



AN ACT GENERALLY REVISING MOTOR CARRIER LAWS; ELIMINATING THE REQUIREMENT THAT CERTAIN MOTOR CARRIERS DEMONSTRATE PUBLIC CONVENIENCE AND NECESSITY TO ACQUIRE A CERTIFICATE FROM THE PUBLIC SERVICE COMMISSION; CREATING A CLASS E CLASSIFICATION FOR MOTOR CARRIERS THAT OFFER TRANSPORTATION NETWORK CARRIER SERVICES; PROVIDING FOR A FEE; PROVIDING OPERATING REQUIREMENTS FOR CLASS E MOTOR CARRIERS; PROVIDING A TRANSITION FOR MOTOR CARRIERS OPERATING WITH A CERTIFICATE; PROVIDING FINANCIAL RESPONSIBILITY OF TRANSPORTATION NETWORK CARRIERS; REQUIRING TRANSPORTATION NETWORK CARRIERS TO PROVIDE DISCLOSURES; PROVIDING INSURANCE REQUIREMENTS; PROHIBITING LOCAL GOVERNMENTS FROM REGULATING TRANSPORTATION NETWORK CARRIER SERVICES; PROHIBITING A LOCAL GOVERNMENT WITH SELF-GOVERNING POWERS FROM REGULATING TRANSPORTATION NETWORK CARRIER SERVICES; CLARIFYING EXEMPTIONS; AMENDING SECTIONS 7-1-111, 69-12-101, 69-12-102, 69-12-205, 69-12-210, 69-12-301, 69-12-311, 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, 69-12-415, AND 69-12-501, MCA; REPEALING SECTION 69-12-328, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

- (a) the name and address of the applicant and its officers, if any;
- (b) the locality and character of operations to be conducted;
- (c) a detailed statement showing the assets and liabilities of the applicant;

(d) a detailed statement that the applicant complies or, once certificated, will comply with the requirements of 69-12-323(5);

(e) other information required by the commission.

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

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

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

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

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

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

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

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

(a) the origin and destination of the trip;

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

(c) an itemization of the total fare paid.

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

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

Section 4. Insurance requirements of transportation network carriers. A transportation network carrier driver or transportation network carrier on the driver's behalf shall maintain primary motor vehicle liability insurance on the driver's personal vehicle that meets the following requirements:

(1) The insurance policy recognizes that the driver is a transportation network carrier driver or otherwise uses a personal vehicle to transport riders for compensation and covers the driver:

- (a) while the driver is logged on to the transportation network carrier's digital network; or
- (b) while the driver is engaged in a prearranged ride.

(2) (a) While a participating transportation network carrier driver is logged on to the transportation network carrier's digital network and is available to receive transportation requests but is not engaged in a prearranged ride, the motor vehicle liability insurance policy must provide:

- (i) primary motor vehicle liability insurance in the amount of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage; and
 - (ii) uninsured motorist coverage when required by 33-23-201.
- (b) The coverage requirements of subsection (2)(a) may be satisfied by any of the following:
- (i) motor vehicle liability insurance maintained by the transportation network carrier driver;
 - (ii) motor vehicle liability insurance maintained by the transportation network carrier; or
 - (iii) any combination of subsections (2)(b)(i) and (2)(b)(ii).

(3) (a) While a transportation network carrier driver is engaged in a prearranged ride, the motor vehicle liability insurance policy must provide:

- (i) primary motor vehicle liability insurance that provides at least \$1,000,000 for death, bodily injury, and property damage; and
 - (ii) uninsured motorist coverage when required by 33-23-201.
- (b) The coverage requirements of subsection (3)(a) may be satisfied by any of the following:
- (i) motor vehicle liability insurance maintained by the transportation network carrier driver on the driver's personal vehicle;
 - (ii) motor vehicle liability insurance maintained by the transportation network carrier on the driver's personal vehicle; or
 - (iii) any combination of subsections (3)(b)(i) and (3)(b)(ii).

(4) If insurance maintained by the driver in subsections (2) or (3) has lapsed or does not provide the required limits of coverage, insurance maintained by a transportation network carrier must provide the coverage required by this section beginning with the first dollar of a claim and have the duty to defend such claim.

(5) Coverage under a motor vehicle liability insurance policy maintained by the transportation network carrier may not be dependent on a driver's personal motor vehicle liability insurer first denying a claim and a driver's personal motor vehicle liability insurance policy insurer may not be required to first deny a claim.

(6) Insurance required by this section may be placed with an insurer authorized under Title 33, including a surplus lines insurer.

(7) Insurance satisfying the requirements of this section satisfies mandatory insurance requirements in Title 61, chapter 6.

(8) A transportation network carrier driver shall carry proof of coverage satisfying subsections (2) and (3) at all times during the use of a personal vehicle in connection with a transportation network carrier's digital network. In the event of an accident, a transportation network carrier driver shall provide insurance coverage information to the directly interested parties, motor vehicle liability insurers, and investigating police officers upon request. Upon such request, a transportation network carrier driver shall also disclose to directly interested parties, motor vehicle liability insurers, and investigating police officers whether the driver was logged on to the transportation network carrier's digital network or engaged in a prearranged ride at the time of an accident.

Section 5. Disclosures. A transportation network carrier shall disclose in writing to a transportation network carrier driver the following before the driver is allowed to accept a request for a prearranged ride on the transportation network carrier's digital network:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network carrier provides while the transportation network carrier driver uses a personal vehicle in connection with a transportation network carrier's digital network; and

(2) that the transportation network carrier driver's own motor vehicle liability insurance policy might not provide any liability or optional coverages while the driver is logged on to the transportation network carrier's digital network and is available to receive transportation requests or is engaged in a prearranged ride, depending on its terms.

Section 6. Motor vehicle liability insurance provisions. (1) Insurers that write motor vehicle liability insurance in Montana may exclude any and all coverage afforded under the owner's insurance policy for any loss or injury that occurs while a driver is logged on to a transportation network carrier's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in a motor vehicle liability insurance policy, including, but not limited to:

(a) liability coverage for bodily injury and property damage including insurance required under Title 61, chapter 6;

(b) personal injury protection coverage;

(c) uninsured and underinsured motorist coverage, including insurance provided under 33-23-201;

(d) medical payments coverage;

(e) comprehensive physical damage coverage; and

(f) collision physical damage coverage.

(2) Nothing in this section requires that a personal motor vehicle liability insurance policy provide coverage while the driver is logged on to the transportation network carrier's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a personal vehicle to transport riders for compensation. An insurer may provide coverage for the transportation network carrier driver's personal vehicle, if it chooses to do so by contract or endorsement.

(3) A motor vehicle liability insurer that excludes the coverage described in [section 4] has no duty to defend or indemnify any claim expressly excluded. [Sections 4 through 6] do not invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use prior to the enactment of [sections 4 through 6]. A motor vehicle liability insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its motor vehicle liability policy has a right of contribution against other insurers that provide motor vehicle liability insurance to the same driver in satisfaction of the coverage requirements of [section 4] at the time of loss.

(4) In a claims coverage investigation, transportation network carriers and any insurer potentially providing liability or optional coverages under [section 4] shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the transportation network carrier driver, if applicable, including the precise times that a transportation network carrier driver logged on and off the transportation network carrier's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions,

and limits provided under any motor vehicle liability insurance maintained under [section 4].

(5) Nothing in this chapter limits the right of a lender or secured party on a driver's vehicle to require a driver to maintain comprehensive and collision damage coverage for a driver's vehicle or to show evidence of that coverage to the lender or secured party that would cover the period when the driver is logged on to the transportation network carrier's digital network regardless of whether the driver is engaged in a prearranged ride. If the driver fails to maintain the required comprehensive and collision coverage or to show evidence to the lender or secured party of the coverage upon reasonable request by the lender or secured party, the lender or secured party may obtain the coverage at the expense of the driver and is not required to provide disclosure under [section 5].

(6) If a lender or a secured party has a secured interest in a driver's vehicle and a transportation network carrier's insurer makes a payment for a claim for damage to the driver's vehicle that is covered under comprehensive or collision damage coverage held by the transportation network carrier, the insurer shall issue the payment directly to the vehicle repair shop or jointly to the owner of the vehicle and the primary lender or secured party on the covered vehicle.

Section 7. Section 7-1-111, MCA, is amended to read:

"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective bargaining for public employees, unemployment compensation, or workers' compensation), except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public convenience and necessity pursuant to Title 69, chapter 12;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms, except that a local government has the power to regulate the carrying of concealed weapons;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession or occupation;

(12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.

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

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

(16) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,

including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

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

Section 8. 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~~ a certificate of public convenience and necessity or a certificate of compliance issued under this chapter.

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

(4) "Certificate of public convenience and necessity" means a written authorization to operate issued by the commission for Class A and Class B motor carriers that transport property or persons and property, Class C motor carriers, and Class D motor carriers declaring that the motor carrier service is required by the public convenience and necessity, as provided in this chapter.

~~(3)~~(5) "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.

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

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

(8) "Digital network" means any online-enabled application, software, website, or system offered or utilized by a transportation network carrier that enables the prearrangement of rides with transportation network carrier drivers.

~~(6)~~(9) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

~~(7)~~(10) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, or licensed disposal well. The term does not include wastewater and waste tires.

~~(8)~~(11) "Household goods" means any of the following:

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

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

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

~~(9)~~(12) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by a court, operating motor vehicles upon a public highway in this state for the transportation of passengers, household goods, or garbage for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. A motor carrier includes a transportation network carrier.

~~(10)~~(13) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state.

~~(11)~~(14) "Person" means an individual, firm, or partnership.

(15) "Personal vehicle" means a vehicle that is used by a transportation network carrier driver in connection with providing a prearranged ride and is:

- (a) owned, leased, or otherwise authorized for use by the transportation network carrier driver; and
- (b) not a taxicab, limousine, or for-hire vehicle.

(16) "Prearranged ride" means transportation provided by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network carrier, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include transportation provided using a taxicab, limousine, or other for-hire vehicle pursuant to Title 69, chapter 12.

~~(12)~~(17) "Public highway" means a public street, road, highway, or way in this state.

~~(13)~~(18) "Railroad" means the movement of cars on rails, regardless of the motive power used.

~~(14)~~(19) "Recyclable" means any material diverted from the solid waste stream that can be reused in the production of heat or energy or as raw material for new products and for which markets exist.

(20) "Transportation network carrier" means an entity that uses a digital network or software application service to connect passengers to transportation network carrier services provided by transportation network carrier drivers. A transportation network carrier shall not be deemed to control, direct, or manage the personal vehicles or transportation network carrier drivers that connect to its digital network, except where agreed to by written contract.

(21) "Transportation network carrier driver" or "driver" means an individual who:

(a) receives connections to potential riders and related services from a transportation network carrier in exchange for payment of a fee to the transportation network carrier; and

(b) uses a personal vehicle to provide a prearranged ride to riders upon connection through a digital

network controlled by a transportation network carrier in return for compensation or payment of a fee.

(22) "Transportation network carrier rider" or "rider" means an individual or persons who use a transportation network carrier's digital network to connect with a transportation network carrier driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

(23) "Transportation network carrier services" means the transportation of a passenger between points chosen by the passenger and prearranged with a transportation network carrier driver through the use of a transportation network carrier digital network or software application."

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

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

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

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

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

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

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

(f) ambulances;

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

(h) the operation of:

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

(ii) a municipal bus service pursuant to Title 7, chapter 14, part 44; or
 (iii) any public transportation system recognized by the Montana department of transportation as a federal transit administration provider pursuant to 49 U.S.C. 5311;

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

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

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

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

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

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

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

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

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

Section 10. Section 69-12-205, MCA, is amended to read:

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

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

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

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

Section 11. Section 69-12-210, MCA, is amended to read:

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

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

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

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

- (a) Class A motor carriers;
- (b) Class B motor carriers;
- (c) Class C motor carriers; ~~and~~
- (d) Class D motor carriers; and
- (e) Class E motor carriers.

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

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

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

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

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

Section 13. Section 69-12-311, MCA, is amended to read:

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

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

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

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

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

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

(d) the proposed time schedule;

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

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

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

(h) other information required by the commission.

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

Section 14. Section 69-12-312, MCA, is amended to read:

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

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

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

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

(b) the kind of transportation, whether passenger, household goods, or both, together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in household goods traffic;

(c) the locality and character of operations to be conducted;

(d) a proposed schedule of the tariff or rates to be charged for the transportation of passengers, household goods, or both;

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

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

(g) other information required by the commission.

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

Section 15. Section 69-12-313, MCA, is amended to read:

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

chapter, ~~a certificate that public convenience and necessity require such operation.~~

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

(a) the name and address of the applicant and ~~the names and addresses of its officers, if any;~~

(b) the public highways or highways over which and the fixed termini between which or the route or routes over which it the applicant intends to operate, if the ~~same~~ routes are fixed, or the particular city, town, station, or locality from ~~and/or~~ or to which, or both, the applicant intends to operate;

(c) the kind of transportation and the character of the goods, wares, merchandise, or commodities to be distributed, delivered, or collected, together with a full and complete description of the character of the vehicle or vehicles, including the rated tonnage capacity of ~~such~~ the vehicles, to be used in ~~such service of the~~ the distribution, delivery, or collection; and

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

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

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

Section 16. Section 69-12-314, MCA, is amended to read:

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

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

Section 17. Section 69-12-321, MCA, is amended to read:

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

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

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

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

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

~~(4) However, an application by a Class A, Class B, Class C, or~~ An application by a motor carrier 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 for a certificate of public convenience and necessity may be disallowed ~~denied~~ without a public hearing when it ~~appears from~~ the records of the commission demonstrate that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service, ~~unless it is made to affirmatively appear in the application by a recital of the~~ A hearing must be held if the applicant presents facts demonstrating that conditions ~~obtaining~~ over the route or in the territory and affecting transportation facilities have materially changed since the

previous public investigation and finding and that public convenience and necessity now require the motor carrier operation."

Section 18. Section 69-12-323, MCA, is amended to read:

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

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

(2) (a) If after a hearing upon application for ~~on the request for~~ a certificate of public convenience and necessity, the commission finds from the evidence that public convenience and necessity require the authorization of the service proposed or any part ~~thereof of the service proposed~~, ~~as the commission shall determine~~, a certificate ~~therefor shall~~ of public convenience and necessity must be issued. In determining whether a certificate of public convenience and necessity should be issued, the commission shall ~~give reasonable consideration to~~ consider:

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

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

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

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

(3) The commission may issue the certificate as ~~prayed for or issue it for the partial exercise only of the privilege sought~~ requested in the application or in part and may attach ~~to the exercise of the rights granted by such certificate~~ such terms and conditions to a certificate of public convenience and necessity for a motor carrier

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 judgment the public convenience and necessity may require. When

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

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

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

Section 19. Section 69-12-324, MCA, is amended to read:

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

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

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

(2) The Class C certificate of public convenience and necessity issued pursuant to the terms and conditions of the United States government or state government contract may be issued by the commission upon

receipt of an executed copy of the United States government or state government contract. The certificate of public convenience and necessity may be issued thereafter without requiring the commission to fix a time and place for a public hearing.

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

Section 20. Section 69-12-404, MCA, is amended to read:

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

(b) The suspension of a certificate of public convenience and necessity requested by a motor carrier 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 be granted by the commission upon a showing of present absence of public convenience and necessity or other showing of matters affecting motor carrier transportation.

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

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

certificate of public convenience and necessity."

Section 21. Section 69-12-406, MCA, is amended to read:

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

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

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

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, a motor carrier authorized to engage in business shall file with the commission a report, under oath, on a form prescribed and furnished by the commission.

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

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

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

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

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

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

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

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

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

Section 24. Section 69-12-501, MCA, is amended to read:

"69-12-501. Rate schedules to be maintained. (1) ~~Every A~~ Class A or B motor carrier ~~holding~~ issued a certificate ~~must~~ shall maintain on file with the commission, if applicable, a full and complete schedule of its rates, fares, charges, classifications, and rules of service and any and all tariff provisions relating to ~~such~~ rates, fares, charges, classifications, or rules. ~~Every A~~ schedule on file and approved on March 7, 1961, ~~shall remain~~ remains in full force and effect until changed or modified by the commission or by the carrier with the approval of the commission.

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

Section 25. Repealer. The following section of the Montana Code Annotated is repealed:

69-12-328. Certificate for charter service.

Section 26. Grandfather clause -- transition. A motor carrier that possesses a certificate issued by the commission on or before June 30, 2015, is considered to possess a valid certificate.

Section 27. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 69, chapter 12, and the provisions of Title 69, chapter 12, apply to [sections 1 through 6].

Section 28. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 29. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 30. Effective date. [This act] is effective July 1, 2015.

- END -

I hereby certify that the within bill,
SB 0396, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2015.

Speaker of the House

Signed this _____ day
of _____, 2015.

SENATE BILL NO. 396

INTRODUCED BY E. BUTTREY, E. HILL, A. KNUDSEN, S. LAVIN, N. SCHWADERER, F. THOMAS,
A. WITTICH, D. ZOLNIKOV

AN ACT GENERALLY REVISING MOTOR CARRIER LAWS; ELIMINATING THE REQUIREMENT THAT CERTAIN MOTOR CARRIERS DEMONSTRATE PUBLIC CONVENIENCE AND NECESSITY TO ACQUIRE A CERTIFICATE FROM THE PUBLIC SERVICE COMMISSION; CREATING A CLASS E CLASSIFICATION FOR MOTOR CARRIERS THAT OFFER TRANSPORTATION NETWORK CARRIER SERVICES; PROVIDING FOR A FEE; PROVIDING OPERATING REQUIREMENTS FOR CLASS E MOTOR CARRIERS; PROVIDING A TRANSITION FOR MOTOR CARRIERS OPERATING WITH A CERTIFICATE; PROVIDING FINANCIAL RESPONSIBILITY OF TRANSPORTATION NETWORK CARRIERS; REQUIRING TRANSPORTATION NETWORK CARRIERS TO PROVIDE DISCLOSURES; PROVIDING INSURANCE REQUIREMENTS; PROHIBITING LOCAL GOVERNMENTS FROM REGULATING TRANSPORTATION NETWORK CARRIER SERVICES; PROHIBITING A LOCAL GOVERNMENT WITH SELF-GOVERNING POWERS FROM REGULATING TRANSPORTATION NETWORK CARRIER SERVICES; CLARIFYING EXEMPTIONS; AMENDING SECTIONS 7-1-111, 69-12-101, 69-12-102, 69-12-205, 69-12-210, 69-12-301, 69-12-311, 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, 69-12-415, AND 69-12-501, MCA; REPEALING SECTION 69-12-328, MCA; AND PROVIDING AN EFFECTIVE DATE.