

# Memorandum

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To: Energy & Telecommunications Interim Committee

From: Public Service Commission

Date: July 2, 2008

Re: PSC legislation

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The PSC has approved two draft bills for consideration by the 2009 Legislature: (1) a bill to amend §69-1-108, MCA, which requires the PSC to appoint a commission secretary every two years, and (2) a bill to move the tow truck provisions in Title 69 to the Department of Justice for regulation. The bill drafts are attached to this memo for ETIC review pursuant to §5-5-230, MCA.

## Amendment of Commission secretary provisions

The Commission seeks to amend the commission secretary provisions at §69-1-108, MCA, because the statutory requirement that the Commission appoint a secretary every two years to serve at the Commission's pleasure is obsolete and unnecessary. It may be that, in the early days of the Commission, the commission secretary served in a managerial role much like an executive director, but, if so, that role has long since changed. The modern-day commission secretary serves the commission in an administrative support role. There is no reason to single out this staff position for special treatment in the statute or to subject the employee to the uncertainties caused by the statutory requirements of being appointed every two years and serving at the pleasure of the commission. Similarly, it is unnecessary to specify in statute the duties of the commission secretary. The Commission should have the discretion to determine this employee's duties and responsibilities in the same way it has for its other employees.

## Amendment of tow truck insurance reporting provisions

The Commission seeks to amend the tow truck insurance reporting provisions of Title 61 and 69 to consolidate all regulatory functions for tow trucks with the Department of Justice. The statutory change would move the collection of insurance for tow trucks from the Public Service Commission to the Department of Justice. All other regulatory functions for tow trucks are codified in Title 61, Chapter 9 of the Montana Code Annotated, which is enforced by the Department of Justice. This change will help eliminate the tow truck operator's confusion on which state agency to contact and move toward the concept of one stop licensing.

Attachments

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

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

By Request of the Department of Public Service Regulation

A Bill for an Act entitled: "AN ACT REVISING LAWS RELATING TO THE PUBLIC SERVICE COMMISSION SECRETARY; AMENDING SECTIONS 69-1-108 AND 69-1-109, MCA."

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

**Section 1.** Section 69-1-108, MCA, is amended to read:

**"69-1-108. Secretary of commission. Commission recordkeeping.** (1) The commission shall, ~~immediately after its members have qualified, appoint a secretary to serve during the pleasure of the commission. The secretary shall be a qualified elector of the state. ;~~

~~(2) The secretary shall:~~

~~(a) keep a full and complete record of all of its proceedings of the commission; and~~

~~(b) be the custodian of its records and file and preserve at the office of the commission all books, maps, documents, and papers entrusted to his care and be responsible to the commission for the same; and preserve at the office of the commission all books, maps, documents, and papers entrusted to its care.~~

~~(c) perform such other duties as the commission may prescribe."~~

{ *Internal References to 69-1-108: None* }

**Section 2.** Section 69-1-109, MCA, is amended to read:

**"69-1-109. Employment of personnel.** The commission shall ~~also~~ have the power to appoint stenographers, inspectors, experts, and other persons whenever deemed expedient or necessary by said commission to the proper performance of its duties."

*{ Internal References to 69-1-109: None }*

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

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

By Request of the Department of Public Service Regulation

A Bill for an Act entitled: "AN ACT REVISING LAWS REQUIRING THAT PROOF OF INSURANCE FOR TOW TRUCKS NO LONGER BE FILED WITH THE PUBLIC SERVICE COMMISSION AND NOW REQUIRING FILING WITH THE DEPARTMENT OF JUSTICE; AMENDING SECTIONS 61-8-906 AND 69-12-102, MCA."

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

**Section 3.** Section 61-8-906, MCA, is amended to read:

**"61-8-906. Liability insurance -- storage requirements.** (1) Notwithstanding the provisions of 61-6-301, a commercial tow truck operator shall continuously provide:

(a) insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property caused by the maintenance or use of a commercial tow truck, as defined in 61-9-416, or occurring on the business premises of a commercial tow truck operator in an amount not less than:

- (i) \$300,000 for class A tow trucks;
- (ii) \$500,000 for class B tow trucks; and
- (iii) \$750,000 for class C tow trucks;

(b) insurance in an amount not less than \$20,000 to cover the damage to cargo or other property entrusted to the care of the commercial tow truck operator; and

(c) garage keepers legal liability insurance or on-hook liability insurance in an amount not less than \$50,000.

(2) A commercial tow truck operator shall provide proof of the insurance required in subsection (1) to the ~~public service commission~~ department.

(3) A qualified tow truck operator shall provide a storage facility, either a fenced lot or a building, that is:

(a) adequate for the secure storage and safekeeping of stored vehicles;

(b) located in a place that is reasonably convenient for public access;

(c) available to public access between 8 a.m. and 5 p.m., Monday through Friday, excluding legal holidays;

(d) large enough to store all the vehicles towed for law enforcement agencies; and

(e) if a fenced lot, constructed of chain link at least 6 feet high or constructed of materials and in a manner sufficient to deter trespassing or vandalism."

*{Internal References to 61-8-906:*

<i>61-8-902*</i>	<i>61-8-903</i>	<i>61-8-904*</i>	<i>61-8-904</i>
<i>61-8-907</i>	<i>61-8-908</i>	<i>61-8-908</i>	<i>61-8-908</i>
<i>61-9-416</i>	<i>61-9-431</i>	<i>69-12-102</i>	}

**Section 4.** Section 69-12-102, MCA, is amended to read:

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

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

(b) the transportation by means of motor vehicles in the regular course of business of employees by a person or corporation engaged exclusively in the construction or maintenance of

highways or engaged exclusively in logging or mining operations, insofar as the use of employees in construction and production is concerned;

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

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

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

(f) ambulances;

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

(h) the operation of:

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

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

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

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

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

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

(2) Except for the identification of ownership requirements provided in 69-12-408, this chapter does not affect commercial tow trucks designed and exclusively used in towing wrecked, disabled, or abandoned vehicles or while these tow trucks are rendering assistance to wrecked, disabled, or abandoned vehicles. ~~However, commercial tow truck firms shall file policies of insurance showing coverage required by 61-8-906.~~

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

*{ Internal References to 69-12-102: None }*

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