

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:

- (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 and with its own separate entrance; and
- (f) used to store rotation vehicles until the rotation vehicles are paid for, payment arrangements have been made for that vehicle, or the vehicle is removed for final disposition. A qualified tow truck operator shall store rotation vehicles in the authorized area."

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

"61-8-907. Inspection -- fees -- decal. (1) The tow truck equipment of a commercial tow truck operator must have an annual safety inspection. A Montana highway patrol officer and Montana motor carrier services officer, ~~an employee of the department of transportation appointed as a peace officer in accordance with 61-12-201, or an inspector~~ certified by the department shall conduct the ~~inspection~~ inspections and require the commercial tow truck operator to provide proof of compliance with the provisions of 61-8-906.

(2) (a) Upon satisfactory completion of the inspection and verification of the insurance requirements, a decal showing the last inspection date and the expiration date of the insurance coverage must be affixed in a prominent place on the tow truck.

(b) If the commercial tow truck operator is participating in the law enforcement rotation system, the decal must also show the classification of the operator's tow truck equipment.

(3) The department may establish inspection and decal fees that may not exceed the actual costs of the inspection and the decal. The fees for the inspection and decal must be deposited in the highway nonrestricted account provided for in 15-70-125."

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

"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.~~ each tow truck the operator's
18 business name and location and the numbers required by subsection (2)(a). The information required by this
19 subsection must be plainly seen and able to be read at all times.

20 (4) Any charges for towing service must be calculated from the operator's business location, as it
21 is assigned on the operator's letter of appointment.

22 (5) The rotation system is not applicable when the owner or driver of a wrecked or disabled vehicle
23 obstructing a public roadway requests a tow truck operator of the owner's or driver's choice and the operator
24 meets the insurance requirements provided in 61-8-906 and the safety inspection requirements provided in 61-
25 8-907.

26 (6) (a) (i) The law enforcement officer at the scene of the wreck shall ~~call~~ request from dispatch the
27 qualified tow truck operator that is next on the rotation list if:

28 (A) a request for a tow truck is not made by the owner or driver;

1 (B) the requested tow truck cannot respond in a timely manner; or

2 (C) the law enforcement officer determines that the requested tow truck is unable to handle the
3 wrecked or disabled vehicle.

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

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

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

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

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

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

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

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

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

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

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

(iii) rigging reductions;

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

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

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

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

(b) have traffic control equipment that consists of:

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

(ii) state-certified flaggers.

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

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

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

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

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

minimum of one class C wrecker.

(ii) The recovery rotation consists of crashes or incidents where recovery equipment must be used to remove the vehicle from the roadway or shoulder. This includes winching or when recovery equipment is needed. The class C recovery rotation list operator must have a minimum of ~~two-one~~ class C ~~wreckers-wrecker~~ and additional support equipment. The qualified tow truck operator must have verifiable access through a contract or a written memorandum of agreement to support equipment including but not limited to:

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

(B) a 53-foot refrigerated trailer; and

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

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

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

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

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

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