilty of a misdemeanor.

5 (6) As used in this section:

6 (a) "commercial motor carrier" has the meaning provided in 69-12-101 and in [section 4]; and

7 (b) "intrastate" means commerce or trade that is begun, carried on, and completed wholly in this
8 state."

9
10 **Section 8.** Section 69-12-101, MCA, is amended to read:

11 **"69-12-101. Definitions.** Unless the context requires otherwise, in this chapter the following
12 definitions apply:

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

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

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

20 (4) "Corporation" means a corporation, company, association, or joint-stock association.

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

24 (6) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is
25 transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, OR
26 licensed disposal well, or licensed land farm. As used in this subsection, "land farm" means a part of a
27 facility at which petroleum-contaminated material is applied onto or incorporated into the soil surface. THE
28 TERM DOES NOT INCLUDE WASTEWATER AND WASTE TIRES.

29 (7) "Household goods" means any of the following:

30 (a) personal effects and property used or to be used in a dwelling when they are a part of the

1 equipment or supply of the dwelling. The term does not include property moving from a factory or store
 2 unless the property is purchased by a householder for use in a dwelling and is transported at the request
 3 of the householder.

4 (b) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions,
 5 hospitals, or other establishments when those items are a part of the stock, equipment, or supply of the
 6 stores, offices, museums, institutions, hospitals, or other establishments. The term does not include the
 7 stock-in-trade of an establishment, whether consignor or consignee, other than used furniture and used
 8 fixtures, except when transported as incidental to moving of the establishment or a portion of the
 9 establishment from one location to another.

10 (c) articles, including objects of art, displays, and exhibitions that because of their unusual nature
 11 or value, require the specialized handling and equipment usually employed in moving household goods and
 12 other similar articles.

13 ~~(6)~~(8) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed
 14 by ~~any~~ a court, operating motor vehicles upon ~~any~~ a public highway in this state for the transportation of
 15 ~~persons or property~~ passengers, household goods, or garbage for hire on a commercial basis, either as a
 16 common carrier or under private contract, agreement, charter, or undertaking. ~~The term includes any motor~~
 17 ~~carrier serving the public in the business of transportation of ashes, trash, waste, refuse, rubbish, garbage,~~
 18 ~~and organic and inorganic matter.~~

19 ~~(7)~~(9) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled
 20 vehicles used for the transportation of property or persons over the public highways of the state.

21 ~~(8)~~(10) "Person" means an individual, firm, or partnership.

22 ~~(9)~~(11) "Public highway" means a public street, road, highway, or way in this state.

23 ~~(10)~~(12) "Railroad" means the movement of cars on rails, regardless of the motive power used.

24 ~~(11)~~(13) "Recyclable" means any material diverted from the solid waste stream that can be reused
 25 in the production of heat or energy or as raw material for new products and for which markets exist."

26
 27 **Section 9.** Section 69-12-102, MCA, is amended to read:

28 **"69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

29 (a) ~~motor vehicles used in carrying property consisting of agricultural commodities (not including~~
 30 ~~manufactured products of agricultural commodities) if the motor vehicles are not used in carrying other~~

1 ~~property or passengers for compensation;~~

2 **(b)** the operation of school buses which are used in conveying pupils or other students enrolled in
3 classes to and from district or other schools or in transportation movements related to school activities
4 which are sponsored or supervised by school authorities;

5 ~~(b)~~ **(b)** the transportation by means of motor vehicles in the regular course of business of
6 employees, ~~supplies, and materials~~ by a person or corporation engaged exclusively in the construction or
7 maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of
8 employees, ~~supplies, and materials~~ in construction and production is concerned;

9 ~~(c)~~ **(c)** the transportation of ~~property~~ household goods and garbage by motor vehicle in a city, town,
10 or village with a population of less than 500 persons according to the latest United States census or in the
11 commercial areas ~~thereof of a city, town, or village~~, as determined by the commission;

12 ~~(d)~~ **(d)** the transportation of newspapers, newspaper supplements, periodicals, or magazines;

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

16 ~~(g)~~ **(e)** motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor
17 vehicle wrecking facility or a motor vehicle graveyard;

18 ~~(h)~~ **(f)** ambulances;

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

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

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

29 ~~(h)~~ **(h)** the operation of:

30 (i) a transportation system by a municipality or transportation district as provided in Title 7, chapter

1 14, part 2; or

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

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

6 ~~(n)(i)~~ the transportation of ~~a commodity~~ household goods or garbage under an agreement between
7 a motor carrier and an office or agency of the United States government; or

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

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

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

13 (iii) "private, nonprofit organization" means an organization recognized as nonprofit under section
14 501(c) of the Internal Revenue Code.

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

17

18 **Section 10.** Section 69-12-301, MCA, is amended to read:

19 **"69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into four classes to
20 be known as:

21 (a) Class A motor carriers;

22 (b) Class B motor carriers;

23 (c) Class C motor carriers; and

24 (d) Class D motor carriers.

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

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

1 (4) Class C motor carriers include all motor carriers ~~operating motor vehicles for distributing,~~
2 ~~delivering, or collecting wares, merchandise, or commodities or transporting persons,~~ where the
3 remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or
4 undertaking.

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

8
9 **NEW SECTION. Section 11. Codification instruction.** (1) [Sections 1, 2, and 5] are intended to
10 be codified as an integral part of Title 61, chapter 3, part 7, and the provisions of Title 61, chapter 3, part
11 7, apply to [sections 1, 2, and 5].

12 (2) [Section 3] is intended to be codified as an integral part of Title 61, chapter 1, part 5, and the
13 provisions of Title 61, chapter 1, part 5, apply to [section 3].

14 (3) [Section 4] is intended to be codified as an integral part of Title 61, chapter 1, part 3, and the
15 provisions of Title 61, chapter 1, part 3, apply to [section 4].

16
17 **NEW SECTION. Section 12. Repealer.** ~~Section~~ SECTIONS 69-12-103 AND 69-12-405, MCA, is
18 ARE repealed.

19
20 **NEW SECTION. Section 13. Effective date.** [This act] is effective July 1, 1995.

21 -END-