

Restriction on Commuting in State-Owned Vehicle House Bill 602 (Section 2-17-425)

Frequently Asked Questions

Prepared by the Department of Administration April 2010

Q1. What is House Bill 602 (HB 602)?

A: *HB 602 is an act passed during the 2009 Legislative Session. The act establishes restrictions on commuting in a state-owned vehicle from an employee's residence to the employee's worksite. It can be found at: <http://leg.mt.gov/bills/mca/2/17/2-17-425.htm>.*

Q2. What are the key provisions of HB602?

A: *There are two key provisions:*

- 1. A state employee may not use a state-owned vehicle to commute less than 30 miles from an employee's residence to the employee's worksite except if (a) the employee is required to be on-call for quick response to an emergency; (b) on-call duty is specifically identified in the employee's position description; and (c) employees in the position have frequently (see Question and Answer 6 below discussing the word "frequently") responded to emergency calls in the past 6 months. Before the commute begins, the department head must approve the exception and the reasons for it in a signed memorandum or letter kept on file in the department head's office. The department head must also send a copy of the signed memorandum or letter to the Governor.*

- 2. A state employee may not use a state-owned vehicle to commute more than 30 miles from an employee's residence to the employee's worksite in any circumstance unless the department head approves the use consistent with administrative rules adopted to implement HB 602. However, after lengthy consideration, the Department of Administration decided to not adopt rules regarding exceptions to this statutory restriction.*

Q3. Does HB 602 apply to all commuting situations?

A: *No, HB 602 does not apply to:*

- 1. The psychiatrist employed by the Department of Corrections and assigned to the Montana State Prison;*
- 2. When the vehicle is, in effect, the employee's worksite; or*
- 3. When 24- hour use of a state vehicle is authorized by law for an elected or appointed state official and the vehicle use is part of that official's compensation package.*

Q4. What is a commute?

A: *HB 602 describes commuting as travel from an employee's residence to the employee's worksite. HB 602 does not state that a commute is round trip.*

Q5. What does "frequently" mean?

A: *HB 602 does not define "frequently." The common definition of "frequently" is often or in brief intervals. Given this definition, agencies will need to reasonably interpret this word to fit the facts involved in each case. Frequently could include the number of times an employee has been called to emergencies or the length of stay at an emergency (for example, an employee may be called only once to an emergency but that emergency, like a fire, lasts a week).*

Q6. What does "in the past 6 months" mean?

A: *HB 602 does not define "in the past 6 months." The phrase appears to mean the most recent 6 months before the exception is approved, not the 6 months preceding passage of HB 602. State agencies are responsible for tracking and monitoring emergency calls to determine the positions requiring authorization to commute in a state-owned vehicle and ensuring that the conditions justifying the authorization continue to exist.*

Q7. When is a state-owned vehicle, in effect, the employee's worksite?

A: *For purposes of this bill, a state-owned vehicle becomes an employee's worksite when, for all practical purposes, the vehicle, takes the place of an office or property leased or owned by the state for the conduct of state business. Examples of where the state-owned vehicle is the employee's worksite would be inspectors and lottery employees whose main job is to travel to businesses or sites to perform their work.*

Q8. Will the Department of Administration adopt rules relating to commuting in a state-owned vehicle more than 30 miles from the employee's residence to the employee's worksite?

A: *No. HB 602 authorized the Department of Administration to adopt rules allowing exceptions from the general prohibition that a state-owned vehicle cannot be used to commute more than 30 miles between the employee's residence and worksite. After discussing this issue with many agencies, it was determined that no reasons would justify commuting over 30 miles in a state-owned vehicle.*

Q9. Does HB602 replace the state vehicle use rules currently in effect (i.e. ARM 2.6.201 through ARM 2.6.214)?

A: *No. These rules still apply. See: <http://www.mtrules.org/>*

Q10. Do commuting restrictions apply to employees traveling on state business?

A. *No. DOA interprets HB 602 to apply to usual and customary commutes by employees to their work site, not to traveling in a state-owned vehicle on state business.*

Q11. “A state employee regularly and customarily travels in a state-owned vehicle between their residence and businesses the state regulates. Examples of this situation would be inspectors and lottery employees whose principal job it is to travel to sites or businesses to perform their work. Do the commuting restrictions under HB 602 apply to this employee?”

A: *No. In this case the state-owned vehicle is, in effect, the employee’s worksite.*

Q12. “A Helena-based state employee will be leaving for a work trip early the next morning for Missoula. May that employee check out a state-owned vehicle, drive it to their house, and leave for Missoula the next morning in the state-owned vehicle?”

A. *Yes. This situation is not a commute under HB 602. The employee is not traveling from their residence to their usual and customary worksite.*