

**Unofficial Draft Copy**

As of: January 11, 2013 (12:07pm)

LC1416

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act removing public service commission regulatory authority of motor carrier transportation; requiring the department of transportation to enforce motor carrier licensing, insurance, and safety laws; requiring the department of transportation to issue certificates for motor carriers operating motor vehicles transporting garbage; establishing the duties of the department of transportation related to regulation of motor carriers operating motor vehicles transporting garbage; amending sections 7-2-4736, 7-13-4107, 7-14-4401, 10-3-1306, 10-3-1307, 20-8-121, 61-1-101, 61-3-431, 61-3-716, 61-3-722, 61-4-301, 61-4-305, 61-6-109, 61-10-154, 61-12-206, 69-1-114, 69-1-401, and 69-2-101, MCA; repealing sections 61-4-304, 69-12-101, 69-12-102, 69-12-104, 69-12-105, 69-12-106, 69-12-107, 69-12-108, 69-12-201, 69-12-202, 69-12-203, 69-12-204, 69-12-205, 69-12-206, 69-12-207, 69-12-208, 69-12-209, 69-12-210, 69-12-301, 69-12-302, 69-12-311, 69-12-312, 69-12-313, 69-12-314, 69-12-321, 69-12-322, 69-12-323, 69-12-324, 69-12-325, 69-12-326, 69-12-327, 69-12-328, 69-12-331, 69-12-401, 69-12-402, 69-12-403, 69-12-404, 69-12-406, 69-12-407, 69-12-408, 69-12-415, 69-12-421, 69-12-422, 69-12-423, 69-12-501, 69-12-502, 69-12-503, 69-12-504, 69-12-505, 69-12-511, 69-12-601, 69-12-601, 69-12-602, 69-12-603, 69-12-604, 69-12-605, 69-12-611, and 69-12-612, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION.    **Section 1. Definitions.** Unless the context requires otherwise, in [sections 1 through 13] the following definitions apply:

(1) "Certificate" means a certificate of public convenience and necessity issued under [sections 1 through 13].

(2) "Department" means the department of transportation provided for in Title 2, chapter 15, part 25.

(3) "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.

(4) "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.

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

(6) "Motor vehicle" means 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.

(7) "Person" means an individual, firm, corporation, or partnership.

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

**NEW SECTION. Section 2. Supervision of motor carriers.** (1)

The department has general responsibility for enforcement of the provisions of [sections 1 through 13].

(2) The department shall direct all enforcement activities, including the investigation and prosecution of violations of licensing requirements, insurance requirements, and safety requirements adopted under 44-1-1005.

(3) In accordance with 61-10-154(6), the department or its agents may:

(a) make arrests in connection with violations of law and issue summonses, accepting bail, and serving warrants of arrest; and

(b) make reasonable inspections of cargoes carried by commercial motor vehicles and require production of manifests, bills of lading, leases, and other documents relating to the cargo, driver, routing, or ownership of the commercial vehicles.

**NEW SECTION. Section 3. Compliance with state law.** It is unlawful for any person or the person's officers, agents, or

employees to operate any motor vehicle for the transportation of persons or property for hire on any public highway in the state except in accordance with the applicable provisions of Title 61 and [sections 1 through 13].

**NEW SECTION. Section 4. Garbage motor carrier certificate.**

(1) Motor carriers operating motor vehicles transporting garbage shall conduct operations pursuant to a certificate of public convenience and necessity issued by the department authorizing the transportation of garbage. When applying for a new or additional authority, motor carriers operating motor vehicles transporting garbage shall file an application with the department in accordance with the requirements of [sections 1 through 13] and the rules of the department.

(2) A motor carrier operating motor vehicles transporting garbage may not possess a certificate or operate 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.

**NEW SECTION. Section 5. Hearing and notice on application for garbage motor carrier certificate.**

(1)(a) Upon the filing of an application by a motor carrier operating motor vehicles transporting garbage, or upon the filing of a request for a transfer of authority, the department shall give notice of the filing of the application to any interested party.

(b) The department 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 department.

(c) Whenever no protests or hearing requests are received, the department may act on the application without a hearing as prescribed by department rules.

(2) A motor carrier referred to in subsection (4), 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) An application by a motor carrier operating motor vehicles transporting garbage for a certificate may be disallowed without a public hearing when it appears from the records of the department 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 department 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 facts 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.

(4)(a) Whenever a hearing is scheduled, whether as a result

of a protest or request or upon the department's request, the department shall cause a copy of the petition and notice of hearing to be served upon an officer or owner of any motor carrier that in the opinion of the department might be affected by the granting of the certificate and shall notify any other affected party at least 10 days before the date of hearing.

(b) Notice of the hearing must be published in the legal advertising section of a local newspaper or newspapers determined by the department to have a circulation sufficient to reach the consuming public in the area under consideration for applications.

**NEW SECTION.**    **Section 6. Decision on application for garbage motor carrier certificate.** (1)(a) Except as provided in subsection (1)(b), the department must issue, within 180 days from the date of the completed filing of an application, its finding, order, or decision on the application and the evidence presented in support of the application at the time of the hearing.

(b) The commission may extend the time to a date requested by the applicant.

(2) (a) If after the hearing, the department finds from the evidence that public convenience and necessity require the authorization of the service proposed, the department shall issue the certificate.

(b) In determining whether a certificate should be issued, the department shall give reasonable consideration to:

(i) the garbage service currently being furnished or that will be furnished by other entities;

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

(iii) the effect that the proposed garbage service may have on other forms of garbage service which are essential and indispensable to the communities to be affected by the proposed service; and

(iv) a consideration of competition.

(3) The commission may issue the certificate with conditions that it determines necessary. When a certificate is issued, the certificate is in place unless terminated by the department for a failure to comply with [sections 1 through 13].

**NEW SECTION. Section 7. Special provisions when federal or state contract involved.** (1) The presentation of a written contract to the department is sufficient proof of public convenience and necessity in accordance with the terms and conditions contained in 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 operating motor vehicles transporting garbage pursuant to the terms of a written contract between the carrier and the United States government or an agency or department; or

(b) the transportation for hire of garbage 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.

(2) 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.

**NEW SECTION. Section 8. Transfer or lease of certificate.**

(1) The department shall authorize any transfer or lease of a certificate obtained by a motor carrier operating motor vehicles transporting garbage.

(2) The transfer or lease must be in writing and approved by the department prior to any operation under the certificate. The transfer or lease must specify:

(a) the period for which a certificate is to be transferred or leased, which shall not be less than 30 days;

(b) the compensation to be paid;

(c) the time or date upon which the lease will commence and terminate; and

(d) the signatures of the parties taking part in the transfer or lease.

(3) Operation under the certificate is prohibited until

approved by the commission in writing.

NEW SECTION.    **Section 9. Revocation or suspension of certificate.** (1) If the department determines a certificate holder has violated [sections 1 through 13], the department may revoke the certificate. If the certificate holder fails to appear to show cause as ordered by the department, the certificate may be revoked without a hearing. If the holder does appear to show cause, the department may:

    (a) dismiss the proceeding, notifying the holder that the certificate is not revoked; or

    (b) hold a hearing on the question of revocation, notifying the holder of the time and place for the hearing.

(2) A certificate holder may petition the department in writing to suspend its intrastate operating authority for a period not to exceed 6 months. One additional suspension may be granted.

    (a) The suspension may be granted upon a showing of present absence of public convenience and necessity or other showing of matters affecting the certificate holder.

    (c) A suspension for a period of 1 year establishes a prima facie presumption of absence of public convenience and necessity. If after notice and hearing the certificate holder is unable to prove the existence of public convenience and necessity or existing demand for the service, the department may cancel the certificate of public convenience and necessity.

NEW SECTION.    **Section 10. Records and reports.**    (1) All records, books, accounts, and files of a motor carrier operating motor vehicles transporting garbage related to the transportation conducted by the motor carrier are subject to examination by the department.

(2) The department shall prescribe a uniform system of reporting covering the operations of a motor carrier operating motor vehicles transporting garbage authorized to operate in accordance with [sections 1 through 13]

(2) Before April 1 of each year, a motor carrier operating motor vehicles transporting garbage authorized to engage in business shall file the report with the department. If a motor carrier files an annual report with the interstate commerce commission a copy of the report must be filed with the department.

NEW SECTION.    **Section 11. Annual fee for garbage motor carrier.** (1) Except as provided in subsection (2), in addition to the licenses, fees, or taxes imposed on motor vehicles in this state, a motor carrier operating motor vehicles transporting garbage shall, at the time of the issuance of a certificate and on an annual basis, pay to the department a fee set by rule.

(2) (a) A motor carrier operating motor vehicles transporting garbage engaged in seasonal operations, where its operations do not extend continuously over a period not to exceed 6 months shall only be required to pay compensation and fees in a sum equal to one-half of the compensation and fees provided in

subsection (1).

(b) The compensation and fees do not apply to motor vehicles maintained and used by a motor carrier operating motor vehicles transporting garbage as standby or emergency equipment.

(3) Fees collected pursuant to subsections (1) and (2) shall be used by the department to administer [sections 4 through 13].

**NEW SECTION. Section 12. Garbage motor carrier account.**

(1) There is a garbage motor carrier operating account in the state special revenue fund provided for in 17-2-102.

(2) Fees imposed pursuant to [section 11] must be deposited in the account.

(3) The money in the account must be used by the department to pay costs directly incurred in the administration of [sections 4 through 13].

**NEW SECTION. Section 13. Rulemaking authority.** (1) The department shall adopt rules necessary for the administration of [sections 1 through 13].

(2) The rules must include but are not limited to:

(a) the process for holding hearings and issuing a certificate in accordance with [sections 4 through 6];

(b) criteria for revocation of a certificate pursuant to [section 9];

(c) record and reporting requirements pursuant to [section 10]; and

(d) the fee required pursuant to [section 11].

**Section 14.** Section 7-2-4736, MCA, is amended to read:

**"7-2-4736. Preservation of existing garbage or solid waste service in event of annexation.** A municipality that annexes or incorporates additional area within the service area of a motor carrier authorized by the ~~public service commission~~ department of transportation in accordance with sections [1 through 13] to provide that service may not provide exclusive garbage and solid waste disposal service or impose charges or assessments for services not provided to any person or business located in the annexed or incorporated area except upon a proper showing to the ~~public service commission~~ department of transportation that the existing motor carrier is unable to or refuses to provide adequate service to the annexed or incorporated area."

{ Internal References to 7-2-4736:

7-2-4205x

7-2-4305x

7-2-4506x

7-2-4610x }

**Section 15.** Section 7-13-4107, MCA, is amended to read:

**"7-13-4107. Protection of private waste disposal service in municipality.** A municipality, as of January 1, 1979, that receives garbage and solid waste disposal services from a private motor carrier authorized by the ~~public service commission~~ department of transportation in accordance with [sections 1 through 13] to provide that service may not, by ordinance or otherwise, elect to provide exclusive garbage and solid waste service until the municipality first fully compensates the private motor carrier for the resulting damage to its business."

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{ *Internal References to 7-13-4107: None.* }

**Section 16.** Section 7-14-4401, MCA, is amended to read:

**"7-14-4401. Provision of bus service.** Whenever a city or town is not being served by a bus company or operator operating on a regular schedule ~~and under the jurisdiction of the public service commission~~ or if such service is likely to be discontinued in the immediate future, the city or town council of the incorporated city or town:

(1) may contract an indebtedness of any such city or town upon the credit thereof by borrowing money or issuing bonds for the purchase, development, operation, or leasing of motorbuses and buslines for the transportation of passengers within the corporate limits of such cities and towns and to operate the same to any point or points beyond these limits not to exceed 8 miles measured along the route of the busline;

(2) shall have the power to enter into a contract or contracts or to enter into a lease or a lease and operating agreement with an independent carrier or independent carriers for the transportation of passengers by bus within the corporate limits of such city or town and to and from any point or points beyond said limits not to exceed 8 miles measured along the route of said busline or buslines."

{ *Internal References to 7-14-4401:*

7-14-4402x	7-14-4402x	7-14-4403x	7-14-4404x
7-14-4405x	}		

**Section 17.** Section 10-3-1306, MCA, is amended to read:

**"10-3-1306. Transportation of radioactive waste through state -- notification -- responsibilities of division.** (1) A person or entity may not ship high-level radioactive waste or transuranic waste through the state by rail or motor carrier unless the person or entity first notifies the disaster and emergency services division and the department of transportation, pays the appropriate fees, and obtains a permit.

(2) Upon receiving the notification required under subsection (1), the disaster and emergency services division shall notify the highway patrol, ~~the public service commission,~~ or other agencies as appropriate.

(3) The disaster and emergency services division shall reimburse the highway patrol for expenses incurred in monitoring or escorting motor carriers, as provided in 10-3-1308, from money collected in the radioactive waste transportation monitoring, emergency response, and training account created in 10-3-1304."

{ *Internal References to 10-3-1306:*  
10-3-1310 \*x }

**Section 18.** Section 10-3-1307, MCA, is amended to read:

**"10-3-1307. Responsibilities of department of transportation -- assessment and collection of fees -- issuance of permits -- inspection of motor carriers.** (1) After receiving notification from the person or entity that plans to ship high-level radioactive waste or transuranic waste through the state, the department of transportation shall assess fees according to the following schedule:

(a) a fee of \$2,500 must be assessed for each cask designed for transport by truck; and

(b) a fee of \$4,500 must be assessed for the first cask designed for transport by rail and a fee of \$3,000 for each additional cask designed for transport by rail that is shipped by the same person or entity in the same shipment.

(2) Payment of the fees provided in subsection (1) is the responsibility of the person or entity who owns the waste.

(3) Upon receipt of the fees provided in subsection (1), the department of transportation shall issue to the owner of the waste a permit that must be carried with the waste as it is traveling through the state.

(4) The department of transportation shall deposit all of the fees collected under this section in the radioactive waste transportation monitoring, emergency response, and training account created in 10-3-1304.

(5) If the waste is to be transported through the state by motor carrier, the department of transportation shall coordinate with the highway patrol on the inspection of the motor carrier by the motor carrier services division.

(6) This section does not exempt the operator of a motor carrier from any of the provisions of Title 61, chapter 10, from ~~Title 69, chapter 12, [sections 1 through 13]~~, or from any other law that applies to the operation of motor vehicles in Montana.

(7) Fees under this section must be assessed regardless of ownership, and 61-3-321(14) and 61-10-127 do not apply."

{ *Internal References to 10-3-1307:*

10-3-1304x      10-3-1310 \*x }

**Section 19.** Section 20-8-121, MCA, is amended to read:

**"20-8-121. Transportation of students at school.** (1) The school for the deaf and blind shall provide the transportation expenses allowed in subsection (4) for a residential student at the school for the deaf and blind who is a resident of the state of Montana if the student is conveyed to and from the student's residence by:

(a) a scheduled air carrier as defined in 67-1-101;

(b) charter with a commercial air operator as defined in 67-1-101;

(c) a parent or guardian of the student, under an individual transportation contract with the school for the deaf and blind; or

(d) other transportation arrangements, provided that the transportation is by a carrier of passengers ~~certified by the public service commission~~ in compliance with the applicable provisions of Title 61 and [sections 1 through 13], and approved by the superintendent of the school for the deaf and blind, pursuant to rules adopted by the board of public education.

(2) The superintendent of the school for the deaf and blind shall determine which method of transportation in subsection (1) is to be provided to a student, pursuant to rules adopted by the board of public education on transportation of residential and boarding students at the school.

(3) A parent or guardian who transports a student to or

from the school under an individual transportation contract is entitled to reimbursement for transportation, pursuant to rules adopted by the board of public education on reimbursement.

(4) The transportation of a residential student provided in subsection (1) is limited to the number of round trips to the student's residence as specified in the school calendar approved by the board of public education. The superintendent of the school for the deaf and blind may grant a variance from this provision, but in no event may a reimbursement for travel expenses be provided for travel in excess of the total number of trips approved in any school fiscal year."

{ *Internal References to 20-8-121: None.* }

**Section 20.** Section 61-1-101, MCA, is amended to read:

**"61-1-101. Definitions.** As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) "Authorized agent" means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department's motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes upon behalf of a third party.

(b) For purposes of this subsection (1), "person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state,

or any other legal or commercial entity.

(2) "Authorized agent agreement" means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent is required to operate in performing specific motor vehicle or driver-related record functions.

(3) "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(4) (a) "Business entity" means a corporation, association, partnership, limited liability partnership, limited liability company, or other legal entity recognized under state law.

(b) The term does not include an individual.

(5) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) The term does not include a truck canopy cover or topper.

(6) "CDLIS driver record" means the electronic record of a person's commercial driver's license status and history stored as part of the commercial driver's license system established under 49 U.S.C. 31309.

(7) "Certificate of title" means the paper record issued by

the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.

(8) "Commercial driver's license" means:

(a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; and

(b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver's license.

(9) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater;

(iii) is designed to transport at least 16 passengers, including the driver;

(iv) is a school bus; or

(v) is of any size and is used in the transportation of hazardous materials.

(b) The following vehicles are not commercial motor

vehicles:

(i) an authorized emergency service vehicle:

(A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and

(B) entitled to the exemptions granted under 61-8-107;

(ii) a vehicle:

(A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;

(B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

(C) not used to transport goods for compensation or for hire; or

(iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel.

(c) For purposes of this subsection (9):

(i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) "gross combination weight rating" means the value

specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) "school bus" has the meaning provided in 49 CFR 383.5.

(10) "Commission" means the state transportation commission.

(11) "Custom-built motorcycle" means a motorcycle that is equipped with:

(a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the manufacturer's original design;

(b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials.

(12) "Custom vehicle" means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(13) "Customer identification number" means:

(a) a driver's license or identification card number when

the customer is an individual who has been issued a driver's license or identification card by a state driver licensing authority;

(b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number;

(c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or

(d) if the customer has not been issued one of the numbers described in subsections (13)(a) through (13)(c), a number assigned to the customer by the department when a transaction is initiated under this title.

(14) (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special mobile equipment that is not registered in the name of the person.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection

(14) (b) (i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties.

(15) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(16) "Department" means the department of justice acting directly or through its duly authorized officers or agents.

(17) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(18) "Domiciled" means a place where:

(a) an individual establishes residence;

(b) a business entity maintains its principal place of business;

(c) the business entity's registered agent maintains an address; or

(d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer, or pole trailer that it owns or leases.

(19) "Downgrade" means the removal of a person's privilege to operate a commercial motor vehicle, as maintained by the department on the individual Montana driving record and the CDLIS driver record for that person.

(20) "Driver" means a person who drives or is in actual physical control of a vehicle.

(21) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

- (a) any temporary license or instruction permit;
- (b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;
- (c) any nonresident's driving privilege;
- (d) a motorcycle endorsement; or
- (e) a commercial driver's license.

(22) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour.

(23) "For hire" means an action performed for remuneration of any kind, whether 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.

(24) (a) "Golf cart" means a motor vehicle that is designed for use on a golf course to carry a person or persons and golf equipment and that has an average speed of less than 15 miles per hour.

(b) Except as provided in 61-3-201, a golf cart is exempt from titling, registration, and mandatory liability insurance

requirements under this title.

(25) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(26) "Hazardous material" means:

(a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 CFR, part 172; or

(b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

(27) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(28) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(29) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

(30) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

(a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or

(b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle.

(31) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

(32) "Low-speed electric vehicle" means a motor vehicle, upon or by which a person may be transported, that:

(a) has four wheels;

(b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as certified by the manufacturer;

(c) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(f) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; and

(g) is equipped as provided in 61-9-432.

(33) "Low-speed restricted driver's license" means a license or permit limited to the operation of a low-speed electric vehicle or a golf cart issued under or granted by the laws of this state, including:

(a) a temporary license or instruction permit;

(b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of 61-5-122, whether or

not the person holds a valid driver's license; and

(c) a nonresident's similarly restricted driving privilege.

(34) "Manufactured home" has the meaning provided in 15-24-201.

(35) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular business.

(36) "Manufacturer's certificate of origin" means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.

(37) (a) "Medium-speed electric vehicle" is a motor vehicle, upon or by which a person may be transported, that:

(i) has a maximum speed of 45 miles an hour as certified by the manufacturer;

(ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(iv) is fully enclosed and includes at least one door for entry;

(v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565;

(vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating; and

(viii) as certified by the manufacturer, is equipped as provided in 61-9-432.

(b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3.

(c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

(38) "Mobile home" or "housetrailer" has the meaning provided in 15-24-201.

(39) "Montana resident" means:

(a) an individual who resides in Montana as determined under 1-1-215;

(b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state.

(40) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or

engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard or any successor federal agency.

(41) ~~(a)~~ "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles upon a public highway in this state for the transportation of property for hire on a commercial basis.

(b) The term does not include motor carriers regulated under ~~Title 69, chapter 12~~ sections 1 through 13.

(42) (a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

(b) The term does not include a tractor, a bicycle as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.

(43) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.

(b) The term does not include a bicycle, as defined in 61-8-102, or a motorized nonstandard vehicle.

(44) "Motor home" means a motor vehicle:

(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;

(b) containing permanently installed independent life support systems that meet the ANSI/A119.2 standard; and

(c) providing at least four of the following types of facilities:

- (i) cooking, refrigeration, or icebox;
- (ii) self-contained toilet;
- (iii) heating or air conditioning, or both;
- (iv) potable water supply, including a faucet and sink; or
- (v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply; or both.

(45) (a) "Motorized nonstandard vehicle" means a vehicle, upon or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;

(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and

(iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a "pocket rocket".

(c) The term does not include an electric personal assistive mobility device or a motorized wheelchair or other

low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

(46) (a) "Motor vehicle" means:

(i) a vehicle propelled by its own power and designed or used to transport persons or property upon the highways of the state;

(ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; and

(iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver's license.

(b) The term does not include a bicycle as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(47) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.

(48) "Nonresident" means a person who is not a Montana resident.

(49) (a) "Not used for general transportation purposes" means the operation of a motor vehicle, registered as a collector's item, a custom vehicle, a street rod, or a

custom-built motorcycle to or from a car or motorcycle club activity or event or an exhibit, show, cruise night, or parade, or other occasional transportation activity.

(b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes.

(50) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) motor vehicles designed to transport persons or property upon the highways unless the vehicle is used for off-road recreation on public lands.

(51) "Operator" means a person who is in actual physical control of a motor vehicle.

(52) "Owner" means a person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee,

or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner is the person in whom is vested the right of possession or control.

(53) "Person" means an individual, corporation, partnership, association, firm, or other legal entity.

(54) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(55) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(56) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(57) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle upon which the operator sits and a motor capable of producing not more than 50 horsepower.

(b) The term does not include golf carts.

(58) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(59) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated upon rails.

(b) The term does not include streetcars.

(60) "Recreational vehicle" includes a motor home, travel trailer, or camper.

(61) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.

(62) "Registration decal" means an adhesive sticker produced by the department and issued by the department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under 61-3-101.

(63) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the

electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(64) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes other than resale.

(65) "Revocation" means the termination by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's license for a period of time designated by law, during which the license or privilege may not be renewed, restored, or exercised. An application for a new license may be presented and acted upon by the department after the expiration of the period of the revocation.

(66) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(67) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(68) "School zone" means an area near a school beginning at the school's front door, encompassing the campus and school

property, and including the streets directly adjacent to the school property and for as many blocks surrounding the school as determined by the local authority establishing a special speed limit under 61-8-310(1)(d).

(69) "Sell" means to transfer ownership from one person to another person or from a dealer to another person for consideration.

(70) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.

(71) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(72) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(73) (a) "Specially constructed vehicle" means a motor

vehicle, including a motorcycle, that:

(i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles;

(ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles;

(iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles;

(iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or

(v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

(b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts.

(74) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.

(b) The term does not include trucks having a manufacturer's rated capacity of 1 ton or less.

(75) (a) "Stop", when required, means complete cessation from movement.

(b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or

not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(76) "Storage lot" means property owned, leased, or rented by a dealer that is not contiguous to the dealer's established place of business where a motor vehicle from the dealer's inventory may be placed when space at the dealer's established place of business is not available.

(77) "Street" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(78) "Street rod" means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(79) "Suspension" means the temporary withdrawal by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's license for a period of time designated by law.

(80) "Temporary registration permit" means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic

interface after an electronic record has been transmitted to the department, that contains:

- (i) required vehicle and owner information; and
- (ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs.

(81) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(82) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

(83) "Transaction summary receipt" means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction

described in the receipt on the electronic record of title maintained under 61-3-101.

(84) "Travel trailer" means a vehicle:

(a) that is 40 feet or less in length;

(b) that is of a size or weight that does not require special permits when towed by a motor vehicle;

(c) with gross trailer area of less than 320 square feet; and

(d) that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.

(85) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(86) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(87) "Under the influence" has the meaning provided in 61-8-401.

(88) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, given away, or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is commonly known as "secondhand" within the ordinary meaning of that term.

(89) "Van" means a motor vehicle designed for the

transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.

(90) (a) "Vehicle" means a device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by animal power or used exclusively upon stationary rails or tracks.

(b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(91) "Vehicle identification number" means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.

(92) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(93) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment only to dealers

and auto auctions licensed under chapter 4, part 1."

{ Internal References to 61-1-101:

7-14-2134x	15-6-138x	15-6-228x	15-6-228x
15-8-201x	15-68-101x	15-68-101x	15-68-101x
15-68-101x	23-1-128x	23-2-502x	23-2-502x
30-11-701x	30-11-701x	30-14-2501x	30-14-2501x
30-14-2501x	30-14-2501x	33-23-204 x	33-23-204x
61-4-111x	61-4-112x	61-4-121x	61-4-131x
61-5-112x	61-6-102x	61-6-102x	61-8-102x
61-8-102x	61-8-102x	61-8-376x	61-8-401x
61-8-461x	61-8-461x	61-8-461x	61-8-461x
61-9-407x	61-9-430x	61-9-432x	61-10-102x
61-10-102x	80-7-1003x	80-7-1010x	87-2-803x
87-2-803x	87-6-403x }		

**Section 21.** Section 61-3-431, MCA, is amended to read:

**"61-3-431. Special mobile equipment -- exemption from registration and payment of fees and charges -- identification decal -- temporary registration permit -- publicly owned special mobile equipment.** (1) A person, firm, partnership, or corporation that owns, leases, or rents special mobile equipment, a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader and that occasionally moves that equipment on, over, or across the highways of the state is not subject to registration of that equipment or required to pay the fees and charges provided for in 61-4-301 through 61-4-303, 61-3-305 through 61-4-308, or Title 61, chapter 10, part 2. Prior to movement on the highways:

(a) each piece of equipment must display an equipment identification decal or a dealer's license plate attached to the equipment, except for motor vehicles or trailers designed and used to apply fertilizer to agricultural land that are brought into Montana for demonstration purposes;

(b) each motor vehicle or trailer designed and used to apply fertilizer to agricultural land that is brought into Montana for demonstration purposes must have a temporary registration permit conspicuously displayed.

(2) (a) Annual application for the identification decal must be made to the county treasurer before any piece of equipment is moved on the highways. Application must be made on a form furnished by the department, together with the payment of a fee of \$5. The equipment for which a special mobile equipment decal or for which a temporary registration permit is sought is subject to the assessment of personal property taxes on the date application is made for the decal or the date determined pursuant to subsection (4). The personal property taxes assessed against the special mobile equipment, a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader must be paid before an identification decal may be issued. The fees collected under this section must be deposited in the state general fund, except that \$25 of the temporary registration permit fee must be remitted to the department of transportation.

(b) Application must be made for a temporary registration permit as provided in subsection (1)(b). The application must be made to the county treasurer or to an authorized agent before the piece of equipment is moved on Montana highways. Application for the temporary registration permit must be made on a form furnished by the department and must be accompanied by the payment of a fee of \$50, in addition to the fee required under 61-3-224.

(3) The identification decal expires on December 31 of each year. If the expired identification decal is displayed, an owner of special mobile equipment, a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader registered under the provisions of this section is entitled to operate the equipment between January 1 and February 15 following expiration without displaying the identification decal or receipt of the current year.

(4) (a) The temporary registration permit expires 40 days after its issuance. Special mobile equipment, a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader that remains in the state past the expiration of the permit is subject to the assessment of personal property taxes, starting on the first day following expiration of the permit.

(b) If the holder of a temporary registration permit leases or sells the piece of equipment during the term that is covered by the permit, the permit is no longer valid and the special mobile equipment, motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or log loader is subject to the assessment of personal property taxes, starting on the first day of the lease or the date of the sale.

(5) Publicly owned special mobile equipment, motor vehicles or trailers designed and used to apply fertilizer to agricultural land, or log loaders and implements of husbandry used exclusively by an owner in the conduct of the owner's farming operations are exempt from this section."

{ Internal References to 61-3-431:  
15-1-121x            61-3-224x            61-3-224x }

**Section 22.** Section 61-3-716, MCA, is amended to read:

**"61-3-716. Proportional registration of fleet motor vehicles.** (1) If a jurisdiction permits or requires the licensing of fleets of motor vehicles, trailers, semitrailer, or pole trailers in interstate or combined interstate and intrastate commerce and payment of registration fees, license fees, taxes, or other fixed fees on those motor vehicles, trailers, semitrailers, or pole trailers on an apportionment basis commensurate with and determined by the miles traveled on and the use made of the jurisdiction's highways as compared with the miles traveled on and the use made of other jurisdiction's highways or any other equitable basis of apportionment and if the jurisdiction exempts motor vehicles, trailers, semitrailers, or pole trailers registered in any other jurisdiction under this apportionment basis from the requirements of full payment of its own registration, license fees, taxes, or other fixed fees, then the department may, by agreement, adopt exemptions with respect to motor vehicles, trailers, semitrailers, or pole trailers of these fleets, whether owned by residents or nonresidents of this state and regardless of where they are based. An agreement, under the terms, conditions, or restrictions that the department considers proper, may provide that owners of motor vehicles, trailers, semitrailers, or pole trailers operated in interstate or combined interstate and intrastate commerce in this state be

permitted to pay registration, license fees, taxes, or other fixed fees on an apportionment basis commensurate with and determined by the miles traveled on and the use made of the highways of this state as compared with the use made of the highways of other jurisdictions or any other equitable basis of apportionment. This agreement may not authorize or be construed to authorize a motor vehicle, trailer, semitrailer, or pole trailer so registered to be operated in intrastate commerce in this state unless the owner of the motor vehicle, trailer, semitrailer, or pole trailer has been granted intrastate authority or rights by the ~~public service commission~~ department of transportation if a grant is otherwise required by law.

(2) The department of transportation may adopt rules that it considers necessary to carry out and administer this section, and the registration of fleet motor vehicles, trailers, semitrailers, or pole trailers under 61-3-711 through 61-3-733 is subject to the rights, terms, and conditions granted by or contained in any applicable agreement, arrangement, or declaration made by the department. The department of transportation shall adopt rules providing for a change of registration period for a fleet in a case in which the owner of the fleet requests that the registration period be changed to coincide with the registration period of one or more other fleets in the same ownership."

{ Internal References to 61-3-716:

15-70-122 *x	61-3-313 *x	61-3-332 *x	61-3-712 *x
61-3-712 *x	61-3-713 *x	61-3-715 *x	61-3-716 *x
61-3-718 *x	61-3-719 *x	61-3-720 *x	61-3-721 *x
61-3-721 *x	61-3-721x	61-3-723 *x	61-3-723 *x

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61-3-723 \*x      61-3-729 \*x      61-3-730 \*x      61-3-733 \*x  
61-3-736 \*x      61-3-737 \*x }

**Section 23.** Section 61-3-722, MCA, is amended to read:

**"61-3-722. Registration and identification of proportionally registered motor vehicles -- fees -- effect of registration.** (1) The department shall register each proportionally registered motor vehicle, trailer, semitrailer, or pole trailer and issue a license plate or plates, a distinctive registration decal, or other suitable identification device for each motor vehicle, trailer, semitrailer, or pole trailer described in the application upon payment of the appropriate fees and property taxes, as provided by law, for the application and for the license plates, registration decals, or devices issued. A fee of \$2 must be paid for each license plate, each registration decal, and each device issued for each proportionally registered motor vehicle, trailer, semitrailer, or pole trailer. A fee of \$5 must be paid for each motor vehicle, trailer, semitrailer, or pole trailer receiving temporary registration as authorized by section 704 of the international registration plan of the American association of motor vehicle administrators, adopted in April 1988. A registration card must be issued for each proportionally registered motor vehicle, trailer, semitrailer, or pole trailer. The registration card must, in addition to other information required by chapter 3, show the number of the license, registration decal, or other device issued for the proportionally registered motor vehicle, trailer, semitrailer, or

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pole trailer and must be carried in the motor vehicle, trailer, semitrailer, or pole trailer at all times.

(2) Fleet motor vehicles, trailers, semitrailers, or pole trailers registered and identified as fleet motor vehicles are considered fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for intrastate movement or operation, the motor vehicle, trailer, semitrailer, or pole trailer may not be operated in intrastate commerce in this state unless the owner has been granted intrastate authority by the ~~public service commission~~ department of transportation and unless the motor vehicle, trailer, semitrailer, or pole trailer is being operated in conformity with that authority."

{ Internal References to 61-3-722:

15-70-122 *x	61-3-313 *x	61-3-332 *x	61-3-712 *x
61-3-712 *x	61-3-713 *x	61-3-715 *x	61-3-716 *x
61-3-718 *x	61-3-719 *x	61-3-720 *x	61-3-721 *x
61-3-721 *x	61-3-723 *x	61-3-723 *x	61-3-723 *x
61-3-729 *x	61-3-730 *x	61-3-733 *x	61-3-736 *x
61-3-737 *x	}		

**Section 24.** Section 61-4-301, MCA, is amended to read:

**"61-4-301. Permit and transit plates for new motor vehicles being transported by driveaway or towaway methods -- used mobile homes.** (1) (a) A person, firm, partnership, or corporation, regularly and lawfully engaged in the transportation of new motor vehicles over the highways of this state from manufacturing or assembly points to agents of manufacturers and dealers in this state or in other states, territories, or foreign countries or provinces by the driveaway or towaway methods, when the motor

vehicles being driven, towed, or transported by the saddle-mount, towbar, or full-mount methods, or a lawful combination of these methods, will be transported over the highways of the state only once, may annually apply to the department of justice for a permit to use the highways of this state and shall pay, upon filing the application, a fee of \$100. Upon processing of the application, that department shall issue an annual permit to the applicant.

(b) A person moving used mobile homes from a point outside the state to a point inside the state may apply to the department for the permit authorized pursuant to subsection (1)(a).

(2) (a) The permitholder may also apply to the department of justice for five sets of transit plates showing the permit number for identification of the motor vehicles being transported by the permitholder, and the plates or devices may be used on a motor vehicle being driven, towed, or transported by and under the control of the permitholder. The department shall collect the additional sum of \$10 for each set of transit plates or devices applied for and issued.

(b) A permitholder may apply for and receive more than five sets of transit plates in a calendar year if the permitholder can demonstrate, to the satisfaction of the department, that additional sets of plates are needed based on the number of trip fees reported in Montana in the previous calendar year. The department shall collect \$10 for each additional set of transit plates issued.

(3) The department of justice shall retain the permit and

plate fees to defray costs of administering 61-4-301 through 61-4-303 and 61-4-305 through 61-4-308.

(4) The permit and transit plates or devices expire on December 31 of each year."

{ Internal References to 61-4-301:  
61-3-431 \*x      61-4-301 \*x      61-4-310x }

**Section 25.** Section 61-4-305, MCA, is amended to read:

**"61-4-305. Driveaway or towaway fees in lieu of other fees payable -- election to pay other fees.** The fees provided for driveaway or towaway transporters are in consideration of the right to use the highways of the state and ~~except as provided in 61-4-304~~ are in lieu of all other fees including those ~~which~~ that might be payable under the provisions of part 2 of chapter 10. However, any operator may elect to pay the fees payable under the provisions of that part."

{ Internal References to 61-4-305:  
61-3-431 \*a      61-4-301 \*a }

**Section 26.** Section 61-6-109, MCA, is amended to read:

**"61-6-109. Exceptions.** This part ~~shall~~ does not apply with respect to:

(1) any motor vehicle owned by the United States, this state, ~~or~~ any political subdivision of this state, ~~or~~ any municipality ~~therein~~ in this state; ~~or,~~

(2) except for 61-6-139, with respect to any motor vehicle ~~which is subject to the provisions of 69-12-402,~~ requiring insurance or other security."

{ Internal References to 61-6-109: None. }

**Section 27.** Section 61-10-154, MCA, is amended to read:

**"61-10-154. Department of transportation to adopt motor carrier safety standards -- enforcement -- designation of peace officers -- duties -- violations.** (1) As used in this section, the terms "for-hire motor carrier", "private motor carrier", "gross vehicle weight rating", and "gross combination weight rating" have the same meaning as provided in 49 CFR 390.5.

(2) The department of transportation shall adopt, by rule, standards for safety of operations of:

(a) any for-hire motor carrier or any private motor carrier;

(b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 10,001 pounds or more;

(c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;

(d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver, and that is not used to transport passengers for compensation;

(e) any motor vehicle that is designed or used to transport

at least nine passengers, including the driver, for compensation;  
or

(f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part 172.

(3) Standards of safety adopted under this section must substantially comply, within allowed tolerance guidelines, to the federal motor carrier safety regulations and the federal hazardous material regulations as applied to motor carriers and vehicles transporting passengers or property in commerce.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to this section. The highway patrol and the department of transportation shall cooperate to ensure minimum duplication and maximum coordination of enforcement efforts.

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

(a) issue citations and make arrests in connection with violations of safety standards adopted under this section;

(b) issue summons;

(c) accept bail;

(d) serve warrants for arrest;

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

(f) enforce the provisions of Title 49 of the United States Code and regulations that have been adopted under Title 49 and make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

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

(6) In addition to other enforcement duties assigned under 61-10-141 and this section, an employee of the department of transportation who is appointed as a peace officer pursuant to 61-12-201 or this section has:

(a) the same authority to enforce provisions of the motor carriers law ~~as that granted to the public service commission under 69-12-203~~ in accordance with [sections 1 through 13];

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

(c) the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance with Title 15, chapter 70, part 3.

(7) A violation of the standards adopted pursuant to this

section is punishable as provided in 61-9-512, and the court, upon conviction, as defined in 61-5-213, shall forward a record of conviction to the department within 5 days in accordance with 61-11-101.

(8) The department of transportation shall report to the revenue and transportation interim committee at least once each year on its enforcement of the provisions of Title 15, chapter 70, part 3, pursuant to the authority provided in subsection (6)(c) and on any impacts that enforcement has had on the state special revenue fund."

{ Internal References to 61-10-154:

15-70-233x	15-70-357x	19-8-101x	44-1-1005x
61-9-321x	61-9-512x	61-9-512x	61-12-205x
61-12-206a	61-12-206a	61-12-208x	76-13-601x }

**Section 28.** Section 61-12-206, MCA, is amended to read:

**"61-12-206. Offenses for which arrest authorized.** Employees designated or appointed as peace officers under 61-10-154 or 61-12-201 may make arrests for violations of the following statutory provisions:

(1) chapters 3 and 5 of this title, but only if the vehicle involved is subject to 61-10-141;

(2) chapter 10 of this title;

(3) part 3, chapter 4, of this title;

(4) 15-24-201 through 15-24-205;

(5) Title 15, chapter 70, parts 2 and 3;

(6) 61-10-154 and safety rules adopted under that section;

~~(7) Title 69, chapter 12."~~

{ Internal References to 61-12-206:  
15-70-233x 15-70-357x }

**Section 29.** Section 69-1-114, MCA, is amended to read:

**"69-1-114. Fees.** (1) Each fee charged by the commission must be reasonable.

(2) Except for a fee assessed pursuant to 69-3-204(2), or 69-8-421(10), ~~or 69-12-423(2)~~, a fee set by the commission may not exceed \$500.

(3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the special revenue fund. Funds in this account must be used as provided in 69-8-421(10)."

{ Internal References to 69-1-114:  
69-1-402x }

**Section 30.** Section 69-1-401, MCA, is amended to read:

**"69-1-401. Definitions.** As used in this part, the following definitions apply:

(1) "Department" means the department of public service regulation provided for in Title 2, chapter 15, part 26.

(2) "Regulated companies" means all organizations, corporations, associations, or other public or private entities ~~which now~~ that are or may hereafter become subject to regulation in any manner by the department of public service regulation, the public service commission, or any successor agency. The term does not include motor carriers regulated pursuant to ~~Title 69,~~ chapter 12 [sections 1 through 13]."

{ Internal References to 69-1-401: None. }

**Section 31.** Section 69-2-101, MCA, is amended to read:

**"69-2-101. Adoption of rules for rate cases.** The commission shall adopt such rules of practice and procedure for the filing, investigation, and hearing of petitions or applications to increase or decrease rates and charges of railroads, ~~motor carriers,~~ and public utilities ~~as that~~ the commission finds necessary or appropriate to enable it to reach a final decision in an orderly manner."

{Internal References to 69-2-101: None.}

NEW SECTION. **Section 32. {standard} Repealer.** The following sections of the Montana Code Annotated are repealed:

- 61-4-304. Fees provided for to be in addition to fees now payable under chapter 12, Title 69.
- 69-12-101. Definitions.
- 69-12-102. Scope of chapter -- exemptions.
- 69-12-104. Determination of operation between fixed termini or over a regular route.
- 69-12-105. Nature of accommodative transportation.
- 69-12-106. Acts indicative of status as motor carrier.
- 69-12-107. Status of private carriers under motor carrier laws.
- 69-12-108. Violations.
- 69-12-201. Supervision and regulation of motor carriers.
- 69-12-202. Encouragement of common carrier motor transportation.

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69-12-203. Field inspectors.

69-12-204. General administrative procedure.

69-12-205. Rules to reflect differences between carrier classes.

69-12-206. Investigations by commission.

69-12-207. Temporary operating authority.

69-12-208. Provisions for bus service.

69-12-209. Enforcement procedures.

69-12-210. Complaints.

69-12-301. Classification of motor carriers.

69-12-302. Class C contract requirements.

69-12-311. Class A motor carrier certificate.

69-12-312. Class B motor carrier certificate.

69-12-313. Class C motor carrier certificate.

69-12-314. Class D motor carrier certificate.

69-12-321. Hearing on application for motor carrier certificate.

69-12-322. Notice of hearing.

69-12-323. Decision on application.

69-12-324. Special provisions when federal or state contract involved.

69-12-325. Transfer of certificate or privilege.

69-12-326. Lease of certificate.

69-12-327. Revocation of certificate -- right of review.

69-12-328. Certificate for charter service.

69-12-331. Special provisions relating to transportation of buildings.

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As of: January 11, 2013 (12:07pm)

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- 69-12-401. Compliance with state law.
- 69-12-402. Compliance with commission rules.
- 69-12-403. Discontinuance of service.
- 69-12-404. Suspension of intrastate operating authority by petition.
- 69-12-406. Restriction on transportation of certain waste.
- 69-12-407. Records and reports.
- 69-12-408. Identification of ownership of certain large motor vehicles.
- 69-12-415. Carrier fitness.
- 69-12-421. Annual fee for motor carriers.
- 69-12-422. Effect of failure to pay compensation, fees, or charges.
- 69-12-423. Fees to be charged by commission.
- 69-12-501. Rate schedules to be maintained.
- 69-12-502. Prohibition on deviation from rate schedules.
- 69-12-503. Rates to be reasonable and nondiscriminatory.
- 69-12-504. Procedure to revise rate schedule.
- 69-12-505. Suspension of proposed rate revision -- hearing.
- 69-12-511. Procedure to recover excess charges.
- 69-12-601. Carrier agreements.
- 69-12-601. Carrier agreements.
- 69-12-602. Limitations on carrier agreements.
- 69-12-603. Investigation of operation under agreement.
- 69-12-604. Hearing required on matters relating to agreements.
- 69-12-605. Relationship of carrier agreements and antitrust

laws.

69-12-611.       Leasing of power equipment.

69-12-612.       Interchange of equipment.

{ Internal References to 61-4-304:   61-3-431 \*a       61-4-301 \*a       61-4-305a  
Internal References to 69-12-101:   69-12-601r  
Internal References to 69-12-102: None.  
Internal References to 69-12-104: None.  
Internal References to 69-12-105: None.  
Internal References to 69-12-106: None.  
Internal References to 69-12-107: None.  
Internal References to 69-12-108:   69-12-210r  
Internal References to 69-12-201: None.  
Internal References to 69-12-202: None.  
Internal References to 69-12-203:   61-10-154a  
Internal References to 69-12-204: None.  
Internal References to 69-12-205: None.  
Internal References to 69-12-206: None.  
Internal References to 69-12-207: None.  
Internal References to 69-12-208: None.  
Internal References to 69-12-209: None.  
Internal References to 69-12-210: None.  
Internal References to 69-12-301:   69-12-314r  
Internal References to 69-12-302: None.  
Internal References to 69-12-311: None.  
Internal References to 69-12-312: None.  
Internal References to 69-12-313:   69-12-321r  
Internal References to 69-12-314:   69-12-407r  
Internal References to 69-12-321: None.  
Internal References to 69-12-322:   69-12-321r  
Internal References to 69-12-323: None.  
Internal References to 69-12-324:   69-12-313r       69-12-321r       69-12-406r  
Internal References to 69-12-325: None.  
Internal References to 69-12-326: None.  
Internal References to 69-12-327: None.  
Internal References to 69-12-328: None.  
Internal References to 69-12-331: None.  
Internal References to 69-12-401: None.  
Internal References to 69-12-402:   61-6-109a       69-12-323r  
Internal References to 69-12-403: None.  
Internal References to 69-12-404: None.  
Internal References to 69-12-406: None.  
Internal References to 69-12-407: None.  
Internal References to 69-12-408:   69-12-102r  
Internal References to 69-12-415: None.  
Internal References to 69-12-421:   69-12-101r  
Internal References to 69-12-422: None.  
Internal References to 69-12-423:   69-1-114a  
Internal References to 69-12-501: None.  
Internal References to 69-12-502: None.  
Internal References to 69-12-503: None.

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Internal References to 69-12-504: None.  
Internal References to 69-12-505: 69-12-504r  
Internal References to 69-12-511: None.  
Internal References to 69-12-601: 69-12-602r 69-12-602r 69-12-603r  
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Internal References to 69-12-603: 69-12-604r 69-12-605r  
Internal References to 69-12-604: None.  
Internal References to 69-12-605: None.  
Internal References to 69-12-611: None.  
Internal References to 69-12-612: None.}

## NEW SECTION. Section 33. {standard} Codification

**instruction.** [Sections 1 through 13] are intended to be codified as an integral part of Title 60, and the provisions of Title 60 apply to [sections 1 through 13].

NEW SECTION. Section 34. {standard} Effective date. [This act] is effective July 1, 2013.

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