

SENATE BILL NO. 140

INTRODUCED BY R. ERICKSON

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN MOTOR CARRIERS FROM REGULATION BY THE PUBLIC SERVICE COMMISSION; DEFINING "CHARTER SERVICE"; AMENDING SECTIONS 69-12-101 AND 69-12-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

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

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

(3) "Charter service" means a service used for the transportation of passengers by a motor carrier with rates not subject to approval by the commission if:

(a) the transportation of passengers is based on a single contract;

(b) the contract is entered into in advance of the transportation and does not result from a spontaneous, curbside agreement;

(c) the contract includes a single fixed charge and fares are not assessed per passenger;

(d) the passenger or group of passengers acquires exclusive use of the motor vehicle through the contract; and

(e) when applied to a group of passengers being transported, the group of passengers travels together to a specified destination.

~~(3)~~(4) "Compensation" means the charge imposed on motor carriers for the use of the highways in this state by motor carriers under 69-12-421.

~~(4)~~(5) "Corporation" means a corporation, company, association, or joint-stock association.

~~(5)~~(6) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or



1 received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is
2 obtained or derived for transportation service.

3 ~~(6)~~(7) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is
4 transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, or licensed
5 disposal well. The term does not include wastewater and waste tires.

6 ~~(7)~~(8) "Household goods" means any of the following:

7 (a) personal effects and property used or to be used in a dwelling when they are a part of the equipment
8 or supply of the dwelling. The term does not include property moving from a factory or store unless the property
9 is purchased by a householder for use in a dwelling and is transported at the request of the householder.

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

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

19 ~~(8)~~(9) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by
20 a court, operating motor vehicles upon a public highway in this state for the transportation of passengers,
21 household goods, or garbage for hire on a commercial basis, either as a common carrier or under private
22 contract, agreement, charter, or undertaking.

23 ~~(9)~~(10) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled
24 vehicles used for the transportation of property or persons over the public highways of the state.

25 ~~(10)~~(11) "Person" means an individual, firm, or partnership.

26 ~~(11)~~(12) "Public highway" means a public street, road, highway, or way in this state.

27 ~~(12)~~(13) "Railroad" means the movement of cars on rails, regardless of the motive power used.

28 ~~(13)~~(14) "Recyclable" means any material diverted from the solid waste stream that can be reused in the
29 production of heat or energy or as raw material for new products and for which markets exist."

30

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

2 **"69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

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

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

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

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

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

15 (f) ambulances;

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

19 (h) the operation of:

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

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

23 (iii) any public transportation system recognized by the Montana department of transportation as a federal
24 transit administration provider pursuant to 49 U.S.C. 5311;

25 (i) armored motor vehicles used for the transportation of valuable paintings and other items of unusual
26 value requiring special handling and security;

27 (j) the transportation of household goods or garbage under an agreement between a motor carrier and
28 an office or agency of the United States government; or

29 (k) the transportation of persons provided by private, nonprofit organizations, including those recognized
30 by the Montana department of transportation as federal transit administration providers pursuant to 49 U.S.C.

1 5310. As used in this subsection ~~(1)(k)~~, "private, nonprofit ~~organization~~" organizations" means ~~an organization~~
 2 organizations recognized as nonprofit under section 501(c) of the Internal Revenue Code.

3 (l) the transportation of a group of passengers by charter service if:

4 (i) the motor vehicle used for the transportation of the passengers is designed to carry more than 10 26
 5 passengers; and

6 (ii) the motor carrier has obtained a USDOT number from the U.S. department of transportation as
 7 provided in 49 CFR 390.19; or

8 (m) the transportation of a group of employees to or from a worksite by a motor carrier under contract
 9 with the employer for a period of time of at least 1 year.

10 (2) Except for the identification of ownership requirements provided in 69-12-408, this chapter does not
 11 affect commercial tow trucks designed and exclusively used in towing wrecked, disabled, or abandoned vehicles
 12 or while these tow trucks are rendering assistance to wrecked, disabled, or abandoned vehicles.

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

15 NEW SECTION. SECTION 3. IMPLEMENTATION. (1) THE COMMISSION SHALL ISSUE A CERTIFICATE OF PUBLIC
 16 CONVENIENCE AND NECESSITY THAT AUTHORIZES A MOTOR CARRIER TO PROVIDE CHARTER SERVICE IF THE MOTOR
 17 CARRIER PROVIDES WRITTEN DOCUMENTATION OR BUSINESS RECORDS TO THE COMMISSION THAT DEMONSTRATE DURING
 18 THE 1-YEAR PERIOD PRIOR TO JANUARY 1, 2011, THE MOTOR CARRIER:

19 (A) PROVIDED CHARTER SERVICE;

20 (B) TRANSPORTED PASSENGERS WITH A MOTOR VEHICLE DESIGNED TO CARRY MORE THAN 10 PASSENGERS; AND

21 (C) OBTAINED A USDOT NUMBER FROM THE U.S. DEPARTMENT OF TRANSPORTATION AS PROVIDED IN 49 CFR
 22 390.19.

23 (2) THE WRITTEN DOCUMENTATION OR BUSINESS RECORDS MUST BE SUBMITTED TO THE COMMISSION WITHIN
 24 6 MONTHS FOLLOWING [THE EFFECTIVE DATE OF THIS ACT].

25 (3) THE COMMISSION SHALL ISSUE ALL CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY UNDER
 26 SUBSECTION (1) BY JULY 1, 2012.

27 (4) AFTER JULY 1, 2012, A MOTOR CARRIER SUBJECT TO REGULATION BY THE COMMISSION MAY NOT TRANSPORT
 28 PASSENGERS IN CHARTER SERVICE WITHOUT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

29
 30 NEW SECTION. Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable

1 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
2 remains in effect in all valid applications that are severable from the invalid applications.

3

4 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

5

- END -