

HOUSE BILL NO. 723

INTRODUCED BY B. BARKER, G. NIKOLAKAKOS, J. READ, R. MINER, J. KASSMIER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CLASS D MOTOR CARRIER REGULATIONS; REVISING HEARING PROCESSES; REVISING SERVICE REQUIREMENTS; AMENDING SECTIONS 69-12-314 AND 69-12-321, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 69-12-314, MCA, is amended to read:

**"69-12-314. Class D motor carrier certificate of public convenience and necessity.** ~~(4)~~ Class D carriers shall conduct operations pursuant to a certificate of public convenience and necessity issued by the commission authorizing the transportation of the commodities described in 69-12-301(4). Class D carriers, when applying for a new or additional certificate of public convenience and necessity, shall file an application with the commission in accordance with the requirements of this chapter and the rules of the commission.

~~(2) A motor carrier may not possess a Class D motor carrier certificate of public convenience or necessity or operate as a Class D motor carrier 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."~~

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

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

(b) If a protest or a request for hearing is received, the commission shall fix a time and place for a hearing on the application. The hearing must be set for not later than 60 days after receipt of a protest or a hearing request. If a protest or a request for hearing is not received, the commission may act on the application without a hearing as prescribed by commission rules.

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

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

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

9 (4) An application by a motor carrier pursuant to 69-12-311(1)(b), by a Class C motor carrier, ~~or by~~  
10 ~~a Class D motor carrier~~ for a certificate of public convenience and necessity may be denied without a public  
11 hearing when the records of the commission demonstrate that the route or territory sought to be served by the  
12 applicant has previously been made the basis of a public investigation and finding by the commission that  
13 public convenience and necessity do not require the proposed motor carrier service. A hearing must be held if  
14 the applicant presents facts demonstrating that conditions over the route or in the territory and affecting  
15 transportation facilities have materially changed since the previous public investigation and finding and that  
16 public convenience and necessity now require the motor carrier operation.

17 (5) On the filing of an application for a certificate by a Class D motor carrier or on the filing of a  
18 request for a transfer of authority, the commission shall provide notice of the application to any interested party.  
19 The commission shall determine the adequacy of the applicant's filing and hold a hearing if it considers the  
20 application inadequate. The commission may act on a Class D motor carrier application without a hearing as  
21 prescribed by commission rules."

22

23 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

24

- END -