

SENATE BILL NO. 454

INTRODUCED BY M. NOLAND

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING COMMERCIAL TOW TRUCK LAWS; REVISING DEFINITIONS; REVISING CLASSIFICATION STANDARDS; REVISING LIABILITY INSURANCE STORAGE REQUIREMENTS; REVISING LAWS RELATING TO INSPECTIONS; REVISING LAWS RELATING TO THE STATE LAW ENFORCEMENT ROTATION SYSTEM; AND AMENDING SECTIONS 61-8-903, 61-8-905, 61-8-906, 61-8-907, 61-8-908, AND 61-8-920, MCA."

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

Section 1. Section 61-8-903, MCA, is amended to read:

"61-8-903. Definitions. As used in this part, the following definitions apply:

(1) (a) "Boom" means an engineered structure that is either mechanically or hydraulically ~~operated~~ lifted and extended and that is capable of lifting and supporting an overhead, vertical load free of the wrecker body.

(b) The term does not include wheel lifts and underreaches.

(2) "Commercial tow truck operator" or "operator" means an individual, partnership, corporation, or other business entity that owns or operates a commercial tow truck as defined in 61-9-416 and, if not an individual, ensures that its tow truck operators meet formal Montana tow truck association-recognized third-party training for the appropriate class within 1 year from the date of hire as a tow truck operator.

(3) "Department" means the department of justice provided for in 2-15-2001.

(4) "Letter of appointment" means a letter granted by the department pursuant to 61-8-920 that authorizes the holder to participate in the law enforcement rotation system provided for in 61-8-908.

(5) "Local government" means a county, a municipality, or other local board or body that has authority to enact laws relating to traffic.

(6) (a) "Qualified tow truck operator" means a commercial tow truck operator:

(i) that has equipment that:

- 1 (A) meets the requirements of 61-8-906, 61-8-907, and 61-9-416; and
- 2 (B) has been classified in accordance with 61-8-905;
- 3 (ii) that participates in the law enforcement rotation system provided for in 61-8-908;
- 4 (iii) that meets the requirements of subsection (6)(b); and
- 5 (iv) that has been issued a letter of appointment pursuant to 61-8-920.
- 6 (b) (i) If the operator is a firm or other entity, ~~at least 75% of the employees who operate a tow~~
 7 ~~truck must hold a certification from a nationally~~ certificate from a Montana tow truck recognized association-
 8 recognized certification-training program for tow truck operators or and have a minimum of 1 year of experience
 9 in the towing business for hire in Montana the state.
- 10 (ii) If the operator is an individual, the individual must hold a certification from a ~~nationally~~ Montana
 11 tow truck recognized association-recognized certification program for tow truck operators or have a minimum of
 12 1 year of experience in the towing business for hire in Montana the state.
- 13 (7) "Rotation area" means the base area where a qualified tow truck operator is dispatched and
 14 operates as provided in this part and within the boundaries as determined by the Montana highway patrol for
 15 each class."
- 16
- 17 **Section 2.** Section 61-8-905, MCA, is amended to read:
- 18 **"61-8-905. Classification standards.** (1) Commercial tow trucks are divided into the following five
 19 three classes based on the manufacturer's rating:
- 20 (a) (i) Class A light-duty tow truck equipment must have a minimum commercial manufacturer's
 21 boom or combined boom rating of 4-8 tons and must be mounted-permanently attached on a dual-wheel,
 22 straight truck chassis with a minimum manufacturer's rating of 10,000 at least 14,500 pounds gross vehicle
 23 weight. The equipment must have a commercial manufacturer's wheel lift with a minimum extended lift capacity
 24 of at least 4,000 pounds and a minimum towing capacity of at least 7,500 pounds.
- 25 (ii) Class A light-duty car carrier equipment must have a dual-wheel truck chassis with a minimum
 26 manufacturer's rating of at least 19,500 pounds gross vehicle weight. The equipment must have a commercial
 27 manufacturer's rollback bed that is permanently mounted with a minimum bed rating of at least 10,000 pounds.
- 28 (b) (i) Class B medium-duty tow truck equipment must have a minimum commercial

1 manufacturer's boom or combined boom rating of ~~8~~ at least 16 tons and must be ~~mounted permanently~~
2 ~~attached~~ on a straight truck chassis with a minimum manufacturer's rating of ~~48,000~~ at least 26,001 pounds
3 gross vehicle weight. The equipment must have a commercial manufacturer's underlift with a minimum lifting
4 capacity of at least 8,000 pounds extended and a minimum towing capacity of at least 32,000 pounds.

5 (ii) Class B medium-duty car carrier equipment must have a minimum manufacturer's rating of at
6 least 26,001 pounds gross vehicle weight. The equipment must have a commercial manufacturer's rollback bed
7 that is permanently mounted on a straight truck chassis with a minimum manufacturer's rating of at least 20,000
8 pounds.

9 (c) (i) Class C heavy-duty tow truck equipment must have a minimum manufacturer's boom or
10 combined boom rating of ~~46~~ at least 25 tons and must be ~~mounted permanently attached~~ on a straight truck
11 chassis that has a minimum manufacturer's rating of ~~32,000~~ at least 46,000 pounds gross vehicle weight. The
12 equipment must have air brakes and a commercial manufacturer's underlift with a minimum lifting capacity of at
13 least 12,000 pounds extended and a minimum towing capacity of at least 80,000 pounds.

14 (ii) Class C heavy-duty car carrier equipment must have a minimum manufacturer's rating of at
15 least 46,000 pounds gross vehicle weight. The equipment must have air brakes and a rollback bed that is
16 permanently mounted on a straight truck chassis with a minimum manufacturer's bed rating of at least 30,000
17 pounds.

18 (2) Classes of tow trucks that do not qualify under this section but were qualified under the
19 previous class ratings remain eligible for use under that previous class rating as long as the tow truck is
20 continuously inspected and approved for service by the Montana highway patrol and motor carrier services
21 under this part as of January 1, 2026. If the tow truck's inspection status has lapsed for a period of 6 months of
22 longer, the tow truck is not eligible to return to commercial or rotation towing unless it can meet the current
23 classification standards of this part.

24 (d) ~~Class D tow truck equipment includes manufactured rollbacks and car carriers with~~
25 ~~manufacturer's gross vehicle ratings of 10,000 pounds and over. The rollbacks and car carriers must be~~
26 ~~mounted on a truck-trailer chassis that, at a minimum, is equal to the minimum gross weight of the rollback or~~
27 ~~car carrier. Class D also includes any piece of towing equipment without a boom.~~

28 (e) ~~Class E includes two or more tow trucks working together with a combined manufacturer's~~

rating of a minimum of 80,000 pounds with access to supportive equipment, such as forklifts, banders, and air bags, for the recovery of rollovers and wrecked, disabled, and abandoned vehicles whose cargo requires special handling. Class E refers to tow truck companies and not to tow truck equipment.

(2) — An operator of noncommercially manufactured or modified tow truck equipment in use on October 1, 1995, that wishes to participate in the law enforcement rotation system must have its equipment classified by the department within a time period set by the department. Once the equipment is classified, further modifications may not be made.

(3) — An operator of new noncommercially manufactured or modified tow truck equipment must have its equipment independently certified before participating in the law enforcement rotation system. Once the equipment is classified, further modifications to the equipment must be recertified."

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 department.

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

- 1 (a) adequate for the secure storage and safekeeping of stored vehicles;
- 2 (b) located in a place that is reasonably convenient for public access;
- 3 (c) available to public access between 8 a.m. and 5 p.m., Monday through Friday, excluding legal
- 4 holidays;
- 5 (d) large enough to store all the vehicles towed for law enforcement agencies; and
- 6 (e) if a fenced lot, constructed of chain link at least 6 feet high or constructed of materials and in a
- 7 manner sufficient to deter trespassing or vandalism and with its own separate entrance; and
- 8 (f) used to store rotation vehicles until the rotation vehicles are paid for, payment arrangements
- 9 have been made for that vehicle, or the vehicle is removed for final disposition. A qualified tow truck operator
- 10 shall store rotation vehicles in the authorized area."
- 11

12 **Section 4.** Section 61-8-907, MCA, is amended to read:

13 **"61-8-907. Inspection -- fees -- decal.** (1) The tow truck equipment of a commercial tow truck

14 operator must have an annual safety inspection. A Montana highway patrol officer and Montana motor carrier

15 services officer, an employee of the department of transportation appointed as a peace officer in accordance

16 with 61-12-201, or an inspector certified by the department shall conduct the inspection-inspections and require

17 the commercial tow truck operator to provide proof of compliance with the provisions of 61-8-906.

18 (2) (a) Upon satisfactory completion of the inspection and verification of the insurance

19 requirements, a decal showing the last inspection date and the expiration date of the insurance coverage must

20 be affixed in a prominent place on the tow truck.

21 (b) If the commercial tow truck operator is participating in the law enforcement rotation system, the

22 decal must also show the classification of the operator's tow truck equipment.

23 (3) The department may establish inspection and decal fees that may not exceed the actual costs

24 of the inspection and the decal. The fees for the inspection and decal must be deposited in the highway

25 nonrestricted account provided for in 15-70-125."

26

27 **Section 5.** Section 61-8-908, MCA, is amended to read:

28 **"61-8-908. State law enforcement rotation system -- letter of appointment -- local government**

- 1 **rotation system.** (1) The department shall establish and maintain an a fair and equitable rotation system
2 among qualified tow truck operators that apply to the department in writing to be placed on the system and
3 receive a letter of appointment under 61-8-920. The rotation system:
- 4 (a) must be administered by the highway patrol in a manner that will give priority to public safety;
 - 5 (b) must be based on the classification of equipment as provided in 61-8-905; and
 - 6 (c) may include only qualified tow truck operators.
- 7 (2) Each qualified tow truck operator participating in the rotation system ~~shall~~must have available
8 and shall show upon the request of a law enforcement officer:
- 9 (a) all Montana motor vehicle identification numbers or department of transportation numbers for
10 the operator's tow trucks operating in the rotation system;
 - 11 (b) the operator's federal tax identification number;
 - 12 (c) the operator's company phone number and street address; and
 - 13 (d) the operator's letter of appointment as issued under 61-8-920.
- 14 (3) The operator shall display on both sides of the self-propelled commercial motor vehicle all
15 markings required by and in accordance with federal motor carrier safety administration code ~~each tow truck~~
16 ~~the operator's business name and location and the numbers required by subsection (2)(a). The information~~
17 ~~required by this subsection must be plainly seen and able to be read at all times.~~
- 18 (4) Any charges for towing service must be calculated from the operator's business location, as it
19 is assigned on the operator's letter of appointment.
- 20 (5) The rotation system is not applicable when the owner or driver of a wrecked or disabled vehicle
21 obstructing a public roadway requests a tow truck operator of the owner's or driver's choice and the operator
22 meets the insurance requirements provided in 61-8-906 and the safety inspection requirements provided in 61-
23 8-907.
- 24 (6) (a) (i) The law enforcement officer at the scene of the wreck shall ~~call~~request from dispatch the
25 qualified tow truck operator that is next on the rotation list if:
- 26 (A) a request for a tow truck is not made by the owner or driver;
 - 27 (B) the requested tow truck cannot respond in a timely manner; or
 - 28 (C) the law enforcement officer determines that the requested tow truck is unable to handle the

1 wrecked or disabled vehicle.

2 (ii) If the qualified tow truck operator is not classified to handle the wrecked or disabled vehicle, the
3 officer shall ~~call~~ request from dispatch the qualified tow truck operator next on the rotation list that is classified
4 to handle the wrecked or disabled vehicle.

5 (b) If a qualified tow truck operator classified to handle the wrecked or disabled vehicle is not
6 reasonably available, the law enforcement officer may request other equipment to remove the hazard.

7 (7) The department shall administer the state law enforcement rotation system. A qualified tow
8 truck operator may examine the rotation system schedule established by the department ~~in order to~~ determine if
9 the system is being administered in ~~an~~ a fair and equitable manner.

10 (8) A qualified tow truck operator gives implied consent to a reasonable inspection during normal
11 business hours of its premises, vehicles, towing business records, and equipment by the department of
12 transportation, highway patrol, or a local government to ensure compliance with this part.

13 (9) A local law enforcement agency may adopt and administer a local law enforcement rotation
14 system that complies with the provisions of this part. A tow truck operator desiring to be placed on the local law
15 enforcement rotation system must be a qualified tow truck operator as provided in this part.

16 (10) The highway patrol or local law enforcement shall provide upon request a record of rotation
17 system calls for all classes of tow trucks.

18 (11) Complaints about the rotation system must be referred in writing to the complaint resolution
19 committee established in 61-8-912.

20 (12) For tow truck entities to meet the criteria for the rotation system, the entity must:

21 (a) have its truck operators complete formal Montana tow truck association-recognized third-party
22 training for the rotation class within 1 year from the date of hire as a tow truck operator. The curriculum must
23 include classroom and hands-on training. The training must include but is not limited to the following:

24 (i) knowledge of attach points and the amount of load placed on objects being recovered under
25 the operator's workmanship;

26 (ii) working load limits of cables, chains, and synthetics;

27 (iii) rigging reductions;

28 (iv) the use of snatch blocks, recovery spades, and ways to position equipment for recovering a

1 casualty;

2 (v) the proper way to maintain and inspect all equipment and rigging;

3 (vi) traffic incident management training that qualifies the operator to work safely and efficiently
4 with other first responder disciplines; and

5 (vii) a test that is included with the training to ensure that the operator possesses the knowledge
6 necessary to qualify as a recovery specialist. The operator shall take continuing education classes and
7 recurrent testing required by the training agency so that the operator's professional certificate does not expire
8 with that agency.

9 (b) have traffic control equipment that consists of:

10 (i) two reflectorized signs 3 x 3 feet in size and knowledge of how to deploy them as described in
11 61-9-431; and

12 (ii) state-certified flaggers.

13 (13) To qualify for the rotation, all towing and recovery boom equipment must be commercially
14 manufactured, permanently mounted to the truck chassis, and rated for the type of recovery as provided in this
15 subsection (13). A detachable towing unit is not eligible for class C recovery rotation purposes but is considered
16 eligible for class C commercial towing and class C tow rotation towing purposes as long as it meets the chassis
17 and wheel lift requirements for the classification. The rotation has the following three classes and requirements:

18 (a) A class A rotation operator must have a minimum of two trucks with each wrecker equipped
19 with a dolly system capable of supporting a wrecked or disabled vehicle that cannot roll on its own wheels. The
20 required two trucks may consist of two wreckers or a wrecker and a car carrier.

21 (b) A class B rotation operator must have a minimum of two wreckers or one class B wrecker if the
22 commercial tow truck operator also holds a class A or C rotation spot for the respective rotation area.

23 (c) A class C rotation is separated into two rotation lists consisting of a tow rotation and a recovery
24 rotation.

25 (i) The tow rotation consists of disablements for road service calls or when a lift and tow away is
26 required for a tow off the roadway for removal of the vehicle. The class C tow rotation list operator must have a
27 minimum of one class C wrecker.

28 (ii) The recovery rotation consists of crashes or incidents where recovery equipment must be used

1 to remove the vehicle from the roadway or shoulder. This includes winching or when recovery equipment is
2 needed. The class C recovery rotation list operator must have a minimum of two class C wreckers and
3 additional support equipment. The qualified tow truck operator must have verifiable access through a contract
4 or a written memorandum of agreement to support equipment including but not limited to:

5 (A) a fifth-wheel tractor capable of hauling trailers with a minimum manufacturer's gross combined
6 vehicle weight rating of 80,000 pounds;

7 (B) a 53-foot refrigerated trailer; and

8 (C) a 48-foot lowboy or slide axle trailer or equivalent, skidsteer, loader, or forklift for the recovery
9 of rollovers, wrecked, disabled, or abandoned vehicles, or cargo that requires special handling.

10 (14) If a commercial tow truck operator fails to meet the rotational requirements for the assigned
11 area at any time, the commercial tow truck operator is not eligible for rotation in that area and must be removed
12 for at least 30 days from rotational towing. The tow truck operator shall demonstrate compliance before being
13 reinstated to the rotation list."

14
15 **Section 6.** Section 61-8-920, MCA, is amended to read:

16 **"61-8-920. Rotation system -- letter of appointment -- requirements.** (1) A commercial tow truck
17 operator may not participate in the law enforcement rotation system provided for in 61-8-908 without a letter of
18 appointment from the department.

19 (2) The department may assign a letter of appointment to a commercial tow truck operator if the
20 operator meets the following requirements:

21 (a) Each towing business must be operated independently. One company cannot be dependent on
22 another for any required operation, including equipment and facilities. More than one company may not be
23 owned in whole or in part by the same individual, group, partnership, entity, or parent corporation to be qualified
24 to participate in the same rotation area. A company may not use contracts to employ a third party to operate the
25 company, including but not limited to contracts or agreements where the third party operates as, does business
26 as, operates on behalf of, or leases the company's name or business. A commercial tow truck operator may not
27 have a vested interest in another tow company within the same rotation area.

28 (b) If the operator owns ~~more than one~~ a towing business in a different rotation area, each the

1 business in the additional rotation area must have a different an identifiable name, address, and telephone
2 number that is answered at the business location in the additional rotation area during normal business hours.
3 An after-hours central dispatch center may receive calls for multiple ~~businesses~~ rotation areas for a business if
4 the dispatch center is capable of acknowledging each individual call by the applicable company name.

5 (c) The operator shall provide adequate staffing for each business with personnel who are present
6 at the business location to answer all incoming calls and who are able to release impounded vehicles from 8
7 a.m. to 5 p.m., Monday through Friday, except for state-recognized holidays. In addition, each business location
8 must be staffed by a sufficient number of drivers for a 24-hour a day operation.

9 (d) There must be adequate equipment for each company to operate independently. Tow trucks
10 may be used only for the company for which they are registered and within the rotation area for which they are
11 approved by the department unless otherwise specifically provided for by the department.

12 (e) The operator must have a business location with its own outside entrance, or if a building has
13 one main entrance, the location must have doors clearly marking and separating each business and a solid wall
14 from floor to ceiling to separate each business. ~~with~~ There must be a sign at the front door and a sign plainly
15 visible from the street indicating the company's name, telephone number, and office hours. ~~Separate~~
16 ~~businesses in the same rotation area may be housed in one building, but there must be a solid wall from floor to~~
17 ~~ceiling to separate each business.~~ The office building must be on a permanent foundation with fixed power,
18 water, and sewer utilities.

19 (f) ~~Each company shall maintain its own set of required records and books, including but not~~
20 ~~limited to a vehicle transaction file and billing invoices at its business location.~~ Each company shall maintain its
21 own set of required records and books, including but not limited to a vehicle transaction file and billing invoices
22 at its business location, separate workers' compensation and commercial business insurance, separate credit
23 card processing and banking, separate federal and state identification, separate profit and loss statements, and
24 a separate balance sheet. If there is a corporate accountant or bookkeeper for more than one company, all
25 records and files for each company that are required to be maintained at the business location must be
26 maintained separately.

27 (g) The operator must have impound and storage areas at the business location and in the
28 operator's assigned rotation area that meet the requirements of 61-8-906(3).

1 (h) The operator shall maintain at least ~~one truck~~ the required equipment for the operator's
2 authorized rotation class provided in 61-8-908 and meeting meet the minimum classification standards set out
3 in 61-8-905.

4 (3) A qualified tow truck operator may have only one letter of appointment for a business location
5 in a single rotation area. ~~A request for an additional letter of appointment must be for a complete and separate~~
6 ~~business location that is capable of operating independently within the same or another rotation area and that~~
7 ~~meets the requirements of subsection (2).~~

8 (4) Each letter of appointment must specify the rotation area to which the qualified tow truck
9 operator is assigned.

10 (5) A commercial tow truck operator may petition the department in writing for a waiver of one or
11 more of the requirements of subsection (2). Except as provided in subsection (6), the department may grant a
12 waiver if it finds that:

13 (a) the towing service otherwise available within the rotation area is inadequate to meet the needs
14 of the public;

15 (b) the request has the highway patrol district commander's approval; and

16 (c) the petition is otherwise reasonable.

17 (6) In the event a commercial tow truck operator meets all the requirements of this section and
18 receives a letter of appointment in the same rotation area as a qualified tow truck operator that had earlier been
19 granted a waiver pursuant to subsection (5), the department shall rescind the waiver.

20 (7) A letter of appointment must be issued in the name of the applicant and is not transferable to
21 any other person or business.

22 (8) A letter of appointment is valid until suspended, superseded, or revoked by the department."

23 - END -