

601 KAR 1:005. Safety administrative regulation.

RELATES TO: KRS 138.665, 281.013, 281.600, 281.730, 281.750, 281.880, Chapter 281A, 49 C.F.R. 40, 350, 381-385, 390-397, 1572

STATUTORY AUTHORITY: KRS 281.600, 281.730, 281.750, 281.880-281.888, 49 C.F.R. 40, 382-384, 385, 390-397, 1572

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600 authorizes the Transportation Cabinet to promulgate administrative regulations relating to safety requirements for motor vehicles and the method of operation, including adoption of any federal motor carrier safety regulations. This administrative regulation establishes requirements for motor carriers operating in Kentucky. This administrative regulation establishes requirements related to exemptions from medical examination for private motor carriers of passengers that are more stringent than the requirements in 49 C.F.R. 391.68(c), which allows these carriers to avoid medical examination. Kentucky does not allow these medical waivers.

Section 1. Definitions. (1) "City bus" is defined in KRS 281.013(1)(b).

(2) "Daylight hours" means that period of time one-half (1/2) hour before sunrise through one-half (1/2) hour after sunset.

(3) "Farm-to-market agricultural transportation" means the operation of a motor vehicle that is controlled and operated by a farmer who, as a private motor carrier, is using a vehicle:

- (a) 1. To transport agricultural products from his or her farm;
2. To transport farm machinery or farm supplies to his or her farm; or
3. Generally thought of as farm machinery; and

(b) Which is not transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with 601 KAR 1:025.

(4) "Load limit" means the seating capacity established by the manufacturer for a passenger-carrying vehicle plus an additional twenty-five (25) percent.

(5) "Suburban bus" is defined in KRS 281.013(2)(b).

(6) "Utility" means an entity which provides water, electricity, natural gas, sewage disposal, telephone service, television cable, or community antenna service.

Section 2. Governing Federal Regulations. A commercial motor vehicle and its operator meeting the definitions set forth in 49 C.F.R. 390.5 operating for-hire or in private carriage, interstate or intrastate, except as set forth in Section 3 of this administrative regulation, shall be governed by the following Motor Carrier Safety Regulations and Transportation Security Administration Regulations adopted and issued by the United States Department of Transportation,:

- (1) 49 C.F.R. 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs;
- (2) 49 C.F.R. 382, Controlled Substances and Alcohol Use and Testing;
- (3) 49 C.F.R. 383, Commercial Driver's License Standards; Requirements and Penalties;
- (4) 49 C.F.R. 384, State Compliance with Commercial Driver's License Program;
- (5) 49 C.F.R. 385, Safety Fitness Procedures;
- (6) 49 C.F.R. 390, General;
- (7) 49 C.F.R. 391, Qualifications of Drivers;
- (8) 49 C.F.R. 392, Driving of Commercial Motor Vehicles;
- (9) 49 C.F.R. 393, Parts and Accessories Necessary for Safe Operation;
- (10) 49 C.F.R. 395, Hours of Service of Drivers;
- (11) 49 C.F.R. 396, Inspection, Repair and Maintenance;
- (12) 49 C.F.R. 397, Transportation of Hazardous Materials; Driving and Parking Rules; and
- (13) 49 C.F.R. 1572, Credentialing and Background Checks for Maritime and Land Transportation Security.

Section 3. Exemptions and Exceptions. The following exemptions and exceptions to compliance with the provisions of Section 2 of this administrative regulation shall be made:

(1)(a) A city or suburban bus shall not be required to comply with the federal regulations governing this administrative regulation, except as required by paragraph (b) of this subsection.

(b) The operator of one (1) of these vehicles who is required by KRS Chapter 281A to obtain a commercial driver's license shall:

1. Comply with the provisions of 49 C.F.R. 382 and 383; and
- 2.a. Provide proof of having passed the medical examination set forth in 49 C.F.R. 391; or

b. Have received a medical waiver as set forth in 601 KAR 11:040 and subsection (7) of this section for intrastate operators or as set forth in 49 C.F.R. 381 for interstate operators.

(2)(a) A motor vehicle operated by the federal government, a state government, a county government, a city government, or a board of education shall not be required to comply with the federal regulations adopted in this administrative regulation, except as required by paragraphs (b) and (c) of this subsection.

(b) An operator of one (1) of these vehicles who is required by KRS Chapter 281A to obtain a commercial driver's license shall provide proof of:

1. Having passed the medical examination set forth in 49 C.F.R. 391; or

2. Having received a medical waiver as set forth in 601 KAR 11:040 and subsection (7) of this section for intrastate operators or as set forth in 49 C.F.R. 381 for interstate operators.

(c) The operator of a vehicle specified in paragraph (a) of this subsection shall meet the requirements of 49 C.F.R. 382 relating to drug and alcohol testing.

(3)(a) A motor vehicle which is used exclusively in intrastate commerce and exclusively in farm-to-market agricultural transportation

when operated during daylight hours by a private motor carrier shall not be required to comply with 49 C.F.R. 393.9 to 393.33, relative to lighting device requirements, except as required by paragraph (b) of this subsection.

(b) A motor vehicle as described in paragraph (a) of this subsection shall have two (2) stop lamps and mechanical turn signals as set forth in 49 C.F.R. 393.9 to 393.33.

(4)(a) A motor vehicle which is used exclusively in intrastate commerce and exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility which is located at a point not more than fifty (50) air miles (eighty and five-tenths (80.5) air kilometers) from the harvest area when operated during daylight hours shall not be required to comply with 49 C.F.R. 393.9 to 393.33, relative to lighting devices requirements, except as required by paragraph (b) of this subsection.

(b) A motor vehicle as described in paragraph (a) of this subsection shall have two (2) stop lamps and mechanical turn signals as set forth in 49 C.F.R. 393.9 to 393.33.

(5) Except for a transporter of hazardous materials subject to the requirements of 601 KAR 1:025, a motor vehicle operator who is operating a vehicle in intrastate commerce shall not be required to be twenty-one (21) years of age as set forth in 49 C.F.R. 391.11(b)(1). However, he shall be at least eighteen (18) years of age.

(6) A utility service vehicle as defined in 49 C.F.R. 395.2 shall be exempt from the maximum-driving and on-duty time for drivers as set forth in 49 C.F.R. 395.

(7) Medical waivers for intrastate drivers.

(a) A commercial vehicle driver who operates a commercial vehicle exclusively in intrastate commerce within Kentucky may apply for a medical waiver of the requirements of 49 C.F.R. 391 under the provisions of 601 KAR 11:040.

(b) If a medical waiver is issued, the waiver shall be in the possession of the commercial driver any time the driver is operating a commercial motor vehicle.

(8) Except for a farm-to-market agricultural transportation motor vehicle with a gross vehicle weight rating of 26,000 pounds or less, a motor carrier which operates exclusively in intrastate commerce shall:

(a) Apply for an intrastate motor carrier identification number on Form TC 95-1, "Kentucky Trucking Application", October 2004 edition or Form TC 92-150, "Application for Intrastate Carrier Identification Number", March 1996 edition;

(b) Display the assigned intrastate motor carrier identification number and the name of the motor carrier in the same manner as required pursuant to 49 C.F.R. 390.21 except the identification number shall be preceded by the letters "USDOT" and followed by the letters "KY".

(9) Notwithstanding 49 C.F.R. 391.68(c), a Kentucky licensed commercial driver operating a passenger transportation vehicle on behalf of a private motor carrier of passengers shall not be exempt from the sections of 49 C.F.R. 391.41 and 391.45 requiring a driver to be medically examined and to have a medical examiner's certificate on his or her person.

Section 4. Buses. (1) A bus shall be maintained in a clean and sanitary condition so that the health of passengers will not be impaired.

(2) A seat shall be comfortable in order that passengers will not be subjected to unreasonable discomfort which might be detrimental to their health and welfare.

(3) An employee in charge of buses shall be courteous and helpful to passengers, properly caring for baggage so that it will not be damaged, and shall be acquainted with the routes traveled and schedules maintained, so that the passengers will not be subjected to unnecessary delays.

(4) An operator shall take into consideration the health and welfare of his or her passengers and control his or her operations in the public interest.

(5) Express and freight, mail bags, newspapers and baggage shall be so placed as not to interfere with the driver or with the safety and comfort of passengers. These items shall be protected from the weather but shall not be carried in the aisles or in a position to block exits or doorways on the bus.

Section 5. Overcrowding of Passenger Vehicles. A bus operated by an authorized carrier, except city or suburban buses, shall not be used to transport passengers in excess of its load limit. A passenger shall not be permitted to occupy the rear door-well of any bus vehicle that is equipped with a rear doorwell.

Section 6. Out-of-service Criteria and Sticker. (1) The basic safety criteria to be followed by the Kentucky Transportation Cabinet in determining if a commercial motor vehicle driver or commercial motor vehicle shall be declared unqualified or placed out-of-service shall be the "North American Uniform Out-of-service Criteria" issued by the Commercial Vehicle Safety Alliance.

(2)(a) If a commercial motor vehicle is being operated with improper or invalid registration, without registration or in violation of any safety regulation or requirement, an officer or inspector of the Division of Motor Vehicle Enforcement shall be authorized to affix to the vehicle a notice indicating the nature of the violation and requiring its correction before the commercial motor vehicle is further operated.

(b) Refusal of the vehicle operator to grant permission for a law enforcement officer or inspector to conduct a safety inspection of the vehicle shall be cause for the officer or inspector to place the vehicle out-of-service until the permission is granted.

(c) Operation of a vehicle in violation of the out-of-service notice affixed to it shall constitute a separate violation of this administrative regulation.

(3)(a) If a commercial motor vehicle driver is determined to be unqualified to drive and is placed out-of-service but the commercial motor vehicle is not placed out-of-service, the motor carrier may provide a different driver for the commercial motor vehicle.

(b) The commercial motor vehicle driver placed out-of-service shall not again operate a commercial motor vehicle until he is once again qualified.

(c) Refusal of the commercial motor vehicle driver to grant permission for a law enforcement officer or inspector to conduct a safety inspection regarding the driver himself shall be cause for the officer to place the driver out-of-service until the permission is granted.

(d) Operating a commercial motor vehicle in violation of an out-of-service order shall constitute a separate violation of this administrative regulation.

Section 7. Persons Allowed to Perform Physical Examinations. A physical examination required pursuant to state or federal law shall be conducted by a medical examiner as defined in 49 C.F.R. 390.5. The following shall qualify:

- (1) Physician licensed by the Kentucky Board of Medical Licensure;
- (2) Osteopath licensed by the Kentucky Board of Medical Licensure;
- (3) Physician assistant certified by the Kentucky Board of Medical Licensure if working under the direct supervision of a licensed physician;
- (4) Advanced registered nurse practitioner licensed by the Kentucky Board of Nursing; and
- (5) Chiropractor licensed by the Kentucky State Board of Chiropractic Examiners.

Section 8. Intrastate Safety Rating System. (1) The Transportation Cabinet may issue a safety rating to a motor carrier subject to the provisions of this administrative regulation if all of the commercial motor vehicles operated by the motor carrier are operated exclusively in intrastate commerce.

(2) The safety standards and rating criteria set forth in 49 C.F.R. 385 shall be used by the Transportation Cabinet in issuing a safety rating.

Section 9. Random Alcohol Testing Rate. A commercial motor vehicle employer shall randomly test a percentage of the average number of driver positions employed by the employer. The applicable percentage shall be determined by the Federal Motor Carrier Safety Administration's Administrator annually as set forth in 49 C.F.R. 382.305.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "North American Uniform Out-Of-Service Criteria" revised April 1, 2005 by the Commercial Vehicle Safety Alliance;
- (b) TC 95-1, "Kentucky Trucking Application," revised October, 2004; and
- (c) TC 92-150, "Application for Intrastate Carrier Identification Number," revised March, 1996.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at any of the weigh stations operated by the Transportation Cabinet, and at the Division of Motor Carriers, 2nd Floor, Transportation Cabinet Office Building, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. (DMT-19; 1 Ky.R. 1037; eff. 6-11-75; Am. 2 Ky.R. 501; eff. 6-12-76; 13 Ky.R. 535; 895; 1071; eff. 11-11-86; 14 Ky.R. 1094; eff. 1-4-88; 15 Ky.R. 45; 816; eff. 10-4-88; 1695; 2072; eff. 3-7-89; 15 Ky.R. 2435; 16 Ky.R. 161; eff. 8-1-89; 1242; 1595; eff. 3-8-90; 2735; eff. 8-9-90; 17 Ky.R. 2504; 2978; eff. 6-4-91; 19 Ky.R. 225; 885; eff. 10-8-92; 1411; eff. 1-21-93; 20 Ky.R. 840; eff. 11-16-93; 3307; 21 Ky.R. 343; eff. 7-13-94; 3070; eff. 8-1-95; 22 Ky.R. 1716; 2029; 2293; eff. 6-6-96; 23 Ky.R. 2257; 2817; 2-10-97; 24 Ky.R. 1932; 2392; eff. 6-15-98; 25 Ky.R. 2190; 2565; eff. 5-4-99; 29 Ky.R. 178; 707; eff. 9-16-2002; 30 Ky.R. 1831; 2024; 2143; eff. 3-3-04; 31 Ky.R. 214; eff. 9-7-04; 1016; 1240; eff. 1-21-05; 32 Ky.R. 960; 1241; eff. 1-18-06.)