

STAFF MEMORANDUM

TO: Montana Passenger Motor Carriers
FROM: Nickie Eck, Brenda Koch and Kate Whitney
DATE: June 10, 2015
RE: PASSENGER TRANSPORTATION REGULATION CHANGES

Senate Bill 396, a law passed by the 2015 Legislature, which significantly changes the regulation of passenger transportation in Montana, takes effect July 1, 2015. The Public Service Commission (PSC) has noticed its proposed rules to implement SB 396. The PSC mailed a copy of the rulemaking notice to all passenger motor carriers subject to PSC regulation. The proposed rules are also available online at <http://www.mtrules.org/gateway/ShowNoticeFile.asp?TID=6405>. The public hearing on the proposed rules will be held June 24, 2015 beginning at 9:00 a.m. in the PSC's Bollinger Room, 1701 Prospect Avenue, Helena.

How Does SB 396 Impact Regulated Motor Carriers?

1. If **all** vehicles utilized by you to transport passengers have a **rated seating capacity greater than 26**, you are **exempt** from PSC regulation. This exemption applies to both individual fare and non-rate regulated transportation. If the exemption applies to your fleet, you may request that the PSC authority held by you be cancelled. **Again, the exemption must cover all vehicles utilized by you to transport passengers for hire.** If you do not request cancellation, your authority will remain active and you must continue to comply with PSC rules regarding insurance, registration receipts, and annual reports.
2. Current certificated Class B passenger carriers must operate under the scope of authority as held unless application is made to change that scope of authority. Operations under existing authority remain subject to tariff rates currently filed under that PSC number, if applicable.
3. Current passenger motor carriers and new applicants may apply for new/expanded authority under the new Certificate of Compliance process. The application forms for a Certificate of Compliance will be available on the PSC's website (psc.mt.gov) on July 1, 2015. The Commission is still required to notice all applications for certificates. Protests must be filed within 20 days of the notice date. The only basis for protest of a Certificate of Compliance application is the applicant's fitness. Any application for new authority postmarked on or before the 25th of a given month will be noticed in the next month's monthly notice. Applications filed with a postmark of July 1, 2015 to July 25, 2015 will be noticed in the August 2015 monthly notice with probable approval coming in early September.

4. Under the new law, if an applicant for a Certificate of Compliance demonstrates it has obtained insurance in compliance with PSC rules (for Class B passenger carriers) or SB 396 (for Transportation Network Carriers or TNCs), the applicant has established a rebuttable presumption of fitness. Under the PSC's proposed rules, an application for a Certificate of Compliance must be accompanied by proof of insurance. **The name of the applicant on the application for a Certificate and the name of the insured on the proof of insurance must match exactly.** All applications will be noticed and protests may be filed but only on the basis of fitness.
5. Protests still require completion of the protest form and payment of the protest fee.
6. Existing carriers who expand their operating authorities will follow their tariff rates on file and approved by the PSC, if those tariff rates cover the expanded area – for example a mileage rate. No rate changes without proper notice will be allowed.
7. SB 396 created a new category of passenger carrier called Transportation Network Carriers (TNCs). TNCs will be able to apply for a Class E Certificate of Compliance. A TNC uses a digital network or software application to connect passengers to TNC services provided by TNC drivers. A TNC does not control, direct, or manage the TNC drivers that connect to its network or the TNC drivers' vehicles, unless agreed to by written contract. TNCs' rates are not regulated by the PSC.