

SENATE BILL NO. 396

INTRODUCED BY E. BUTTREY

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MOTOR CARRIER LAWS; ELIMINATING
5 THE REQUIREMENT THAT CERTAIN MOTOR CARRIERS DEMONSTRATE PUBLIC CONVENIENCE AND
6 NECESSITY TO ACQUIRE A CERTIFICATE FROM THE PUBLIC SERVICE COMMISSION; CREATING A
7 CLASS E CLASSIFICATION FOR MOTOR CARRIERS THAT OFFER TRANSPORTATION NETWORK
8 CARRIER SERVICES; PROVIDING FOR A FEE; PROVIDING OPERATING REQUIREMENTS FOR CLASS E
9 MOTOR CARRIERS; PROVIDING A TRANSITION FOR MOTOR CARRIERS OPERATING WITH A
10 CERTIFICATE; PROHIBITING LOCAL GOVERNMENTS FROM REGULATING TRANSPORTATION NETWORK
11 CARRIER SERVICES; PROHIBITING A LOCAL GOVERNMENT WITH SELF-GOVERNING POWERS FROM
12 REGULATING TRANSPORTATION NETWORK CARRIER SERVICES; CLARIFYING EXEMPTIONS;
13 AMENDING SECTIONS 7-1-111, 69-12-101, 60-12-102, 69-12-205, 69-12-210, 69-12-301, 69-12-311,
14 69-12-312, 69-12-313, 69-12-314, 69-12-321, 69-12-323, 69-12-324, 69-12-404, 69-12-406, 69-12-407,
15 69-12-415, AND 69-12-501, MCA; REPEALING SECTION 69-12-328, MCA; AND PROVIDING AN EFFECTIVE
16 DATE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19
20 NEW SECTION. **Section 1. Class E motor carrier certificate of compliance.** (1) A Class E motor
21 carrier may not transport persons on a public highway in this state without obtaining, pursuant to this chapter, a
22 certificate of compliance.

23 (2) A Class E motor carrier shall apply for a certificate of compliance in writing. The application must be
24 verified by the applicant and specify the following:

- 25 (a) the name and address of the applicant and its officers, if any;
- 26 (b) the locality and character of operations to be conducted;
- 27 (c) a detailed statement showing the assets and liabilities of the applicant;
- 28 (d) a detailed statement that the applicant complies or, once certificated, will comply with the
29 requirements of 69-12-323(5);
- 30 (e) other information required by the commission.

1 (3) A transportation network carrier may apply for a Class E certificate of compliance on behalf of the
2 transportation network carrier drivers who register with the transportation network carrier to use its software or
3 digital network to offer transportation network carrier services.

4 (4) The application must be accompanied by a filing fee to be set by rule of the commission.

5 (5) Notwithstanding subsection (3), a transportation network carrier does not own, control, operate, or
6 manage the vehicles used by transportation network carrier drivers and is not a taxicab association or a for-hire
7 vehicle owner.

8
9 **NEW SECTION. Section 2. Fare charged for transportation network carrier services.** (1) (a) A
10 Class E motor carrier may charge a fare for the services provided to passengers in accordance with this section.

11 (b) If a fare is charged, the motor carrier shall:

12 (i) disclose to passengers the fare calculation method on its website or within the software application
13 service; and

14 (ii) provide passengers with the applicable rates being charged and the option to receive an estimated
15 fare before the passenger enters the transportation network carrier driver's vehicle.

16 (2) Within a reasonable period of time following the completion of a trip, a Class E motor carrier shall
17 transmit to the passenger an electronic receipt that includes:

18 (a) the origin and destination of the trip;

19 (b) the total time and distance of the trip; and

20 (c) an itemization of the total fare paid.

21
22 **NEW SECTION. Section 3. Authority.** (1) Notwithstanding any other provision of law, transportation
23 network carrier services are exclusively governed by this chapter and rules promulgated by the commission
24 consistent with this chapter.

25 (2) A local government as defined in 2-2-102 may not impose a tax or fee on, require a license for, or
26 impose any other operational requirements on transportation network carrier services.

27
28 **Section 4.** Section 7-1-111, MCA, is amended to read:
29 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from
30 exercising the following:

- 1 (1) any power that applies to or affects any private or civil relationship, except as an incident to the
2 exercise of an independent self-government power;
- 3 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective
4 bargaining for public employees, unemployment compensation, or workers' compensation), except that subject
5 to those provisions, it may exercise any power of a public employer with regard to its employees;
- 6 (3) any power that applies to or affects the public school system, except that a local unit may impose an
7 assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise
8 any power that it is required by law to exercise regarding the public school system;
- 9 (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public
10 convenience and necessity pursuant to Title 69, chapter 12;
- 11 (5) any power that establishes a rate or price otherwise determined by a state agency;
- 12 (6) any power that applies to or affects any determination of the department of environmental quality with
13 regard to any mining plan, permit, or contract;
- 14 (7) any power that applies to or affects any determination by the department of environmental quality
15 with regard to a certificate of compliance;
- 16 (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense
17 as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months'
18 imprisonment, or both, except as specifically authorized by statute;
- 19 (9) any power that applies to or affects the right to keep or bear arms, except that a local government
20 has the power to regulate the carrying of concealed weapons;
- 21 (10) any power that applies to or affects a public employee's pension or retirement rights as established
22 by state law, except that a local government may establish additional pension or retirement systems;
- 23 (11) any power that applies to or affects the standards of professional or occupational competence
24 established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession
25 or occupation;
- 26 (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title
27 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);
- 28 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended
29 to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70,
30 chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords

1 to comply with ordinances or provisions that are applicable to all other businesses or residences within the local
2 government's jurisdiction.

3 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

4 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
5 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may
6 enter into a cooperative agreement with the department of agriculture concerning the use and application of
7 commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
8 government from adopting or implementing zoning regulations or fire codes governing the physical location or
9 siting of fertilizer manufacturing, storage, and sales facilities;

10 (16) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,
11 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired
12 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
13 communications commission of the United States;

14 (17) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna
15 at heights and dimensions sufficient to accommodate amateur radio service communications by a person who
16 holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or
17 higher class, issued by the federal communications commission of the United States."

18

19 **Section 5.** Section 69-12-101, MCA, is amended to read:

20 **"69-12-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions
21 apply:

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

25 (2) "Certificate" means ~~the~~ a certificate of public convenience and necessity or a certificate of compliance
26 issued under this chapter.

27 (3) "Certificate of compliance" means written authorization to operate issued by the commission for Class
28 A, Class B, or Class E motor carriers that transport passengers declaring that the motor carrier meets the fitness
29 requirements of this chapter.

30 (4) "Certificate of public convenience and necessity" means a written authorization to operate issued by

1 the commission for Class A and Class B motor carriers that transport property or persons and property, Class
 2 C motor carriers, and Class D motor carriers declaring that the motor carrier service is required by the public
 3 convenience and necessity, as provided in this chapter.

4 ~~(3)~~(5) "Charter service" means a service used for the transportation of passengers by a motor carrier
 5 with rates not subject to approval by the commission if:

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

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

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

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

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

14 ~~(4)~~(6) "Compensation" means the charge imposed on motor carriers for the use of the highways in this
 15 state by motor carriers under 69-12-421.

16 ~~(5)~~(7) "Corporation" means a corporation, company, association, or joint-stock association.

17 ~~(6)~~(8) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or
 18 received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is
 19 obtained or derived for transportation service.

20 ~~(7)~~(9) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is
 21 transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, or licensed
 22 disposal well. The term does not include wastewater and waste tires.

23 ~~(8)~~(10) "Household goods" means any of the following:

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

27 (b) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals,
 28 or other establishments when those items are a part of the stock, equipment, or supply of the stores, offices,
 29 museums, institutions, hospitals, or other establishments. The term does not include the stock-in-trade of an
 30 establishment, whether consignor or consignee, other than used furniture and used fixtures, except when

1 transported as incidental to moving of the establishment or a portion of the establishment from one location to
2 another.

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

6 ~~(9)(11)~~ "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by
7 a court, operating motor vehicles upon a public highway in this state for the transportation of passengers,
8 household goods, or garbage for hire on a commercial basis, either as a common carrier or under private
9 contract, agreement, charter, or undertaking. A motor carrier includes a transportation network carrier.

10 ~~(10)(12)~~ "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled
11 vehicles used for the transportation of property or persons over the public highways of the state.

12 ~~(11)(13)~~ "Person" means an individual, firm, or partnership.

13 ~~(12)(14)~~ "Public highway" means a public street, road, highway, or way in this state.

14 ~~(13)(15)~~ "Railroad" means the movement of cars on rails, regardless of the motive power used.

15 ~~(14)(16)~~ "Recyclable" means any material diverted from the solid waste stream that can be reused in the
16 production of heat or energy or as raw material for new products and for which markets exist.

17 (17) "Transportation network carrier" means an entity that uses a digital network or software application
18 service to connect passengers to transportation network carrier services provided by transportation network
19 carrier drivers.

20 (18) "Transportation network carrier driver" means an individual who operates a motor vehicle that is:

21 (a) owned, leased, or otherwise authorized for use by the individual;

22 (b) not a taxi service, a street-hail service, or a for-hire vehicle service; and

23 (c) used to provide transportation network carrier services.

24 (19) "Transportation network carrier services" means the transportation of a passenger between points
25 chosen by the passenger and prearranged with a transportation network carrier driver through the use of a
26 transportation network carrier digital network or software application. Transportation network carrier services
27 begin when a transportation network carrier driver accepts a request for transportation received through the
28 transportation network carrier's digital network or software application service. Services continue while the
29 transportation network carrier driver transports the passenger in the transportation network carrier driver's vehicle
30 and end when the passenger exits the transportation network carrier driver's vehicle. Transportation network

1 carrier service is not taxi service, street-hail service, or a for-hire vehicle service."

2

3 **Section 6.** Section 69-12-102, MCA, is amended to read:

4 **"69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

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

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

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

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

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

17 (f) ambulances;

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

21 (h) the operation of:

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

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

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

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

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

1 (k) the transportation of persons provided by private, nonprofit organizations, including those recognized
 2 by the Montana department of transportation as federal transit administration providers pursuant to 49 U.S.C.
 3 5310. As used in this subsection (1)(k), "private, nonprofit organizations" means organizations recognized as
 4 nonprofit under section 501(c) of the Internal Revenue Code.

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

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

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

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

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

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

17 **Section 7.** Section 69-12-205, MCA, is amended to read:

18 **"69-12-205. Rules to reflect differences between carrier classes.** ~~All rules in relation~~ (1) Except as
 19 provided in subsection (3), rules related to schedules, service, tariffs, rates, facilities, accounts, and reports must
 20 ~~have due regard for~~ recognize the differences ~~existing between~~ types of Class A, Class B, Class C, and Class
 21 D, and Class E motor carriers, as defined in this chapter, and must be just, fair, and reasonable to the classes
 22 and types of motor carriers in ~~their relations~~ relation to each other and to the public.

23 (2) (a) In fixing ~~establishing~~ the tariff or rates to be charged by Class A and Class B motor carriers for
 24 the carrying of persons ~~or property, or both~~, the commission shall take into consideration the kind and character
 25 of service to be performed, ~~the public necessity of the service, and the effect of the tariff and rates upon other~~
 26 ~~transportation agencies, if any, and shall, as far as possible, avoid detrimental or unreasonable competition with~~
 27 ~~existing railroad service or service furnished by a motor carrier.~~

28 (b) In establishing the tariff or rates to be charged by Class A and Class B motor carriers for the carrying
 29 of property or persons and property, the commission shall take into consideration the public necessity of the
 30 service, the kind and character of service to be performed, and the effect of the tariff and rates on other

1 transportation agencies, if any. The commission shall, as far as possible, avoid detrimental or unreasonable
 2 competition with existing railroad service or service furnished by a motor carrier.

3 (3) Except as provided in [section 2], a Class E motor carrier is not subject to commission rules related
 4 to schedules, tariffs, or rates."

5

6 **Section 8.** Section 69-12-210, MCA, is amended to read:

7 **"69-12-210. Complaints.** (1) The commission ~~has jurisdiction to~~ may conduct investigations and hear
 8 complaints to determine whether a motor carrier has violated any of the commission's rules or orders or any
 9 provision of this chapter.

10 (2) Following an opportunity for hearing and upon a finding that a motor carrier has violated any of the
 11 commission's rules or orders or any provision of this chapter, the commission may suspend or revoke the motor
 12 carrier's certificate ~~of operating authority~~ or impose any penalty provided for under 69-12-108."

13

14 **Section 9.** Section 69-12-301, MCA, is amended to read:

15 **"69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into ~~four~~ five classes to be
 16 known as:

17 (a) Class A motor carriers;

18 (b) Class B motor carriers;

19 (c) Class C motor carriers; ~~and~~

20 (d) Class D motor carriers; and

21 (e) Class E motor carriers.

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

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

28 (4) Class C motor carriers include all motor carriers where the remuneration is fixed in and the
 29 transportation service furnished under a contract, charter, agreement, or undertaking.

30 (5) Class D motor carriers include all motor carriers operating motor vehicles transporting garbage.

1 (6) Class E motor carriers include all transportation network carriers."

2

3 **Section 10.** Section 69-12-311, MCA, is amended to read:

4 **"69-12-311. Class A motor carrier certificate.** (1) (a) A Class A motor carrier may not transport
5 persons, ~~property, or both~~ for hire on any public highway in this state without obtaining, pursuant to this chapter,
6 a certificate of compliance ~~declaring that public convenience and necessity require the operation.~~

7 (b) A Class A motor carrier may not transport property or persons and property for hire on any public
8 highway in this state without obtaining, pursuant to this chapter, a certificate of public convenience and necessity.

9 (2) A Class A motor carrier shall apply for a certificate, in writing, separately for each route. The
10 application must be verified by the applicant and specify the following:

11 (a) the name and address of the applicant and its officers, if any;

12 (b) the public highway or highways and the fixed termini between the regular route or routes where the
13 applicant intends to operate;

14 (c) a full and complete description of the character of the vehicle or vehicles to be used, including the
15 seating capacity;

16 (d) the proposed time schedule;

17 (e) a proposed schedule of the tariff or rates to be charged;

18 (f) a complete and detailed description of the property proposed to be devoted to the public service;

19 (g) a detailed statement showing the assets and liabilities of the applicant; and

20 (h) other information required by the commission.

21 (3) The application must be accompanied by a filing fee to be set by rule of the commission."
22

23 **Section 11.** Section 69-12-312, MCA, is amended to read:

24 **"69-12-312. Class B motor carrier certificate.** (1) (a) A Class B motor carrier may not transport
25 persons, ~~property, or both~~ for hire on any public highway in this state without obtaining, pursuant to this chapter,
26 a certificate of compliance ~~declaring that public convenience and necessity require the operation.~~

27 (b) A Class B motor carrier may not transport property or persons and property for hire on any public
28 highway in this state without obtaining, pursuant to this chapter, a certificate of public convenience and necessity.

29 (2) A Class B motor carrier shall apply for a certificate in writing, separately for each locality under
30 consideration. The application must be verified by the applicant and specify the following:

- 1 (a) the name and address of the applicant and its officers, if any;
- 2 (b) the kind of transportation, whether passenger, household goods, or both, together with a full and
3 complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any
4 vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in household goods
5 traffic;
- 6 (c) the locality and character of operations to be conducted;
- 7 (d) a proposed schedule of the tariff or rates to be charged for the transportation of passengers,
8 household goods, or both;
- 9 (e) a complete and detailed description of the property proposed to be devoted to the public service;
- 10 (f) a detailed statement showing the assets and liabilities of the applicant; and
- 11 (g) other information required by the commission.
- 12 (3) The application must be accompanied by a filing fee to be set by rule of the commission."
13

14 **Section 12.** Section 69-12-313, MCA, is amended to read:

15 **"69-12-313. Class C motor carrier certificate of public necessity.** (1) ~~No~~ A Class C motor carrier,
16 except ~~any~~ a Class C motor carrier operating pursuant to the terms and conditions of a contract as provided in
17 69-12-324, ~~shall~~ may not operate for the distribution, delivery, or collection of goods, wares, merchandise, or
18 commodities or for the transportation of persons on any public highway in this state without ~~first having obtained~~
19 ~~from the commission,~~ obtaining a certificate of public convenience and necessity under the provisions of this
20 chapter, ~~a certificate that public convenience and necessity require such operation.~~

21 (2) A Class C motor carrier ~~making application for such permit shall do so~~ apply for a certificate of public
22 convenience and necessity in writing; separately for each route or locality, ~~for which consideration is desired,~~
23 ~~which petition shall be verified by the applicant and shall specify the following matters:~~ The application must be
24 verified by the applicant and include:

- 25 (a) the name and address of the applicant and ~~the names and addresses of~~ its officers, if any;
- 26 (b) the public highways or highways over which and the fixed termini between which or the route or
27 routes over which it the applicant intends to operate, if the ~~same~~ routes are fixed, or the particular city, town,
28 station, or locality from ~~and/or~~ or to which, or both, the applicant intends to operate;
- 29 (c) the kind of transportation and the character of the goods, wares, merchandise, or commodities to be
30 distributed, delivered, or collected, together with a full and complete description of the character of the vehicle

1 or vehicles, including the rated tonnage capacity of ~~such~~ the vehicles, to be used in ~~such service of~~ the
 2 distribution, delivery, or collection; and

3 (d) ~~such other or additional information as the~~ required by the commission ~~may by order require.~~

4 (3) ~~Such~~ The application ~~shall~~ must be accompanied by a fee ~~to be~~ set by rule of the commission.

5 (4) ~~The submission of a~~ A Class C motor carrier application ~~must be accompanied by~~ include the names
 6 and addresses of any person, corporation, or other legal entity with whom the applicant has executed a contract
 7 for the distribution, delivery, or collection of wares, merchandise, or commodities or transporting persons. ~~Such~~
 8 The contracts must be in writing, executed by the parties, and submitted to the commission for examination."
 9

10 **Section 13.** Section 69-12-314, MCA, is amended to read:

11 **"69-12-314. Class D motor carrier certificate of public convenience and necessity.** (1) Class D
 12 carriers shall conduct operations pursuant to a certificate of public convenience and necessity issued by the
 13 commission authorizing the transportation of the commodities described in 69-12-301(5). Class D carriers, when
 14 applying for a new or additional ~~authority~~ certificate of public convenience and necessity, shall file an application
 15 with the commission in accordance with the requirements of this chapter and the rules of the commission.

16 (2) A motor carrier may not possess a Class D motor carrier certificate of public convenience or
 17 necessity or operate as a Class D motor carrier unless the motor carrier actually engages in the transportation
 18 of garbage on a regular basis as part of the motor carrier's usual business operation."
 19

20 **Section 14.** Section 69-12-321, MCA, is amended to read:

21 **"69-12-321. Hearing on application for motor carrier certificate.** (1) (a) Upon the filing of an
 22 application for a certificate by a Class A, Class B, Class C, ~~or~~ Class D, or Class E motor carrier, except a Class
 23 C motor carrier authorized to operate under the terms of a contract as provided in 69-12-324, or upon the filing
 24 of a request for a transfer of authority, the commission shall ~~give~~ provide notice of the ~~filing of the~~ application to
 25 any interested party.

26 (b) ~~The~~ If a protest or a request for hearing is received, the commission shall fix a time and place for a
 27 hearing on the application ~~whenever a protest or a request for a hearing is received.~~ The hearing must be set for
 28 ~~a date~~ not later than 60 days after receipt of a protest or a hearing request, ~~by the commission.~~ ~~Whenever no~~
 29 ~~protests or hearing requests are received,~~ If a protest or a request for hearing is not received, the commission
 30 may act on the application without a hearing as prescribed by commission rules.

1 (c) A protest related to an application by a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a)
 2 or by a Class E motor carrier is limited to a protest of the motor carrier's ability to meet the requirements of
 3 69-12-323(5).

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

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

10 (4) ~~However, an application by a Class A, Class B, Class C, or~~ An application by a motor carrier pursuant
 11 to 69-12-311(1)(b) or 69-12-312(1)(b), by a Class C motor carrier, or by a Class D motor carrier for a certificate
 12 of public convenience and necessity may be disallowed denied without a public hearing when it ~~appears from the~~
 13 records of the commission demonstrate that the route or territory sought to be served by the applicant has
 14 previously been made the basis of a public investigation and finding by the commission that public convenience
 15 and necessity do not require the proposed motor carrier service, ~~unless it is made to affirmatively appear in the~~
 16 application by a recital of the A hearing must be held if the applicant presents facts demonstrating that conditions
 17 ~~obtaining~~ over the route or in the territory and affecting transportation facilities have materially changed since the
 18 previous public investigation and finding and that public convenience and necessity now require the motor carrier
 19 operation."
 20

21 **Section 15.** Section 69-12-323, MCA, is amended to read:

22 **"69-12-323. Decision on application.** (1) ~~(a) The commission must issue, within~~ Except as provided
 23 in subsection (1)(b), within 180 days from ~~and after~~ the date of the completed filing of ~~said an~~ application, the
 24 commission shall issue its finding, order, or decision on ~~said the~~ application and the evidence presented in
 25 support ~~thereof of the application~~ at the time of ~~said the~~ hearing.

26 (b) The commission may extend the ~~foregoing~~ time for making a decision to a date requested by the
 27 applicant.

28 (2) (a) If after a hearing upon application for ~~on the request for a certificate of public convenience and~~
 29 necessity, the commission finds from the evidence that public convenience and necessity require the
 30 authorization of the service proposed or any part ~~thereof of the service proposed, as the commission shall~~

1 ~~determine~~, a certificate ~~therefor shall~~ of public convenience and necessity must be issued. In determining whether
 2 a certificate of public convenience and necessity should be issued, the commission shall ~~give reasonable~~
 3 ~~consideration to~~ consider:

4 (i) the transportation service being furnished or that will be furnished by any railroad or other existing
 5 transportation agency; ~~and shall give due consideration to~~

6 (ii) the likelihood of the proposed service being permanent and continuous throughout 12 months of the
 7 year; and

8 (iii) the effect ~~which that~~ the proposed transportation service may have ~~upon~~ on other forms of
 9 transportation service ~~which that~~ are essential and indispensable to the communities to be affected by ~~such~~ the
 10 proposed transportation service or that might be affected ~~thereby~~ by the proposed transportation service.

11 (b) For ~~the purposes of Class D certificates~~ issuing a certificate of public convenience and necessity to
 12 a Class D motor carrier, a determination of public convenience and necessity may include a consideration of
 13 competition.

14 (3) The commission may issue the certificate as ~~prayed for or issue it for the partial exercise only of the~~
 15 ~~privilege sought~~ requested in the application or in part and may attach ~~to the exercise of the rights granted by~~
 16 ~~such certificate such terms and conditions to~~ a certificate of public convenience and necessity for a motor carrier
 17 pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), a Class C motor carrier, or a Class D motor carrier ~~as that in its~~
 18 judgment the public convenience and necessity ~~may~~ require. ~~When~~

19 (4) ~~If a certificate has once been~~ is issued to a motor carrier as provided in this part, ~~such~~ the certificate
 20 ~~shall continue in force~~ is in effect until terminated by the commission for cause ~~as herein provided~~ or until
 21 terminated by the owner's failure to comply with 69-12-402.

22 (5) (a) In determining whether to approve a certificate of compliance for a motor carrier pursuant to
 23 69-12-311(1)(a) or 69-12-312(1)(a) or for a Class E motor carrier, the commission shall consider only whether
 24 the applicant meets the requirements of 69-12-415. The commission shall provide notice and may require a
 25 hearing in accordance with 69-12-321.

26 (b) An applicant seeking a certificate of compliance establishes a rebuttable presumption that it meets
 27 the requirements of 69-12-415 by demonstrating compliance with insurance, bonding, and security requirements
 28 established by the commission in accordance with 69-12-402."

29

30 **Section 16.** Section 69-12-324, MCA, is amended to read:

1 **"69-12-324. Special provisions when federal or state contract involved.** (1) The presentation of the
 2 A written contract presented to the commission shall be deemed is sufficient proof that a motor carrier pursuant
 3 to 69-12-311(1)(a) or 69-12-312(1)(a) or a Class E motor carrier meets the requirements for a certificate of
 4 compliance or that a motor carrier pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), a Class C motor carrier, or
 5 a Class D motor carrier meets the requirements for a certificate of public convenience and necessity in
 6 accordance with the terms and conditions contained within the United States government or state government
 7 contracts. Subject to the provisions of this section, a transportation movement is considered to be:

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

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

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

19 (3) The certificate of public convenience and necessity, issued pursuant to the terms of the United States
 20 government or state government contract, is authorized only for the duration of the United States government or
 21 state government contract concerned. The certificate may be renewed for another definite term if the same motor
 22 carrier is the motor carrier authorized to operate under the United States government or state government
 23 contract."

24

25 **Section 17.** Section 69-12-404, MCA, is amended to read:

26 **"69-12-404. Suspension of intrastate operating authority certificate by petition.** (1) (a) Every A
 27 motor carrier as defined within this chapter may petition the commission in writing to suspend its intrastate
 28 operating authority certificate for a period not to exceed 6 months. An Only one additional 6 months' 6-month
 29 suspension may be requested and granted, but no other. Such

30 (b) The suspension of a certificate of public convenience and necessity requested by a motor carrier

1 pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), by a Class C motor carrier, or by a Class D motor carrier may
 2 be granted ~~by the commission~~ upon a showing of present absence of public convenience and necessity or other
 3 showing of matters affecting motor carrier transportation.

4 (2) (a) ~~The suspension of any intrastate operating authority of any carrier~~ a certificate of compliance for
 5 a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a) or for a Class E motor carrier as provided for in
 6 subsection (1) for a period of 12 consecutive months ~~shall be deemed to establish~~ automatically terminates a
 7 certificate of compliance and requires a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a) or a Class
 8 E motor carrier to reapply for a certificate of compliance.

9 (b) The suspension of a certificate of public convenience and necessity for a motor carrier pursuant to
 10 69-12-311(1)(b) or 69-12-312(1)(b), a Class C motor carrier, or a Class D motor carrier as provided in subsection
 11 (1) for a period of 12 consecutive months establishes a prima facie presumption of absence of public convenience
 12 and necessity. If after notice and hearing the motor carrier pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), the
 13 Class C motor carrier, or the Class D motor carrier is unable to prove the existence of public convenience and
 14 necessity or existing demand for the transportation service, the commission ~~is authorized to~~ may cancel ~~such a~~
 15 certificate of public convenience and necessity."
 16

17 **Section 18.** Section 69-12-406, MCA, is amended to read:

18 **"69-12-406. Restriction on transportation of certain waste.** Except as provided in 69-12-324, a Class
 19 A, Class B, or Class C, or Class E motor carrier may not be authorized or permitted to transport garbage within
 20 the state. This restriction does not apply to recyclables."
 21

22 **Section 19.** Section 69-12-407, MCA, is amended to read:

23 **"69-12-407. Records and reports.** (1) All records, books, accounts, and files of a Class A, Class B,
 24 Class C, and Class D motor carrier in this state, as they relate to the business of transportation conducted by the
 25 motor carrier, must at all times be subject to examination by the commission or by any authorized agent or
 26 employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports
 27 covering the operations of Class A, Class B, Class C, and Class D motor carriers. A motor carrier authorized to
 28 operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according
 29 to the uniform system to the extent possible.

30 (2) Before April 1 of each year, unless this deadline has been extended for good cause by the

1 commission, a motor carrier authorized to engage in business shall file with the commission a report, under oath,
2 on a form prescribed and furnished by the commission.

3 (3) In addition to other reporting requirements, a Class D motor carrier shall provide sufficient information
4 to the commission to show that the carrier is entitled to possess the Class D motor carrier certificate of public
5 convenience and necessity under the requirements of 69-12-314.

6 (4) (a) To ensure safety with respect to transportation network carrier drivers affiliated with Class E motor
7 carriers, the commission may conduct audits of a Class E motor carrier, but not more than twice annually.

8 (b) A Class E motor carrier shall, upon request from the commission, provide to the commission up to
9 1,000 unique identification numbers, each of which has been assigned by the motor carrier to an individual
10 transportation network carrier driver affiliated with the motor carrier.

11 (c) The commission may request from the Class E motor carrier copies of records held by the motor
12 carrier for up to 10 of the motor carrier's drivers, who may be identified in the request only by the driver's unique
13 identification number.

14 (d) The Class E motor carrier shall comply with the request in an electronic format acceptable to the
15 commission within 1 business day after receiving the request.

16 (e) The Class E motor carrier may redact the records provided to the commission under subsection (4)(d)
17 to protect the individual privacy of the transportation network carrier's drivers, including information that could be
18 used to identify a driver. Information that a Class E motor carrier may redact includes but is not limited to the
19 transportation network carrier driver's name, address, and social security number, other than the last four digits.

20 (5) Except as required by Article II, section 9 or 10, of the Montana constitution, the records obtained
21 by the commission under subsection (4) may not be publicly disclosed by the commission."

22

23 **Section 20.** Section 69-12-415, MCA, is amended to read:

24 "**69-12-415. Carrier fitness.** A certificate ~~of operating authority~~ may not be issued or remain in force
25 unless the ~~holder of the~~ certificate holder is fit, willing, and able to perform the authorized service and conforms
26 to the provisions of this chapter and the rules and orders of the commission."

27

28 **Section 21.** Section 69-12-501, MCA, is amended to read:

29 "**69-12-501. Rate schedules to be maintained.** (1) Every A Class A or B motor carrier holding issued
30 a certificate ~~must~~ shall maintain on file with the commission, if applicable, a full and complete schedule of its rates,

1 fares, charges, classifications, and rules of service and any and all tariff provisions relating to ~~such~~ rates, fares,
 2 charges, classifications, or rules. ~~Every~~ A schedule on file and approved on March 7, 1961, ~~shall remain~~ remains
 3 in full force and effect until changed or modified by the commission or by the carrier with the approval of the
 4 commission.

5 (2) ~~No~~ A change, modification, alteration, increase, or decrease in any rate, fare, charge, classification,
 6 or rule of service ~~shall~~ may not be made by ~~any~~ a motor carrier without first obtaining the approval of the
 7 commission. The commission shall prescribe rules providing for the form and style of all schedules and tariffs and
 8 for the procedures to be followed in filing or publishing any changes or modifications of ~~the same~~ schedules and
 9 tariffs."

10
 11 NEW SECTION. Section 22. Repealer. The following section of the Montana Code Annotated is
 12 repealed:

13 69-12-328. Certificate for charter service.

14
 15 NEW SECTION. Section 23. Grandfather clause -- transition. A motor carrier that possesses a
 16 certificate issued by the commission on or before June 30, 2015, is considered to possess a valid certificate.

17
 18 NEW SECTION. Section 24. Codification instruction. [Sections 1 through 3] are intended to be
 19 codified as an integral part of Title 69, chapter 12, and the provisions of Title 69, chapter 12, apply to [sections
 20 1 through 3].

21
 22 NEW SECTION. Section 25. Saving clause. [This act] does not affect rights and duties that matured,
 23 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

24
 25 NEW SECTION. Section 26. Severability. If a part of [this act] is invalid, all valid parts that are
 26 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
 27 the part remains in effect in all valid applications that are severable from the invalid applications.

28
 29 NEW SECTION. Section 27. Effective date. [This act] is effective July 1, 2015.

30 - END -