

1 HOUSE BILL NO. 51

2 INTRODUCED BY TREXLER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING HIGHWAY PATROL OFFICERS, CITIZEN
5 INSPECTORS, AND OTHER AUTHORIZED EMPLOYEES OF THE DEPARTMENTS OF TRANSPORTATION
6 AND JUSTICE AND THE PUBLIC SERVICE COMMISSION TO ASSIST COMMERCIAL MOTOR VEHICLE
7 OPERATORS IN MOVING VEHICLES TO SAFE LOCATIONS AND OBTAINING REPAIRS BEFORE
8 CONDUCTING INSPECTIONS, ISSUING CITATIONS, OR DETAINING OPERATORS FOR VIOLATIONS OF
9 SAFETY STANDARDS; AND AMENDING SECTIONS 44-1-1005, 61-9-501, 61-10-141, 61-10-231,
10 61-12-205, AND 69-12-203, MCA."

11

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

13

14 **Section 1.** Section 44-1-1005, MCA, is amended to read:15 **"44-1-1005. Motor carriers safety -- enforcement -- violations.** (1) The department of justice shall:

16 (a) adopt, by rule, standards for safety of operations of motor carriers, each of whom is considered
17 to consent impliedly to reasonable safety inspections of its motor vehicles used in furtherance of its
18 business as a motor carrier;

19 (b) provide standards for the safe operation of all motor vehicles used in commerce that exceed
20 26,000 pounds gross vehicle weight, except farm vehicles; and

21 (c) provide for the safe operation of vehicles of less than 26,000 pounds gross vehicle weight that
22 are designed to transport more than 15 passengers, including the driver, or that are used to transport
23 hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance
24 with rules adopted by the department.

25 (2) Standards of safety adopted pursuant to subsections (1)(b) and (1)(c) must be the same as
26 prescribed for motor carriers, and the same inspection standards and procedures apply.

27 (3) The highway patrol has responsibility for enforcement of standards adopted pursuant to
28 subsection (1)(a). Inspection of a vehicle based in Montana may, at the request of the carrier, be made at
29 the place of business or domicile of the vehicle owner or, if that is not a practicable inspection site, at a
30 designated location and at a mutually agreeable time. After inspection, a vehicle found to conform to the

1 standards adopted pursuant to subsection (1)(a) is entitled to certification and identification to exempt it
 2 from further safety inspection until the next required periodic inspection or until a nonconformity with
 3 standards is apparent. ~~Nothing in~~ Subject to subsection (6), this section ~~prohibits~~ does not prohibit the
 4 inspection of a motor vehicle, as provided for by subsection (1)(a), at a safe location on a public road.

5 (4) The department shall cooperate with the department of transportation to ensure minimum
 6 duplication and maximum coordination of enforcement effort.

7 (5) The department may designate and train civilian employees as inspectors within the motor
 8 carrier safety assistance program. Each civilian inspector is a peace officer whose jurisdiction is limited to
 9 enforcement of violations of Title 61, chapters 5 and 9, and any standards adopted pursuant to subsections
 10 (1) and (2) of this section. Each employee designated as a peace officer may:

11 (a) issue citations and make arrests;

12 (b) issue summonses;

13 (c) accept bail;

14 (d) serve warrants of arrest;

15 (e) make reasonable inspections of cargo carried by commercial motor vehicles;

16 (f) make reasonable safety inspections of commercial motor vehicles; and

17 (g) require production of documents relating to the cargo, driver, routing, maintenance, or
 18 ownership of commercial motor vehicles.

19 (6) A highway patrol officer or civilian inspector may not conduct safety or cargo inspections,
 20 require production of documents, serve warrants of arrest, or in any other way detain a commercial motor
 21 vehicle operator for a violation of safety standards until the patrol officer or civilian inspector has made
 22 every attempt to assist the operator in moving the vehicle to a safe location and obtaining repairs for the
 23 vehicle.

24 (7) Violations of the standards adopted pursuant to subsection (1) are punishable as provided in
 25 61-9-512."

26
 27 **Section 2.** Section 61-9-501, MCA, is amended to read:

28 **"61-9-501. Inspections by officers of the department.** (1) The department or its agents may at
 29 any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law or
 30 that its equipment is not in proper adjustment or repair require the driver of ~~such~~ the vehicle to stop and

1 submit ~~such~~ the vehicle to an inspection and ~~such a test with reference thereto~~ as may be appropriate.

2 (2) The department or its agents may not submit a commercial motor vehicle to a safety inspection
 3 or in any way detain a vehicle for a violation of safety standards until the department or its agents have
 4 made every attempt to assist the commercial motor vehicle operator in moving the vehicle to a safe location
 5 and obtaining repairs for the vehicle.

6 ~~(2)(3)~~ ~~In the event such~~ If a vehicle and its equipment are found to be in safe condition and in full
 7 compliance with the law, the officer making ~~such an~~ inspection may issue to the driver an official certificate
 8 of inspection and approval of ~~such the~~ vehicle specifying those parts or equipment ~~se~~ inspected and
 9 approved.

10 ~~(3)(4)~~ In the event that ~~such a~~ vehicle is found to be in unsafe condition or if any required part or
 11 equipment is not present or is not in proper repair and adjustment, the officer shall give a written notice
 12 to the driver and shall send a copy to the department. ~~Said The~~ notice ~~shall~~ must specify the deficiencies
 13 and require that ~~such the~~ vehicle be placed in a safe condition and that its equipment be placed in proper
 14 repair and adjustment within 5 days."
 15

16 **Section 3.** Section 61-10-141, MCA, is amended to read:

17 **"61-10-141. Officers authorized to weigh vehicles and require removal of excessive loads --**
 18 **enforcement of motor carrier safety standards -- duty to obtain bills of lading for agricultural seeds.** (1) A
 19 peace officer, officer of the highway patrol, or employee of the department of transportation may weigh
 20 any vehicle regulated by 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110, except
 21 recreational vehicles as defined in 61-1-132, by means of either portable or stationary scales, and may
 22 require that the vehicle be driven to the nearest scales if those scales are within 2 miles. That person may
 23 then require the driver to unload at a designated facility that portion of the load necessary to decrease the
 24 weight of the vehicle to conform to the maximum allowable weights specified in 61-10-101 through
 25 61-10-104 and 61-10-106 through 61-10-110. If the excess weight does not exceed 10,000 pounds, an
 26 excess weight permit may be issued in accordance with 61-10-121. The permit authorizes the driver of the
 27 excess weight load to proceed to a designated facility where the load can be safely reduced to legal limits.

28 (2) Commodities and material unloaded as required by this section must be cared for by the owner
 29 or operator of the vehicle at the risk of that owner or operator. Commodities or material unloaded as
 30 required by this section may not be left on the highway right-of-way.

1 (3) The department of transportation may establish, maintain, and operate weigh stations, either
2 intermittently or on a continuous schedule, and may require vehicles, except passenger cars and pickup
3 trucks under 14,000 pounds GVW and recreational vehicles, as defined in 61-1-132 (that are not new or
4 used recreational vehicles traveling into or through Montana for delivery to a distributor or a dealer), to
5 enter for the purpose of weighing and inspection for compliance with all laws pertaining to their operation
6 and safety requirements. The department may require vehicles over 10,000 pounds to be inspected and
7 weighed by portable scale crews.

8 (4) The department of transportation shall work with the highway patrol in the enforcement of
9 safety standards adopted pursuant to 44-1-1005. For the purposes of the joint enforcement, the highway
10 patrol is designated as the lead agency. The highway patrol and the department of transportation shall
11 cooperate to ensure minimum duplication and maximum coordination of enforcement effort.

12 (5) In order to enforce compliance with safety standards adopted pursuant to 44-1-1005, the
13 department of transportation shall designate employees as peace officers. The designated employees must
14 be employed in the administration of the motor carrier services functions of the department of
15 transportation. Each employee designated as a peace officer may:

16 (a) issue citations and make arrests in connection with violations of safety standards adopted under
17 44-1-1005;

18 (b) issue summons;

19 (c) accept bail;

20 (d) serve warrants for arrest;

21 (e) make reasonable inspections of cargo carried by commercial motor vehicles;

22 (f) make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

23 (g) require production of documents relating to the cargo, driver, routing, or ownership of the
24 commercial motor vehicles.

25 (6) A highway patrol officer, peace officer, civilian inspector, or employee of the department of
26 transportation may not conduct safety or cargo inspections, require production of documents, serve
27 warrants of arrest, or in any other way detain a commercial motor vehicle operator for a violation of safety
28 standards adopted under 44-1-1005 until the patrol officer, peace officer, civilian inspector, or employee
29 of the department of transportation has made every attempt to assist the operator in moving the vehicle
30 to a safe location and obtaining repairs for the vehicle.

1 (7) In addition to other enforcement duties assigned under this section, an employee of the
2 department of transportation has:

3 (a) the same authority to enforce provisions of the motor carriers law as that granted the public
4 service commission under 69-12-203; and

5 (b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery
6 for shipment of agricultural seeds, as defined in 80-5-120, that have been sold or are intended for sale in
7 Montana and to forward the copies to the department of agriculture within 24 hours of the date that the
8 bill of lading was obtained."
9

10 **Section 4.** Section 61-10-231, MCA, is amended to read:

11 "**61-10-231. Enforcement.** (1) The highway patrol and any designated employee of the
12 department of transportation shall enforce ~~this part and~~ 61-3-502(1) and this part, and those persons shall
13 examine and inspect the motor vehicles operating upon the highways in this state and regulated by ~~this part~~
14 ~~and~~ 61-3-502(1) and this part to ascertain whether or not those laws are being complied with.

15 (2) A highway patrol officer or any designated employee of the department of transportation may
16 not examine or inspect a commercial motor vehicle or in any way detain a commercial motor vehicle
17 operator for a violation of safety standards until the officer or designated employee has made every attempt
18 to assist the operator in moving the vehicle to a safe location and obtaining repairs for the vehicle."
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20 **Section 5.** Section 61-12-205, MCA, is amended to read:

21 "**61-12-205. Power to inspect vehicle registration, receipts, and other documents.** (1) Employees
22 of the department of transportation appointed under 61-12-201 may when officially dressed make
23 reasonable inspection of vehicle registration receipts, department of transportation receipts and
24 registrations, special permits, and other documents required to be carried in or for a vehicle traveling on
25 the public highways of Montana.

26 (2) An employee of the department of transportation appointed under 61-12-201 may not inspect
27 a commercial motor vehicle, require production of documents, or in any other way detain a commercial
28 motor vehicle operator for a violation of safety standards until the employee has made every attempt to
29 assist the operator in moving the vehicle to a safe location and obtaining repairs for the vehicle."
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1 **Section 6.** Section 69-12-203, MCA, is amended to read:

2 **"69-12-203. Supervisor of motor carriers.** (1) The commission shall appoint a supervisor of motor
3 carriers who shall have general responsibility to the commission for enforcement of the provisions of this
4 chapter. The supervisor ~~shall~~ must be either an attorney admitted to practice law in Montana or a person
5 qualified by at least 5 years of suitable experience and training in appropriate phases of the motor carrier
6 industry. ~~He~~ The supervisor shall serve at the pleasure of the commission and at an annual salary to be set
7 by the commission.

8 (2) The supervisor shall direct all enforcement activities in behalf of the commission, including the
9 investigation and prosecution of violations of this chapter, ~~as amended,~~ or the rules or orders prescribed
10 ~~thereunder~~ under this chapter by the commission.

11 (3) The supervisor and ~~whatever~~ field inspectors ~~may be~~ employed by the commission to assist ~~him~~
12 ~~shall~~ the supervisor must be ~~deemed~~ considered peace officers for the purpose of making arrests in
13 connection with violations of this chapter, ~~as amended,~~ and issuing summonses, accepting bail, and serving
14 warrants of arrest. The supervisor and field inspectors are empowered to make reasonable inspections of
15 cargoes carried by commercial motor vehicles and to require production of manifests, bills of lading, leases,
16 and other documents relating to the cargo, driver, routing, or ownership of such commercial vehicles. The
17 scope of the inspections is limited to the enforcement of the provisions of Title 69, chapter 12.

18 (4) The supervisor or a field inspector may not inspect commercial motor vehicle cargoes, require
19 production of documents, or in any other way detain a commercial motor vehicle operator for a violation
20 of safety standards until the supervisor or field inspector has made every attempt to assist the operator in
21 moving the vehicle to a safe location and obtaining repairs for the vehicle."

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