

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

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:

