

1 STATE OF OKLAHOM

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1931

By: Corn

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5
6 AS INTRODUCED

7 An Act relating to railroads; creating the Safe
8 Transportation of Railroad Employees Act; providing
9 short title; defining terms; requiring carries for
10 hire to maintain certain driver qualification
11 information; stating disqualifications for certain
12 drivers; mandating certain requirements driver duties;
13 requiring certain carriers maintain duty reports;
14 requiring drivers to undergo certain drug and alcohol
15 testing; stating procedures for accident
16 investigations; requiring certain vehicle inspection
17 and maintenance and retention of records; authorizing
18 certain access for Department of Public Safety;
19 requiring certain insurance obligation; stating
20 penalties for violations; stating construction;
21 authorizing promulgation of rules; providing for
22 codification; providing for noncodification; and
23 providing an effective date.
24

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 340.1 of Title 66, unless there
is created a duplication in numbering, reads as follows:

This act shall be known as and may be cited as the "Safe
Transportation of Railroad Employees Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 340.2 of Title 66, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 A. "Carrier for hire" means a passenger carrier that for
6 compensation transports railroad employees with a vehicle designed
7 or used to transport eight persons or less, including the driver;
8 and

9 B. "On-duty time" means all time at a terminal, facility, or
10 other property of a carrier for hire or on any public property
11 waiting to be dispatched, including time spent inspecting,
12 servicing, or conditioning the vehicle, unless the driver has been
13 relieved from duty by the carrier for hire.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 340.3 of Title 66, unless there
16 is created a duplication in numbering, reads as follows:

17 A. 1. A carrier for hire shall maintain a driver qualification
18 file for each driver it employs.

19 2. The driver qualification file may be combined with the
20 personnel file of the employee.

21 B. The driver qualification file shall include:

22 1. A certificate of physical examination conducted by a
23 physician every two (2) years that certifies the physical ability of
24 the driver to operate a commercial motor vehicle;

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

3 3. Documentation related to the driver's violation of motor
4 vehicle laws or ordinances, if applicable;

5 4. Other documentation related to the driver's qualification or
6 ability to drive a motor vehicle;

7 5. The driver's application for employment;

8 6. Responses from previous employers, if required by the
9 current employer; and

10 7. A certificate of the driver's road test or a copy of the
11 current driver license.

12 SECTION 4. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 340.4 of Title 66, unless there
14 is created a duplication in numbering, reads as follows:

15 A. A driver is disqualified from driving for a carrier for hire
16 under this act if the driver has committed two or more serious
17 traffic violations within a three-year period.

18 B. 1. A carrier for hire shall not allow or require a driver
19 to drive or remain on duty for more than:

20 a. ten (10) hours after eight (8) consecutive hours off-
21 duty,

22 b. fifteen (15) hours of combined on-duty time and drive
23 time since last obtaining eight (8) consecutive hours
24 of off-duty time, or

1 c. seventy (70) hours of on-duty and drive time in any
2 period of eight (8) consecutive days.

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

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

15 C. A carrier for hire shall maintain and retain for a period of
16 six (6) months accurate time records that show:

17 1. The time the driver reports for duty each day;

18 2. The total number of hours of on-duty time for each driver
19 for each day;

20 3. The time the driver is released from duty each day; and

21 4. The total number of hours driven each day.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 340.5 of Title 66, unless there
24 is created a duplication in numbering, reads as follows:

1 A. 1. Before a driver performs any duties for a carrier for
2 hire, the driver shall undergo testing for alcohol and controlled
3 substances as provided under 49 C.F.R. Part 40 and Part 382, as in
4 effect on January 1, 2009.

5 2. A driver is qualified to drive for a carrier for hire if:

6 a. the alcohol test result as required subsection A 1 of
7 this section indicates an alcohol concentration of
8 zero (0), and

9 b. the controlled substances test result from the medical
10 review officer as defined under 49 C.F.R. Part 40.3,
11 as in effect on January 1, 2009, indicates a verified
12 negative test result.

13 3. A driver is disqualified from driving for a carrier for hire
14 if:

15 a. the alcohol test result and the controlled substances
16 test result are not in compliance with the requirement
17 A(2) of this section,

18 b. the driver refuses to provide a specimen for an
19 alcohol test result or the controlled substances test
20 result, or both, or

21 c. the driver submits an adulterated specimen, a diluted
22 positive specimen, or a substituted specimen on an
23 alcohol test result or the controlled substances test
24 result that is performed.

1 B. 1. As soon as practicable after an accident involving a
2 motor vehicle owned or operated by a carrier for hire, the carrier
3 for hire shall test each surviving driver for alcohol and controlled
4 substances if:

5 a. the accident involved the loss of human life, or

6 b. the driver received a citation for a moving traffic
7 violation arising from the accident and the accident
8 involved:

9 (1) bodily injury to a person who immediately
10 received medical treatment after the accident, or

11 (2) disabling damage that required the motor vehicle
12 to be towed from the accident scene to one or
13 more motor vehicles as a result of the accident.

14 2. If alcohol testing and controlled substances testing cannot
15 be completed as soon as possible, but no later than thirty-two (32)
16 hours after the accident, the records shall be submitted to the
17 Department of Public Safety.

18 C. 1. A carrier for hire or the employer of a driver of a
19 carrier for hire shall maintain records of the alcohol testing and
20 controlled substances testing of drivers for five (5) years.

21 2. The records shall be maintained in a secure location.

22 SECTION 6. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 340.6 of Title 66, unless there
24 is created a duplication in numbering, reads as follows:

1 A. A carrier for hire shall inspect or cause to be inspected a
2 motor vehicle that it operates for passenger transportation.

3 B. 1. If a carrier for hire uses a commercial motor vehicle
4 for passenger transportation, the carrier for hire shall perform an
5 inspection on the commercial motor vehicle and its components at
6 least one time in every twelve-month period in compliance with the
7 rules promulgated by the United States Department of Transportation
8 as provided under 49 Code of Federal Regulations, Section 396.17,
9 Appendix G.

10 2. The inspection under this subsection shall be performed by
11 an individual who is qualified to perform the inspection as
12 prescribed in 49 Code of Federal Regulations, Section 396.19, as in
13 effect on January 1, 2009.

14 C. A carrier for hire shall require each of its drivers to
15 complete a written motor vehicle report upon completion of each
16 day's work on the motor vehicle that the driver operated as
17 prescribed under 49 Code of Federal Regulations, Section 396.11, as
18 in effect on January 1, 2009.

19 SECTION 7. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 340.7 of Title 66, unless there
21 is created a duplication in numbering, reads as follows:

22 A. A carrier for hire shall establish a maintenance and repair
23 program to include at least weekly inspections as required by this
24 section.

1 B. A carrier for hire maintenance and repair program shall
2 include checking parts and accessories for safety and proper
3 operation at all times, including the items under subsection C of
4 this section, and overall cleanliness of the motor vehicle.

5 C. A motor vehicle used by a carrier for hire shall have:

6 1. Tires with sufficient tread as prescribed under 49 Code of
7 Federal Regulations, Section 393.75, as in effect on January 1,
8 2009;

9 2. A spare tire that is fully inflated;

10 3. A secured location for personal baggage, including proper
11 restraints;

12 4. Fully operational seatbelts for all passenger seats;

13 5. If the weather requires it, traction devices, studs, or
14 chains;

15 6. A heater and air conditioner that is properly working with
16 properly working fans; and

17 7. An emergency road kit that contains at least a tire-
18 inflating aerosol can, flares or reflective triangles, jumper
19 cables, and a fire extinguisher.

20 D. A motor vehicle shall not be operated in a condition that is
21 likely to cause an accident or mechanical breakdown.

22 E. 1. A carrier for hire shall maintain records for its
23 maintenance and repair program for each motor vehicle.

24 2. The records shall include:

- 1 a. identifying information for the motor vehicle to
2 include the vehicle identification number, make, year
3 manufactured, and company identification number if one
4 is provided,
- 5 b. owner information if the carrier for hire is not the
6 owner of the vehicle, and
- 7 c. the history of inspections, repairs, and maintenance
8 that describe the activity and the date the activity
9 was performed.

10 3. Except as provided under paragraph 4 of this section, the
11 records under this subsection shall be maintained by the carrier for
12 hire at its place of business for one (1) year.

13 4. If the motor vehicle leaves the control of the carrier for
14 hire, the records under this subsection shall be maintained by the
15 carrier for hire at its place of business for six (6) months.

16 F. A carrier for hire and its officers, drivers, agents, and
17 employees who are responsible for the inspection or maintenance of
18 motor vehicles shall comply with and be knowledgeable of the carrier
19 for hire maintenance and repair program as required by this section.

20 SECTION 8. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 340.8 of Title 66, unless there
22 is created a duplication in numbering, reads as follows:

23 A carrier for hire shall allow an employee of the Oklahoma
24 Department of Public Safety or its designee access to:

1 1. A facility to determine compliance with the requirements of
2 this act; and

3 2. Records or information related to an accident investigation
4 under this act.

5 SECTION 9. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 340.9 of Title 66, unless there
7 is created a duplication in numbering, reads as follows:

8 A carrier for hire or other party that contracts on behalf of a
9 railroad shall obtain and maintain an insurance policy of Five
10 Million Dollars (\$5,000,000.00) for each motor vehicle that
11 transports railroad employees.

12 SECTION 10. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 340.10 of Title 66, unless there
14 is created a duplication in numbering, reads as follows:

15 A. 1. A person who knowingly violates a provision of this act
16 is subject to a penalty not to exceed One Thousand Dollars
17 (\$1,000.00) for each violation.

18 2. Each day that a violation continues is a separate offense.

19 B. The Department of Public Safety shall assess penalties for
20 violations under this act by written notice to the violator.

21 C. To determine the amount of the penalty, the Department of
22 Public Safety shall evaluate:

23 1. The nature, circumstances, extent, and gravity of the
24 violation; and

1 2. The degree of culpability, history of prior offenses, and
2 ability to pay, and effect on the ability to continue to do business
3 of the person found to have committed a violation.

4 SECTION 11. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 340.11 of Title 66, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The provisions of this act are not intended to limit and
8 shall not be construed as limiting the right of a railroad to
9 contract with a carrier for hire that certifies to the railroad that
10 such carrier for hire is in compliance with the provisions of this
11 act or any applicable federal requirements.

12 B. The railroad is entitled to rely on a carrier for hire
13 certification that it is operating in compliance with this act
14 without further inquiry.

15 SECTION 12. NEW LAW A new section of law not to be
16 codified in the Oklahoma Statutes reads as follows:

17 The Oklahoma Department of Public Safety is authorized to
18 promulgate any rules necessary to implement the provisions of this
19 act.

20 SECTION 13. This act shall become effective November 1, 2010.

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