

HOUSE BILL NO. 267

INTRODUCED BY E. HILL

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

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 **NEW SECTION. Section 1. Class E motor carrier certificate of compliance.** (1) A Class E motor
20 carrier may not transport persons on any public highway in this state without obtaining, pursuant to this chapter,
21 a certificate of compliance.

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

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

30 (3) A transportation network carrier may apply for a Class E certificate of compliance on behalf of the

1 transportation network carrier drivers who register with the transportation network carrier to use its software or
2 digital network to offer transportation network carrier services.

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

6
7 **NEW SECTION. Section 2. Fare charged for transportation network carrier services.** (1) (a) A
8 Class E motor carrier may charge a fare for the services provided to passengers in accordance with this section.

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

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

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

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

- 16 (a) the origin and destination of the trip;
- 17 (b) the total time and distance of the trip; and
- 18 (c) an itemization of the total fare paid.

19
20 **NEW SECTION. Section 3. Authority.** (1) Notwithstanding any other provision of law, transportation
21 network carrier services are exclusively governed by this chapter and rules promulgated by the commission
22 consistent with this chapter.

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

25
26 **Section 4.** Section 7-1-111, MCA, is amended to read:

27 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from
28 exercising the following:

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

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

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

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

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

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

16

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

18 **"69-12-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions
19 apply:

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

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

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

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

1 convenience and necessity, as provided in this chapter.

2 ~~(3)~~(5) "Charter service" means a service used for the transportation of passengers by a motor carrier
3 with rates not subject to approval by the commission if:

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

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

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

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

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

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

14 ~~(5)~~(7) "Corporation" means a corporation, company, association, or joint-stock association.

15 ~~(6)~~(8) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or
16 received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is
17 obtained or derived for transportation service.

18 ~~(7)~~(9) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is
19 transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, or licensed
20 disposal well. The term does not include wastewater and waste tires.

21 ~~(8)~~(10) "Household goods" means any of the following:

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

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

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

4 ~~(9)(11)~~ "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by
 5 a court, operating motor vehicles upon a public highway in this state for the transportation of passengers,
 6 household goods, or garbage for hire on a commercial basis, either as a common carrier or under private
 7 contract, agreement, charter, or undertaking. A motor carrier includes a transportation network carrier.

8 ~~(10)(12)~~ "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled
 9 vehicles used for the transportation of property or persons over the public highways of the state.

10 ~~(11)(13)~~ "Person" means an individual, firm, or partnership.

11 ~~(12)(14)~~ "Public highway" means a public street, road, highway, or way in this state.

12 ~~(13)(15)~~ "Railroad" means the movement of cars on rails, regardless of the motive power used.

13 ~~(14)(16)~~ "Recyclable" means any material diverted from the solid waste stream that can be reused in the
 14 production of heat or energy or as raw material for new products and for which markets exist.

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

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

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

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

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

22 (19) "Transportation network carrier services" means the transportation of a passenger between points
 23 chosen by the passenger and prearranged with a transportation network carrier driver through the use of a
 24 transportation network carrier digital network or software application. Transportation network carrier services
 25 begin when a transportation network carrier driver accepts a request for transportation received through the
 26 transportation network carrier's digital network or software application service. Services continue while the
 27 transportation network carrier driver transports the passenger in the transportation network carrier driver's vehicle
 28 and end when the passenger exits the transportation network carrier driver's vehicle. Transportation network
 29 carrier service is not taxi service, street-hail service, or a for-hire vehicle service."

30

1 **Section 6.** Section 69-12-205, MCA, is amended to read:

2 "**69-12-205. Rules to reflect differences between carrier classes.** ~~All rules in relation to~~ (1) Rules related
3 to schedules, service, tariffs, rates, facilities, accounts, and reports must ~~have due regard for~~ recognize the
4 differences ~~existing~~ between types of Class A, Class B, Class C, ~~and Class D, and Class E~~ motor carriers, as
5 defined in this chapter, and must be just, fair, and reasonable to the classes and types of motor carriers in ~~their~~
6 ~~relations~~ relation to each other and to the public.

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

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

17

18 **Section 7.** Section 69-12-210, MCA, is amended to read:

19 "**69-12-210. Complaints.** (1) The commission ~~has jurisdiction to~~ may conduct investigations and hear
20 complaints to determine whether a motor carrier has violated any of the commission's rules or orders or any
21 provision of this chapter.

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

25

26 **Section 8.** Section 69-12-301, MCA, is amended to read:

27 "**69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into ~~four~~ five classes to be
28 known as:

29 (a) Class A motor carriers;

30 (b) Class B motor carriers;

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

2 (d) Class D motor carriers; ~~and~~

3 (e) Class E motor carriers.

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

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

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

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

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

14

15 **Section 9.** Section 69-12-311, MCA, is amended to read:

16 **"69-12-311. Class A motor carrier certificate.** (1) (a) A Class A motor carrier may not transport
17 persons, ~~property, or both~~ for hire on any public highway in this state without obtaining, pursuant to this chapter,
18 a certificate of compliance ~~declaring that public convenience and necessity require the operation.~~

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

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

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

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

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

28 (d) the proposed time schedule;

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

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

- 1 (g) a detailed statement showing the assets and liabilities of the applicant; and
 2 (h) other information required by the commission.
 3 (3) The application must be accompanied by a filing fee to be set by rule of the commission."
 4

5 **Section 10.** Section 69-12-312, MCA, is amended to read:

6 **"69-12-312. Class B motor carrier certificate.** (1) ~~(a)~~ A Class B motor carrier may not transport
 7 persons, ~~property, or both~~ for hire on any public highway in this state without obtaining, pursuant to this chapter,
 8 a certificate of compliance ~~declaring that public convenience and necessity require the operation.~~

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

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

- 13 (a) the name and address of the applicant and its officers, if any;
 14 (b) the kind of transportation, whether passenger, household goods, or both, together with a full and
 15 complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any
 16 vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in household goods
 17 traffic;
 18 (c) the locality and character of operations to be conducted;
 19 (d) a proposed schedule of the tariff or rates to be charged for the transportation of passengers,
 20 household goods, or both;
 21 (e) a complete and detailed description of the property proposed to be devoted to the public service;
 22 (f) a detailed statement showing the assets and liabilities of the applicant; and
 23 (g) other information required by the commission.
 24 (3) The application must be accompanied by a filing fee to be set by rule of the commission."
 25

26 **Section 11.** Section 69-12-313, MCA, is amended to read:

27 **"69-12-313. Class C motor carrier certificate of public necessity.** (1) ~~No~~ A Class C motor carrier,
 28 except ~~any~~ a Class C motor carrier operating pursuant to the terms and conditions of a contract as provided in
 29 69-12-324, ~~shall~~ may not operate for the distribution, delivery, or collection of goods, wares, merchandise, or
 30 commodities or for the transportation of persons on any public highway in this state without ~~first having obtained~~

1 ~~from the commission, obtaining a certificate of public convenience and necessity~~ under the provisions of this
 2 chapter; ~~a certificate that public convenience and necessity require such operation.~~

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

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

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

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

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

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

17 (4) ~~The submission of a~~ A Class C motor carrier application ~~must be accompanied by~~ include the names
 18 and addresses of any person, corporation, or other legal entity with whom the applicant has executed a contract
 19 for the distribution, delivery, or collection of wares, merchandise, or commodities or transporting persons. ~~Such~~
 20 The contracts must be in writing, executed by the parties, and submitted to the commission for examination."
 21

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

23 **"69-12-314. Class D motor carrier certificate of public convenience and necessity.** (1) Class D
 24 carriers shall conduct operations pursuant to a certificate of public convenience and necessity issued by the
 25 commission authorizing the transportation of the commodities described in 69-12-301(5). Class D carriers, when
 26 applying for a new or additional ~~authority~~ certificate of public convenience and necessity, shall file an application
 27 with the commission in accordance with the requirements of this chapter and the rules of the commission.

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

1

2 **Section 13.** Section 69-12-321, MCA, is amended to read:

3 **"69-12-321. Hearing on application for motor carrier certificate.** (1) (a) Upon the filing of an
4 application for a certificate by a Class A, Class B, Class C, ~~or Class D, or Class E~~ motor carrier, except a Class
5 C motor carrier authorized to operate under the terms of a contract as provided in 69-12-324, or upon the filing
6 of a request for a transfer of authority, the commission shall ~~give~~ provide notice of the ~~filing of the~~ application to
7 any interested party.

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

13 (c) A protest related to an application by a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a)
14 or by a Class E motor carrier is limited to a protest of the motor carrier's ability to meet the requirements of
15 69-12-323(5).

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

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

22 (4) ~~However, an application by a Class A, Class B, Class C, or~~ An application by a motor carrier pursuant
23 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
24 of public convenience and necessity may be ~~disallowed~~ denied without a public hearing when it ~~appears from the~~
25 records of the commission demonstrate that the route or territory sought to be served by the applicant has
26 previously been made the basis of a public investigation and finding by the commission that public convenience
27 and necessity do not require the proposed motor carrier service, ~~unless it is made to affirmatively appear in the~~
28 ~~application by a recital of the~~ A hearing must be held if the applicant presents facts demonstrating that conditions
29 ~~obtaining~~ over the route or in the territory and affecting transportation facilities have materially changed since the
30 previous public investigation and finding and that public convenience and necessity now require the motor carrier

1 operation."

2

3 **Section 14.** Section 69-12-323, MCA, is amended to read:

4 **"69-12-323. Decision on application.** (1) (a) ~~The commission must issue, within~~ Except as provided
5 in subsection (1)(b), within 180 days from ~~and after~~ the date of the completed filing of ~~said an~~ application, the
6 commission shall issue its finding, order, or decision on ~~said the~~ application and the evidence presented in
7 support ~~thereof of the application~~ at the time of ~~said the~~ hearing.

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

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

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

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

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

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

26 (3) The commission may issue the certificate as ~~prayed for or issue it for the partial exercise only of the~~
27 ~~privilege sought~~ requested in the application or in part and may attach ~~to the exercise of the rights granted by~~
28 ~~such certificate such terms and conditions to a certificate for public convenience and necessity for a motor carrier~~
29 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~~
30 judgment ~~the public convenience and necessity may require. When~~

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

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

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

11
12 **Section 15.** Section 69-12-324, MCA, is amended to read:

13 **"69-12-324. Special provisions when federal or state contract involved.** (1) ~~The presentation of the~~
14 A written contract presented to the commission shall be deemed is sufficient proof that a motor carrier pursuant
15 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
16 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
17 a Class D motor carrier meets the requirements for a certificate of public convenience and necessity in
18 accordance with the terms and conditions contained within the United States government or state government
19 contracts. Subject to the provisions of this section, a transportation movement is considered to be:

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

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

26 (2) The Class C certificate of public convenience and necessity issued pursuant to the terms and
27 conditions of the United States government or state government contract may be issued by the commission upon
28 receipt of an executed copy of the United States government or state government contract. The certificate of
29 public convenience and necessity may be issued ~~thereafter~~ without ~~requiring the commission to fix a time and~~
30 ~~place for a~~ public hearing.

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

6

7 **Section 16.** Section 69-12-404, MCA, is amended to read:

8 **"69-12-404. Suspension of intrastate operating authority certificate by petition.** (1) (a) Every A
 9 motor carrier ~~as defined within this chapter~~ may petition the commission in writing to suspend its intrastate
 10 operating authority certificate for a period not to exceed 6 months. ~~An~~ Only one additional ~~6 months'~~ 6-month
 11 suspension may be requested and granted, ~~but no other.~~ Such

12 (b) The suspension of a certificate of public convenience and necessity requested by a motor carrier
 13 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
 14 be granted by the commission upon a showing of ~~present absence of~~ that public convenience and necessity no
 15 longer require the service or other showing of matters affecting motor carrier transportation.

16 (2) (a) ~~The suspension of any intrastate operating authority of any carrier~~ a certificate of compliance for
 17 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
 18 subsection (1) for a period of 12 consecutive months ~~shall be deemed to establish~~ automatically terminates a
 19 certificate of compliance and requires a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a) or a Class
 20 E motor carrier to reapply for a certificate of compliance.

21 (b) The suspension of a certificate of public convenience and necessity for a motor carrier pursuant to
 22 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
 23 (1) for a period of 12 consecutive months establishes a prima facie presumption of absence of public convenience
 24 and necessity. If after notice and hearing the motor carrier pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), the
 25 Class C motor carrier, or the Class D motor carrier is unable to prove the existence of public convenience and
 26 necessity or existing demand for the transportation service, the commission ~~is authorized to~~ may cancel ~~such a~~
 27 certificate of public convenience and necessity."

28

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

30 **"69-12-406. Restriction on transportation of certain waste.** Except as provided in 69-12-324, a Class

1 A, Class B, or Class C, or Class E motor carrier may not be authorized or permitted to transport garbage within
 2 the state. This restriction does not apply to recyclables."

3

4 **Section 18.** Section 69-12-407, MCA, is amended to read:

5 **"69-12-407. Records and reports.** (1) All records, books, accounts, and files of a Class A, Class B,
 6 Class C, and Class D motor carrier in this state, as they relate to the business of transportation conducted by the
 7 motor carrier, must at all times be subject to examination by the commission or by any authorized agent or
 8 employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports
 9 covering the operations of Class A, Class B, Class C, and Class D motor carriers. A motor carrier authorized to
 10 operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according
 11 to the uniform system to the extent possible.

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

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

18

19 **Section 19.** Section 69-12-415, MCA, is amended to read:

20 **"69-12-415. Carrier fitness.** A certificate ~~of operating authority~~ may not be issued or remain in force
 21 unless the ~~holder of the~~ certificate holder is fit, willing, and able to perform the authorized service and conforms
 22 to the provisions of this chapter and the rules and orders of the commission."

23

24 **Section 20.** Section 69-12-501, MCA, is amended to read:

25 **"69-12-501. Rate schedules to be maintained.** (1) ~~Every~~ A Class A or B motor carrier ~~holding~~ issued
 26 a certificate must maintain on file with the commission, if applicable, a full and complete schedule of its rates,
 27 fares, charges, classifications, and rules of service and any and all tariff provisions relating to ~~such~~ rates, fares,
 28 charges, classifications, or rules. ~~Every~~ A schedule on file and approved on March 7, 1961, ~~shall remain~~ remains
 29 in full force and effect until changed or modified by the commission or by the carrier with the approval of the
 30 commission.

