OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR

MIKE COONEY
LT. GOVERNOR

TO: Montanans; all officers and agencies of the State of Montana
FROM: Governor Steve Bullock
DATE: March 27, 2020
RE: Directive Implementing Executive Orders 2-2020 and 3-2020 and providing for relief of certain regulatory requirements

Executive Orders 2-2020 and 3-2020 declare that a state of emergency exists in Montana due to the global outbreak of COVID-19 Novel Coronavirus.

Section 10-3-104(2)(a), MCA, authorizes the Governor, during a state of emergency, to "suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster."

Under § 61-10-111, MCA, the Governor may also, under the authority of an executive order, exempt vehicles from certain size and weight limits for a specified, limited period of time during emergency circumstances, including conditions brought about by emergency circumstances for which the movement of vehicles that may exceed size and weight limits is necessary for responding to the event or occurrence.

COVID-19 has made assuring continued and reliable trucking of needed inputs and supplies for the people of Montana of vital importance. As the people of Montana pull together to protect one another by engaging in social distancing, good hygiene, and changes to our daily life, maintaining our food and medical transport pipeline requires some regulatory flexibility. Further, in this time of statewide emergency, delays to farm input deliveries may threaten farmers' ability to get in the fields in adequate time for planting or dealing with a crop emergence. Delays in feed and hay shipments cause ranchers to suffer unnecessary animal losses. And delays in the supply chain cause unneeded stress to the ability of grocery stores, farmers, ranchers, and hospitals to provide critical services.

Further, the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) added Montana to its emergency declaration, which exempts motor carriers providing direct assistance for COVID-19 relief from Parts 390 through 399 of Title 49, Code of Federal Regulations; the exemption is in effect until the end of the emergency.

For these reasons, I have determined that relieving "hours of service" requirements for commercial motor carrier vehicles in Montana, provided for in § 61-10-154, MCA, and ARM. § 18.8.1502, is necessary to respond to the emergency. Supplies delivered by commercial vehicles are in great demand and this will help Montanans by reducing restrictions on providing emergency relief response to the nationwide coronavirus (COVID-19) outbreak.

Additionally, the Director of the Montana Department of Transportation has requested that for the duration of the emergency, I temporarily suspend the maximum weight limits for commercial vehicles established in Title 61, Chapter 1, Part 1, MCA, to permit a 10 percent increase in weight limits for

commercial vehicles providing supplies necessary to address the emergency. I find that this is necessary to meet unusual conditions and to ensure the general welfare of the public.

In accordance with the authority vested in me under the Constitution, Article VI, Sections 4 and 13, and the laws of the State of Montana, Title 10, Chapter 3, Title 50, Chapter 1, MCA, and Title 61, Chapters 1 and 10, MCA, and other applicable provisions of the Constitution and Montana law, I hereby direct the following measures be in place in the State of Montana effective immediately:

Increased capacity for transporting food, livestock, medical supplies, farm inputs, and other items

- For the duration of the emergency, strict compliance with the "hours of service" and associated Electronic Logging Device (ELD) regulations, as provided in ARM § 18.8.1502 (incorporating by reference 49 CFR. part 395), are suspended to the extent those regulations apply to drivers of commercial motor vehicles while transporting farm inputs, food, livestock, feed/hay, and medical supplies.
    - For the duration of the emergency, the weight limits for commercial vehicles provided for in Title 61, Chapter 1, Part 1, MCA, and ARM § 18.8.431 are temporarily suspended under §§ 61-10-111 and 10-3-104, MCA, to the extent that the maximum permissible weight is increased by 10 percent for commercial vehicles providing supplies to help support response to the emergency. This Directive will suffice as the special permit needed for the increase in weight.
    - The weight increase does not apply to non-interstate load posted bridges and roads.

- Nothing in this Directive shall be construed to waive or suspend any other state or federal regulation pertaining to commercial motor carriers and commercial driver license requirements or to relieve carriers and commercial drivers from operating their commercial motor vehicles in a safe and prudent manner.

- Commercial motor vehicle carriers, while under this Directive, shall not require or allow fatigued drivers to operate a motor vehicle.

- Notwithstanding any other provision of this Directive, if a driver informs a carrier that the driver needs immediate rest, the "hours of service" requirements, enacted in § 61-10-154, MCA, and implementing regulations, ARM. § 18.8.1502, must be followed.

- The Montana Department of Transportation is directed to:
    - Continue and support the Federal Motor Carrier Safety Administration "hour of service waiver."
    - Waive temporary registration and temporary fuel permits for vehicle providing supplies to help support response to the emergency.
    - Honor other jurisdictions' requests to suspend enforcement of the licensing and registration requirements for the International Fuel Tax Agreement (IFTA) and the International Registration Plan (IRP) for vehicle providing supplies to help support response to the emergency.
    - Request other jurisdictions temporarily suspend enforcement on Montana based carriers licensing and registration requirements for the International Fuel Tax Agreement (IFTA) and the International Registration Plan (IRP) for vehicles providing supplies to help support the emergency.

Authorities: Sections 10-3-104, -103, -302, and -305, MCA; §§ 61-10-111 and -154, MCA; Executive Orders 2-2020 and 3-2020; Montana Constitution, Art. VI, Sections 4 and 13; and all other applicable provisions of state and federal law.

Limitations

- This Directive is effective immediately and expires at the end of the declared state of emergency in Executive Orders 2-2020 and 3-2020.
- This Directive shall be implemented consistent with applicable law and subject to the availability of appropriations.
- Nothing in this Directive shall be construed to limit, modify, or otherwise affect the authority granted by law to the Governor, any department, agency, political subdivision, officer, agent, or employee of the State of Montana, or any local or municipal government except as expressly provided in this Directive or other Directives now in effect implementing Executive Orders 2-2020 and 3-2020.
- If any provision of this Directive or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Directive, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Directive are declared to be severable.
- This Directive is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the State of Montana, its departments, agencies, or entities, its officers, employees, or agents, or any other person.