

SENATE BILL NO. 455

INTRODUCED BY B. USHER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING HIGHWAY AND ROADSIDE SERVICE LAWS; PROHIBITING THE SOLICITATION OF ROADSIDE SERVICES AT THE SCENE OF AN ACCIDENT OR DISABLED VEHICLE; REQUIRING TOWING COMPANIES OR TOW TRUCK OPERATORS TO CARRY WRITTEN PROOF OF REQUEST FOR ROADSIDE SERVICES; PROVIDING CRIMINAL MISDEMEANOR PENALTIES, AND FINES; AND AMENDING SECTIONS 61-8-908 AND 61-8-909, MCA."

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

NEW SECTION. Section 1. Unlawful solicitation of towing and roadside services -- scene of accident or disablement -- required documentation -- towing entities. (1) (a) For the purposes of this section, the term "roadside assistance services" means the direct or indirect furnishing of services to render assistance or to tow or move a vehicle from a highway, as defined in 60-1-103, when:

(i) (A) a vehicle is unattended; or
(B) a vehicle has been in an accident or is otherwise disabled; and
(ii) the services offered are in exchange for compensation, including but not limited to accrued charges to the owner or operator of the vehicle.

(b) (i) The term does not include when law enforcement or a public agency requests or performs roadside services; or

(ii) when a vehicle owner or operator previously requested roadside assistance services from a towing company or owner or operator of a tow truck.

(2) A towing company or owner or operator of a tow truck may not stop at the scene of an accident or near a disabled vehicle for the purpose of soliciting towing or roadside assistance services.

(3) A towing company or owner or operator of a tow truck must have the following information in writing when rendering roadside assistance services:

(a) if requested by the owner or operator of a vehicle:

- 1 (i) the first and last name and telephone number of the person who summoned the services;
2 (ii) the make, model, and color of the disabled or unattended vehicle;
3 (iii) the date and time of the request; and
4 (iv) the name of the person who recorded the request for roadside assistance services;
5 (b) if requested by a motor club service as defined in 61-12-301:
6 (i) the business name of the motor club;
7 (ii) the identification number that the motor club assigns to the service; and
8 (iii) the date and time summoned by the motor club; and
9 (c) if requested by law enforcement or a public agency:
10 (i) the identity of the law enforcement agency or public agency; and
11 (ii) the date and time of the summons, request, or express authorization.
12 (4) Upon request by a law enforcement or public agency, a towing company or tow truck operator
13 shall provide the written records required under subsection (3) within 48 hours after the request. The towing
14 company or tow truck operator shall maintain records for 3 years.
15 (5) An owner or operator of a tow truck who violates this section is guilty of a misdemeanor
16 punishable by:
17 (a) for a first offense, a fine of \$50 plus court costs and a 30-day suspension from commercial and
18 rotational towing and roadside assistance under 61-8-908;
19 (b) for a second offense, a fine of \$135 plus court costs and a 60-day suspension from commercial
20 and rotational towing and roadside assistance under 61-8-908;
21 (c) for a third offense, a fine of \$220 plus court costs and a permanent suspension from
22 commercial and rotational towing and roadside assistance under 61-8-908.
23 (6) A towing company, or an owner of the towing company, that violates this section is guilty of a
24 misdemeanor punishable by:
25 (a) for a first offense, a fine of \$550 plus court costs and a 30-day suspension from commercial
26 and rotational towing and roadside assistance under 61-8-908;
27 (b) for a second offense, a fine of \$1,135 plus court costs and a 60-day suspension from
28 commercial and rotational towing and roadside assistance under 61-8-908;

(c) for a third offense, a fine of \$4,965 plus court costs and a permanent suspension from commercial and rotational towing and roadside assistance under 61-8-908.

(7) A first responder or other government employee who is found to have directed or recommended a motorist or vehicle owner or operator toward a particular tow company, either directly or indirectly, for towing and roadside services is guilty of a misdemeanor punishable by:

(a) for a first offense, a fine of \$50 plus court costs;

(b) for a second offense, a fine of \$135 plus court costs;

(c) for a third or any subsequent offense, a fine of \$190 plus court costs.

(8) For the purposes of determining the number of offenses under this section, the court shall consider any convictions of a person under this section within 3 years of the most recent conduct.

(9) This section does not apply to roadside assistance services offered by:

(a) a law enforcement agency or a public agency;

(b) a tow truck owner or operator who provides services for which no compensation is requested or received; or

(c) a tow truck owner or operator who is acting under the direction of law enforcement or a public agency.

Section 2. Section 61-8-908, MCA, is amended to read:

"61-8-908. State law enforcement rotation system -- letter of appointment -- local government rotation system. (1) The department shall establish and maintain an equitable rotation system among qualified tow truck operators that apply to the department in writing to be placed on the system and receive a letter of appointment under 61-8-920. The rotation system:

(a) must be administered by the highway patrol in a manner that will give priority to public safety;

(b) must be based on the classification of equipment as provided in 61-8-905; and

(c) may include only qualified tow truck operators.

(2) Each qualified tow truck operator participating in the rotation system shall have available and show upon the request of a law enforcement officer:

(a) all Montana motor vehicle identification numbers or department of transportation numbers for

1 the operator's tow trucks operating in the rotation system;

2 (b) the operator's federal tax identification number;

3 (c) the operator's company phone number and street address; and

4 (d) the operator's letter of appointment as issued under 61-8-920.

5 (3) The operator shall display on both sides of each tow truck the operator's business name and
6 location and the numbers required by subsection (2)(a). The information required by this subsection must be
7 plainly seen and able to be read at all times.

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

10 (5) The rotation system is not applicable when the owner or driver of a wrecked or disabled vehicle
11 obstructing a public roadway requests a tow truck operator of the owner's or driver's choice and the operator
12 meets the insurance requirements provided in 61-8-906 and the safety inspection requirements provided in 61-
13 8-907.

14 (6) (a) (i) The law enforcement officer at the scene of the wreck shall call the qualified tow truck
15 operator that is next on the rotation list if:

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

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

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

20 (ii) If the qualified tow truck operator is not classified to handle the wrecked or disabled vehicle, the
21 officer shall call the qualified tow truck operator next on the rotation list that is classified to handle the wrecked
22 or disabled vehicle.

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

25 (7) The department shall administer the state law enforcement rotation system. A qualified tow
26 truck operator may examine the rotation system schedule established by the department in order to determine if
27 the system is being administered in an equitable manner.

28 (8) A qualified tow truck operator gives implied consent to a reasonable inspection during normal

business hours of its premises, vehicles, and equipment by the department of transportation, highway patrol, or a local government to ensure compliance with this part.

(9) A local law enforcement agency may adopt and administer a local law enforcement rotation system that complies with the provisions of this part. A tow truck operator desiring to be placed on the local law enforcement rotation system must be a qualified tow truck operator as provided in this part. A qualified tow truck operator who has been suspended under [section 1] may reapply to be placed on the rotation system.

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

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

Section 3. Section 61-8-909, MCA, is amended to read:

"61-8-909. Good faith immunity. A person who renders assistance in an emergency that is life-threatening to the occupant of a wrecked, disabled, or abandoned vehicle or that is creating an immediate hazard on a public roadway or who renders emergency assistance as directed by a law enforcement officer or other emergency responder at the scene of a motor vehicle accident is immune from damages and criminal penalties imposed under [section 1] arising from acts or omissions related to the rendering of assistance unless the damages are occasioned by the gross negligence or by the willful or wanton acts or omissions of the person rendering the assistance."

NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 61, chapter 8, part 9, and the provisions of Title 61, chapter 8, part 9, apply to [section 1].

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