

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.  
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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.

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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.

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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.

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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.

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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.

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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.

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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:

