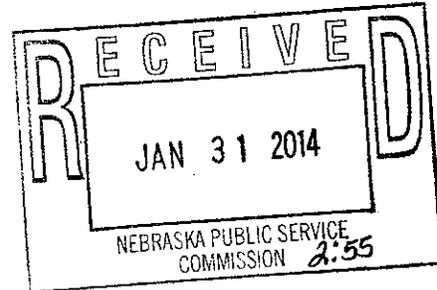




Transportation Division

January 31, 2014

Mr. Mark Breiner
Nebraska Public Service Commission
Suite 300
1200 "N" St
Lincoln, NE 68508



Dear Mr. Breiner:

The SMART Nebraska State Legislative Board would like to commend you and your staff on this rewrite of Title 291, Chapter 3, Motor Vehicle Rules and Regulations. I am sure a great deal of work went into this effort.

Please find some of our concerns listed below:

Under Drug and Alcohol testing we would like to see the Nebraska Public Service Commission (NPSC) require random testing and post accident testing of contract van drivers transporting railroad crews. The contract van company will affirmatively furnish all drug and alcohol test results to the NPSC.

We support the change of requiring a physical every two years replacing the requirement of every four years in 05.02. The paperwork pertaining to all physicals will affirmatively be sent to the NPSC.

In addition to the proposed requirements in 05.05, we would add a rule to prohibit allowing/requiring a contract van driver from being on duty over 60 hours in 7 consecutive days, or 70 hours in a period of 8 consecutive days. After 24 hours off duty, a driver begins a new seven consecutive period and on-duty time is reset to zero.

We strongly support the new amount of uninsured/underinsured insurance requirements for Carriers transporting railroad crews.

We urge the adoption of 10.01G to mandate that all contract vans hauling railroad crews have the NPSC notice as printed.

Page 2
NPSC comments

One area of concern that we have pertaining to the proposed rewrite is the creation of minor and major defects in 05.09 and 05.10. These new provisions replace page after page of safety mandated mechanical requirements. This may create a safety concern and the Commission may want to reconsider this section.

Thank you again for undertaking this rewrite of the Commission's Rules and Regulations on Motor Carriers. Our members spend a great deal of time being transported in these vehicles and we want to see them protected as best we can.

If I can provide any further information please advise. I am including some neighboring states approach to the subject at hand.

Sincerely,



Bob Borgeson

State Director

SMART Nebraska

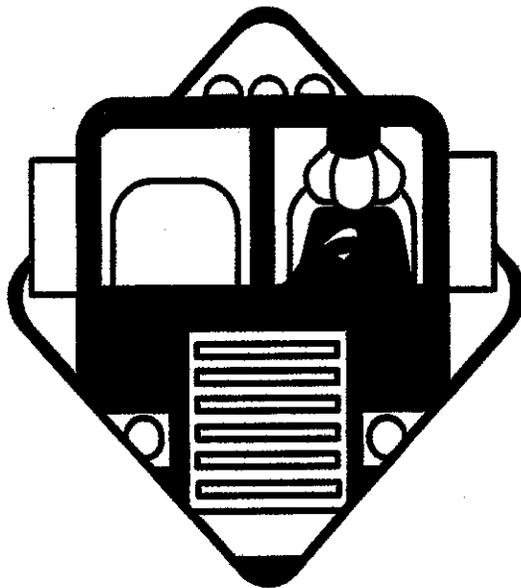
attachments

Illinois Hours of Service

Hours of service of drivers employed by contract carriers transporting employees in the course of their employment. A contract carrier shall limit the hours of service by a driver transporting employees in the course of their employment on a road or highway of this State in a vehicle designed to carry 15 or fewer passengers to 10 hours of vehicle operation per day, 15 hours of on-duty service per day, and 60 hours of on-duty service in 7 consecutive days. The contract carrier shall require a driver who has 12 hours of vehicle operation per day or 15 hours of on-duty service per day to have at least 8 consecutive hours off duty before operating a vehicle again.

PART 395

Hours of Service Drivers



Part 395

Hours of Service of Drivers

Hours of Service Final Rule Issued (Property Carrier)

Final rule for property carriers issued November 18, 2008 by FMCSA. Drivers are limited to driving 11 hours and working no more than 14 hours each day with 10 hours resting between shifts. Drivers are also limited to 60 hours on duty in 7 consecutive days or 70 hours on duty in 8 consecutive days. The Final rule is available at: www.fmcsa.dot.gov/rules-regulations/administration/rulemakings/final/E7-27437-HOS-Final-Rule-11-19-08.pdf.

General Rule

The hours of service rules apply to all motor carriers and drivers, with exceptions found in paragraphs (b) through (k) of Section 395.1.

On Duty Time

Means all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. On duty time shall include:

1. All time at a plant, terminal, facility, or other property of a motor carrier or shipper, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier.
2. All time inspecting, servicing, or conditioning any commercial motor vehicle at any time.
3. All driving time as defined in the term *driving time*.
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth.
5. All time loading or unloading a commercial motor vehicle, supervision, or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.
7. All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident, or follow-up testing required by part 382 when directed by a motor carrier.
8. Performing any other work in the capacity, employ, or service of a motor carrier; and
9. Performing any compensated work for a person who is not a motor carrier.

Driving Time

Means all time spent at the driving controls of a commercial motor vehicle in operation.

PASSENGER CARRYING VEHICLES

10-Hour Rule

Drivers are allowed to drive for ten hours following eight consecutive hours off duty.

15-Hour Rule

A motor carrier cannot permit or require a driver to drive after 15 hours are spent on duty following 8 consecutive hours off.

60 and 70 Hour Rules

A motor carrier must not permit or require a driver to drive after a total of:

- 60 hours on duty in 7 consecutive days or
- 70 hours on duty in 8 consecutive days
- If the driver works more than one job of any kind, that time must also be included as on duty time

Driver's Record of Duty Status

Every driver shall prepare a record of duty status (driver's daily log) in his/her own handwriting for each 24-hour period, unless operating under the 100 air-mile radius exemption.

Failure to complete or retain the log, or knowingly falsifying logs or other reports, makes the driver and/or carrier liable to prosecution.

100 Air-Mile Radius Exemption

A driver is exempt from maintaining the driver's daily log requirements of Section 395.8 if all of the following are true:

- The driver operates within a 100 air-mile radius of the normal work reporting location
- The driver returns to the work reporting location and is released from work within 12 consecutive hours
- Each 12 hours on duty are separated by at least 8 consecutive hours of off duty
- The driver does not exceed a maximum of ten hours driving time following eight consecutive hours off duty
- The motor carrier that employs the driver maintains and retains for a period of six months accurate and true time records that show:
 - The total number of hours the driver is on duty each day
 - The time the driver reports for duty each day
 - The time the driver is released from duty each day
 - The total time for the preceding seven days for first-time or intermittent drivers

PROPERTY CARRYING VEHICLES

Motor carriers and drivers must comply beginning on January 4, 2004 with the following:

11-Hour Rule

Drivers are allowed to drive for 11 hours following 10 consecutive hours off duty.

14-Hour Rule

A motor carrier cannot permit or require a driver to drive after 14 hours are spent on duty following 10 consecutive hours off.

16 Hour Exemption

395.1(o) A property-carrying driver is exempt from 395.3(a)(2), *the 14-hour rule*, when:

- The driver returns and is released from his normal work reporting location for the previous 5 duty tours;
- The driver returns to his normal work reporting location and is released within 16 hours; and
- The driver has not used this exemption within the previous 7 consecutive days, *except that the 16-hour provision may be used after any period of being off duty for 34 or more consecutive hours.*

60 and 70 Hour Rules

A motor carrier must not permit or require a driver to drive after a total of:

- 60 hours on duty in 7 consecutive days or
- 70 hours on duty in 8 consecutive days
- If the driver works more than one job of any kind, that time must also be included as on duty time

34 Hour Restart Provision

395.3(c)(1) & (2) allows the driver to restart the 60/70 hour period when:

- Any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours

Driver's Record of Duty Status

Every driver shall prepare a record of duty status (driver's daily log) in his/her own handwriting for each 24-hour period, unless operating under the 100 air-mile radius exemption.

Failure to complete or retain the log, or knowingly falsifying logs or other reports, makes the driver and/or carrier liable to prosecution.

100 Air-Mile Radius Exemption

395.1(e) A driver is exempt from maintaining the driver's daily log requirements of Section 395.8 if all of the following are true:

- The driver operates within a 100 air-mile radius of the normal work reporting location
- The driver returns to the work reporting location and is released from duty within 12 consecutive hours
- Each 12 hours on duty are separated by at least 10 consecutive hours of off duty
- The driver does not exceed a maximum of 11 hours driving time following 10 consecutive hours off duty
- The motor carrier that employs the driver maintains and retains for a period of six months accurate and true time records that show:
 - The total number of hours the driver is on duty each day
 - The time the driver reports for duty each day
 - The time the driver is released from duty each day
 - The total time for the preceding seven days for first-time or intermittent drivers

Non-CDL 150 Air-Mile Radius Provision

Operators of property-carrying commercial motor vehicles not requiring a CDL, as defined in Part 383, may be covered by the Non-CDL 150 air-mile radius provision. *Note that the applicability depends on the type of vehicle being driven, not whether the operator possesses a CDL.*

Drivers of Non-CDL vehicles who are operating within 150 air-mile radius of their normal work reporting location and return to their normal work reporting location at the end of their duty tour are now covered by separate HOS provisions.

These drivers are required to comply with the following:

- The 11 hours driving, minimum 10 hours off-duty, 14 consecutive hour duty period, 60/70 hours in 7/8 days, 34-hour restart all applies.
- On any 2 days of every 7 consecutive days, the driver may extend the 14-hour duty period to 16 hours.
- There is no requirement that the driver be released from duty at the end of the 14- or 16-hour duty periods. The driver may continue to perform non-driving duties, which would be counted against the 60/70 hour weekly limitation.
- Time records may be used in lieu of records of duty status.

U.S. DEPARTMENT OF TRANSPORTATION **DRIVER'S DAILY LOG** (CONF. CAL. 2004 DAY - 24 HOURS) ORIGINAL - Submit to carrier within 10 days
DUPLICATE - Driver retains possession for eight days

(1) MONTH (DAY) (YEAR) (2) (TOTAL MILES DRIVING TODAY) (3) VEHICLE NUMBERS - (SHOW EACH UNIT)

(4) (NAME OF CARRIER OR CARRIERS) (5) (DRIVER'S SIGNATURE (IF FULL))
(6) (MAIN OFFICE ADDRESS) (8) (NAME OF CO-DRIVER)
(HOME TERMINAL ADDRESS)

I certify these entries are true and correct.

	MID-NIGHT	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	TOTAL HOURS
1: OFF DUTY																									(9)
2: SLEEPER BERTH																									
3: DRIVING																									
4: ON DUTY (NOT DRIVING)																									
REMARKS (7)																									

Mid-Night 1 2 3 4 5 6 7 8 9 10 11 NOON 1 2 3 4 5 6 7 8 9 10 11

Pro or Shipping No. (10)

Shipping document, manifest number, or name of a shipper and commodity. Information required by Section 395.8(c).
Check the time and enter the name of place you reported and where released from work and when and where each change of duty occurred. Explain excess hours - Section 395.8(c).

FROM: (STARTING POINT OR PLACE) TO: (DESTINATION OR TURN AROUND POINT OR PLACE)

USE TIME STANDARD AT HOME TERMINAL

RECAP

DAY NO. _____

DRIVING HRS. TODAY
TOTAL LINE 3 _____

DRIVING VIOLATION TODAY _____

ON DUTY HRS. TODAY TOTAL LINES 3 & 4 _____

70 HRS/DAY DRIVERS

A. _____

TOTAL HRS. ON DUTY LAST 7 DAYS, INCL. TODAY _____

B. _____

TOTAL HRS. AVAILABLE TOMORROW: 70 HRS. MINUS A _____

C. _____

TOTAL HRS. ON DUTY LAST 8 DAYS INCL. TODAY _____

80 HRS/7 DAY DRIVERS

A. _____

TOTAL HRS. ON DUTY LAST 8 DAYS, INCL. TODAY _____

B. _____

TOTAL HRS. AVAILABLE TOMORROW: 80 HRS. MINUS A _____

C. _____

TOTAL HRS. ON DUTY LAST 7 DAYS, INCL. TODAY _____

Each item, required to be entered, on the Driver's Record of Duty Status is listed below, followed by a cryptic explanation of when the information should be recorded.

- (1) **Date** - Entered when the driver first comes on duty.
- (2) **Total miles driving today** - Entered at the end of the driver's workday.
- (3) **Truck or tractor and trailer number** - Entered just prior to operating the vehicle.
- (4) **Name of carrier** - Entered when the driver first comes on duty. The name of the motor carrier may be preprinted.
- (5) **Driver's signature/certification** - Entered at the end of the driver's workday.
- (6) **Main office address** - Entered when the driver first comes on duty. The address of the motor carrier may be preprinted.
- (7) **Remarks** - Entered whenever an event occurs that requires an entry in the remarks section. (Tire check - emergency condition)
- (8) **Name of co-driver** - Entered when the co-driver is known (prior to the commencement of driving operations).
- (9) **Total hours** - Computed and entered at the end of the driver's workday.
- (10) **Shipping document number(s), or name of shipper and commodity** - Entered at the time the trip is assigned to the driver (when loaded).
- (11) 24 hour period describing duty status.

Note: All supporting documents including toll tickets, fuel receipts, scale tickets, etc. must be maintained with duty status records for six months in accordance with 395.8(k)(i).

DAILY HOURS OF SERVICE

Employee Name/# _____ Month/Year _____

Each day provide the following information:

1. Time you report for work each day.
2. Time you are released from work each day.
3. The total hours worked each day.

(See Title 49 CFR, Part 395.1(e))

PROPERTY CARRIER

- *DO NOT WORK MORE THAN 12 HOURS IN ONE DAY.
- *DO NOT DRIVE MORE THAN 11 HOURS IN ONE DAY.
- *MUST BE "OFF DUTY" AT LEAST 10 CONSECUTIVE HOURS BETWEEN WORK PERIODS.

PASSENGER CARRIER

- *DO NOT WORK MORE THAN 12 HOURS IN ONE DAY.
- *DO NOT DRIVE MORE THAN 10 HOURS IN ONE DAY.
- *MUST BE "OFF DUTY" AT LEAST 8 CONSECUTIVE HOURS BETWEEN WORK PERIODS.

Hours of Service (395.1e)					COMMENTS
Date	Start	End	Total	Unit #	
1	:	:			
2	:	:			
3	:	:			
4	:	:			
5	:	:			
6	:	:			
7	:	:			
8	:	:			
9	:	:			
10	:	:			
11	:	:			
12	:	:			
13	:	:			
14	:	:			
15	:	:			
16	:	:			
17	:	:			
18	:	:			
19	:	:			
20	:	:			
21	:	:			
22	:	:			
23	:	:			
24	:	:			
25	:	:			
26	:	:			
27	:	:			
28	:	:			
29	:	:			
30	:	:			
31	:	:			

HOURS-OF-SERVICE RECORD FOR FIRST TIME OR INTERMITTENT DRIVERS

Instructions: When using a driver for the first time or intermittently, a signed statement must be obtained, giving the total time on duty (driving and on duty) during the immediate preceding seven days and the time at which the driver was last relieved from duty prior to beginning work.

Name: (Print) _____

First

Middle

Last

DAY

TOTAL TIME ON DUTY

1

2

3

4

5

6

7

TOTAL

I hereby certify that the information contained herein is true to the best of my knowledge and belief, and that my last period of release from duty was from:

_____ to _____
(Hour/Date) (Hour/Date)

Signature _____ Date _____

Submitting/Retaining Duty Status Log

The driver must submit the original log sheet to the employing carrier within 13 days after completion. When a motor carrier uses a driver initially or intermittently, that carrier must obtain from him/her a signed statement giving the total time on duty during the immediately preceding 7 days and the time at which he/she was last relieved of duty. Records of duty status must be maintained for a minimum of six months at the carrier's principal place of business, with all supporting documents.

Electronic On-Board Recording Devices

Alternatively, motor carriers may require a driver to use an *electronic on-board recording device (EOBR)* to record duty status. The driver must still have in his/her possession records of duty status in automated or written form, for the previous seven consecutive days. The driver must sign all hard copies of the driver's record of duty status.

EOBR information requirements:

- Shall produce, upon demand, a driver's hours of service chart, electronic display, or printout showing the time and sequence of duty status changes including the drivers' starting time at the beginning of each day.
- Shall provide a means whereby authorized Federal, State, or local officials can immediately check the status of a driver's hours of service. This information may be used in conjunction with handwritten or printed records of duty status, for the previous 7 days.
- Support systems used in conjunction with on board recorders at a driver's home terminal or the motor carrier's principal place of business must be capable of providing authorized Federal, State or local officials with summaries of an individual driver's hours of service records, including the information specified in §395.8(d). The support systems must also provide information concerning on board system sensor failures and identification of edited data. Such support systems should meet the information interchange requirements of the American National Standard Code for Information Interchange (ANSII) (EIA RS 232/CCITV.24 port (National Bureau of Standards "Code for Information Interchange," FIPS PUB 1 1)).
- The driver shall have in his/her possession records of duty status for the previous 7 consecutive days available for inspection while on duty. These records shall consist of information stored in and retrievable from the automatic on board recording device, handwritten records, computer generated records, or any combination thereof.
- All hard copies of the driver's record of duty status must be signed by the driver. The driver's signature certifies that the information contained thereon is true and correct.

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H2/11/09 S2/17/09

A Bill

HOUSE BILL 1318

5 By: Representatives Nix, M. Burris, Carroll
6
7

For An Act To Be Entitled

9 AN ACT TO ENSURE THE SAFE TRANSPORTATION OF
10 RAILROAD EMPLOYEES BY CONTRACT CARRIERS BY
11 ESTABLISHING STANDARDS FOR DRIVERS EMPLOYED BY
12 THE CONTRACT CARRIERS AND THE MOTOR VEHICLES USED
13 BY THE CONTRACT CARRIERS; AND FOR OTHER PURPOSES.
14

Subtitle

15 THE SAFE TRANSPORTATION OF RAILROAD
16 EMPLOYEES BY CONTRACT CARRIERS ACT.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code Title 23, Chapter 16 is amended to add an
23 additional subchapter to read as follows:

24 23-16-501. Title.

25 This subchapter shall be known as and may be cited as the "Safe
26 Transportation of Railroad Employees by Contract Carriers Act".
27

28 23-16-502. Definitions.

29 As used in this subchapter:

30 (1) "Contract carrier" means a passenger contract carrier that
31 for compensation transports railroad employees with a vehicle designed or
32 used to transport eight (8) persons or less, including the driver; and

33 (2)(A) "On-duty time" means all time at a terminal, facility, or
34 other property of a contract carrier or on any public property waiting to be
35 dispatched.

36 (B) "On-duty time" includes time spent inspecting,



1 servicing or conditioning the vehicle, unless the driver has been relieved
2 from duty by the contract carrier.

3
4 23-16-503. Driver qualification file.

5 (a)(1) A contract carrier shall maintain a driver qualification file
6 for each driver it employs.

7 (2) The driver qualification file may be combined with the
8 personnel file of the employee.

9 (b) The driver qualification file shall include:

10 (1) A certificate of physical examination conducted by a
11 physician every two (2) years that certifies the physical ability of the
12 driver to operate a commercial motor vehicle;

13 (2) Documentation that establishes that the driver's driving
14 record has been reviewed at least one (1) time per year;

15 (3) Documentation related to the driver's violation of motor
16 vehicle laws or ordinances, if applicable;

17 (4) Other documentation related to the driver's qualification or
18 ability to drive a motor vehicle;

19 (5) The driver's application for employment as provided under 49
20 C.F.R. 391.21.

21 (6) Responses from previous employers, if required by the
22 current employer; and

23 (7) A certificate of the driver's road test or a copy of the
24 current driver's license.

25
26 23-16-504. Driver disqualification and limitations.

27 (a) A driver is disqualified from driving for a contract carrier under
28 this subchapter if the driver has committed two (2) or more serious traffic
29 violations under § 27-16-401 within a three-year period.

30 (b)(1) A contract carrier shall not allow or require a driver to drive
31 or remain on duty for more than:

32 (A) Ten (10) hours after eight (8) consecutive hours off-
33 duty;

34 (B) Fifteen (15) hours of combined on-duty time and drive
35 time since last obtaining eight (8) consecutive hours of off-duty time; or

36 (C) Seventy (70) hours of on-duty and drive time in any

1 period of eight (8) consecutive days.

2 (2) After twenty-four (24) hours off-duty, a driver begins a new
3 seven (7) consecutive day period and on-duty time is reset to zero (0).

4 (3) A transport vehicle driver who encounters an emergency and
5 cannot, because of that emergency, safely complete a transportation
6 assignment within the ten-hour maximum driving time permitted under this
7 section may drive and be permitted or required to drive a transport motor
8 vehicle for not more than two (2) additional hours in order to complete that
9 transportation assignment or to reach a place offering safety for the
10 occupants of the transport motor vehicle and security for the transport motor
11 vehicle if the transportation assignment reasonably could have been completed
12 within the ten-hour period absent the emergency.

13 (c) A contract carrier shall maintain and retain for a period of six
14 (6) months accurate time records that show:

15 (1) The time the driver reports for duty each day;

16 (2) The total number of hours of on-duty time for each driver
17 for each day;

18 (3) The time the driver is released from duty each day; and

19 (4) The total number of hours driven each day.

20
21 23-16-505. Driver testing.

22 (a)(1) Before a driver performs any duties for a contract carrier, the
23 driver shall undergo testing for alcohol and controlled substances as
24 provided under 49 C.F.R. Part 40 and Part 382, as in effect on January 1,
25 2009.

26 (2) A driver is qualified to drive for a contract carrier if:

27 (A) The alcohol test result under subdivision (a)(1) of
28 this section indicates an alcohol concentration of zero (0); and

29 (B) The controlled substances test result from the medical
30 review officer as defined under 49 C.F.R. Part 40.3, as in effect on January
31 1, 2009, indicates a verified negative test result.

32 (3) A driver is disqualified from driving for a contract carrier
33 if:

34 (A) The alcohol test result and the controlled substances
35 test result are not in compliance with subdivision (a)(2) of this section;

36 (B) The driver refuses to provide a specimen for an

1 alcohol test result or the controlled substances test result or both; or

2 (C) The driver submits an adulterated specimen, a dilute
3 positive specimen, or a substituted specimen on an alcohol test result or the
4 controlled substances test result that is performed.

5 (b)(1) As soon as practicable after an accident involving a motor
6 vehicle owned or operated by a contract carrier, the contract carrier shall
7 test each surviving driver for alcohol and controlled substances if:

8 (A) The accident involved the loss of human life; or

9 (B) The driver received a citation for a moving traffic
10 violation arising from the accident and the accident involved:

11 (i) Bodily injury to a person who immediately
12 received medical treatment after the accident; or

13 (ii) Disabling damage that required the motor
14 vehicle to be towed from the accident scene to one (1) or more motor vehicles
15 as a result of the accident.

16 (2) If alcohol testing and controlled substances testing cannot
17 be completed as soon as possible but no later than thirty-two (32) hours
18 after the accident, the records shall be submitted to the Arkansas Highway
19 Police Division of the Arkansas State Highway and Transportation Department.

20 (c)(1) A common carrier or the employer of a driver of a common
21 carrier shall maintain records of the alcohol testing and controlled
22 substances testing of drivers for five (5) years.

23 (2) The records shall be maintained in a secure location.

24
25 23-16-506. Vehicle inspection.

26 (a) A contract carrier shall inspect or cause to be inspected a motor
27 vehicle that it operates for passenger transportation.

28 (b)(1) If a contract carrier uses a commercial motor vehicle for
29 passenger transportation, the contract carrier shall perform an inspection on
30 the commercial motor vehicle and its components at least one (1) time in
31 every twelve-month period in compliance with the rules promulgated by the
32 United States Department of Transportation as provided under 49 C.F.R.
33 396.17, Appendix G.

34 (2) The inspection under this subsection shall be performed by
35 an individual who is qualified to perform the inspection as prescribed in 49
36 C.F.R. Part 396.19, as in effect on January 1, 2009.

1 (c) A contract carrier shall require each of its drivers to complete a
2 written motor vehicle report upon completion of each day's work on the motor
3 vehicle that the driver operated as prescribed under 49 C.F.R. Part 396.11,
4 as in effect on January 1, 2009.

5
6 23-16-507. Maintenance and repair program.

7 (a) A contract carrier shall establish a maintenance and repair
8 program to include at least weekly inspections under this section.

9 (b) A contract carrier's maintenance and repair program shall include
10 checking parts and accessories for safety and proper operation at all times,
11 including the items under subsection (c) of this section, and overall
12 cleanliness of the motor vehicle.

13 (c) A motor vehicle used by a contract carrier shall have:

14 (1) Tires with sufficient tread as prescribed under 49 C.F.R.
15 Part 393.75, as in effect on January 1, 2009;

16 (2) A spare tire that is fully inflated;

17 (3) A secured location for personal baggage, including proper
18 restraints;

19 (4) Fully-operational seatbelts for all passenger seats;

20 (5) If the weather requires it, traction devices, studs, or
21 chains;

22 (6) A heater and air conditioner that is properly working with
23 properly working fans; and

24 (7) An emergency road kit that contains at least a tire
25 inflating aerosol can, flares or reflective triangles, jumper cables, and a
26 fire extinguisher.

27 (d) A motor vehicle shall not be operated in a condition that is
28 likely to cause an accident or mechanical breakdown.

29 (e)(1) A contract carrier shall maintain records for its maintenance
30 and repair program for each motor vehicle.

31 (2) The records shall include:

32 (A) Identifying information for the motor vehicle to
33 include the vehicle identification number, make, year manufactured, and
34 company identification number if one is provided;

35 (B) Owner information if the contract carrier is not the
36 owner of the vehicle; and

1 (C) The history of inspections, repairs, and maintenance
2 that describe the activity and the date the activity was performed.

3 (3)(A) Except as provided under subdivision (e)(3)(B) of this
4 section, the records under this subsection shall be maintained by the
5 contract carrier at its place of business for one (1) year.

6 (B) If the motor vehicle leaves the contract carrier's
7 control, the records under this subsection shall be maintained by the
8 contract carrier at its place of business for six (6) months.

9 (f) A contract carrier and its officers, drivers, agents, and
10 employees who are concerned with the inspection or maintenance of motor
11 vehicles shall comply with and be knowledgeable of the contract carrier's
12 maintenance and repair program under this section.

13
14 23-16-508. Access to facilities and records.

15 A contract carrier shall allow an employee of the Arkansas Highway
16 Police Division of the Arkansas State Highway and Transportation Department
17 or its designee access to:

18 (1) A facility to determine compliance with this subchapter; and

19 (2) Records or information related to an accident investigation
20 under this subchapter.

21
22 23-16-509 . Liability protection.

23 A contract carrier shall obtain and maintain an insurance policy of
24 five million dollars (5,000,000) for each motor vehicle that transports
25 railroad employees.

26
27 23-16-510. Penalties.

28 (a)(1) A person who knowingly violates a provision of this subchapter
29 is liable to the state for a civil penalty not to exceed one thousand dollars
30 (\$1,000) for each violation.

31 (2) Each day that a violation continues is a separate offense.

32 (b) The Arkansas Highway Police Division of the Arkansas State Highway
33 and Transportation Department shall assess penalties for violations under
34 this subchapter by written notice to the violator.

35 (c) To determine the amount of the penalty, the department or its
36 designee shall evaluate:

221.0255 MOTOR CARRIER OF RAILROAD EMPLOYEES.

(a) A motor carrier of railroad employees must meet the requirements specified in this section, is subject to section 221.291, and is otherwise exempt from the provisions of this chapter.

(b) A vehicle operator for a motor carrier of railroad employees who transports passengers must:

- (1) have a valid driver's license under chapter 171; and
- (2) submit to a physical examination.

(c) The carrier must implement a policy that provides for annual training and certification of the operator in:

- (1) safe operation of the vehicle transporting railroad employees;
- (2) knowing and understanding relevant laws, rules of the road, and safety policies;
- (3) handling emergency situations;
- (4) proper use of seat belts;
- (5) performance of pretrip and posttrip vehicle inspections, and inspection record keeping;

and

(6) proper maintenance of required records.

(d) The carrier must:

- (1) perform a background check or background investigation of the operator;
- (2) annually verify the operator's driver's license;
- (3) document meeting the requirements in this subdivision, and maintain the file at the carrier's business location;
- (4) maintain liability insurance in a minimum amount of \$5,000,000 regardless of the seating capacity of the vehicle; and
- (5) maintain uninsured and underinsured coverage in a minimum amount of \$1,000,000.

If a party contracts with the motor carrier on behalf of the railroad to transport the railroad employees, then the insurance requirements may be satisfied by either that party or the motor carrier, so long as the motor carrier is a named insured or additional insured under any policy.

(e) A person who sustains a conviction of violating section 169A.25, 169A.26, 169A.27, or 169A.31, or whose driver's license is revoked under sections 169A.50 to 169A.53 of the implied consent law, or who is convicted of or has their driver's license revoked under a similar statute or ordinance of another state, may not operate a vehicle under this subdivision for five years from the date of conviction. A person who sustains a conviction of a moving offense in violation of chapter 169 within three years of the first of three other moving offenses may not operate a vehicle under this subdivision for one year from the date of the last conviction. A person who has ever been convicted of a disqualifying offense as defined in section 171.3215, subdivision 1, paragraph (c), may not operate a vehicle under this subdivision.

(f) An operator who sustains a conviction as described in paragraph (e) while employed by the carrier shall report the conviction to the carrier within ten days of the date of the conviction.

(g) A carrier must implement a mandatory alcohol and controlled substance testing program as provided under sections 181.950 to 181.957 that consists of preemployment testing, postaccident testing, random testing, reasonable suspicion testing, return-to-duty testing, and follow-up testing.

(h) A motor carrier of railroad employees shall not allow or require a driver to drive or remain on duty for more than: ten hours after eight consecutive hours off duty; 15 hours of combined on-duty time and drive time since last obtaining eight consecutive hours of off-duty time; or 70 hours of on-duty and drive time in any period of eight consecutive days. After 24 hours off duty, a driver begins a new seven consecutive day period and on-duty time is reset to zero.

(i) An operator who encounters an emergency and cannot, because of that emergency, safely complete a transportation assignment within the ten-hour maximum driving time permitted under paragraph (h), may drive for not more than two additional hours in order to complete that transportation assignment or to reach a place offering safety for the occupants of the vehicle and security for the transport motor vehicle, if the transportation assignment reasonably could have been completed within the ten-hour period absent the emergency.

(j) A carrier shall maintain and retain for a period of six months accurate time records that show the time the driver reports for duty each day; the total number of hours of on-duty time for each driver for each day; the time the driver is released from duty each day; and the total number of hours driven each day.

(k) For purposes of this subdivision, the following terms have the meanings given:

(1) "conviction" has the meaning given in section 609.02; and

(2) "on-duty time" means all time at a terminal, facility, or other property of a contract carrier or on any public property waiting to be dispatched. On-duty time includes time spent inspecting, servicing, or conditioning the vehicle.

History: 2010 c 351 s 57

NOTE: Paragraph (d), clause (5), as added by Laws 2010, chapter 351, section 57, is effective July 1, 2011. Laws 2010, chapter 351, section 57, the effective date.