

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1311 Session of
2013

INTRODUCED BY PETRARCA, KOTIK, V. BROWN, MUNDY, KORTZ, MAHONEY
AND COHEN, MAY 1, 2013

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MAY 1, 2013

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, providing for safe transportation of
3 railroad employees by contract carriers; establishing
4 standards for drivers employed by the contract carriers and
5 the motor vehicles used by the contract carriers; and making
6 an editorial change.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Chapter 27 of Title 66 of the Pennsylvania
10 Consolidated Statutes is amended by adding a subchapter heading
11 to read:

12 SUBCHAPTER A

13 RAILROAD CONSTRUCTION

14 Section 2. Chapter 27 of Title 66 is amended by adding a
15 subchapter to read:

16 SUBCHAPTER B

17 SAFE TRANSPORTATION OF RAILROAD

18 EMPLOYEES BY CONTRACT CARRIERS

19 Sec.

20 2711. Definitions.

1 2712. Driver qualification file.
2 2713. Driver disqualification and limitations.
3 2714. Driver testing.
4 2715. Vehicle inspection.
5 2716. Maintenance and repair program.
6 2717. Access to facilities and records.
7 2718. Liability protection.
8 2719. Penalties.
9 2720. Right of railroad to contract.

10 § 2711. Definitions.

11 The following words and phrases when used in this subchapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Contract carrier." A passenger contract carrier that for
15 compensation transports railroad employees with a vehicle
16 designed or used to transport eight persons or less, including
17 the driver.

18 "On-duty time." Time at a terminal, facility or other
19 property of a contract carrier or on any public property waiting
20 to be dispatched. This includes time spent inspecting, servicing
21 or conditioning the vehicle, unless the driver has been relieved
22 from duty by the contract carrier.

23 § 2712. Driver qualification file.

24 (a) Duty.--A contract carrier shall maintain a driver
25 qualification file for each driver it employs. The driver
26 qualification file may be combined with the personnel file of
27 the employee.

28 (b) Contents.--The driver qualification file shall include:

29 (1) A certificate of physical examination conducted by a
30 physician every two years that certifies the physical ability

1 of the driver to operate a commercial motor vehicle.

2 (2) Documentation that establishes that the driver's
3 driving record has been reviewed at least once per year.

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

6 (4) Other documentation related to the driver's
7 qualification or ability to drive a motor vehicle.

8 (5) The driver's application for employment as provided
9 under 49 CFR 391.21 (relating to application for employment).

10 (6) Responses from previous employers, if required by
11 the current employer.

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

14 § 2713. Driver disqualification and limitations.

15 (a) Disqualification.--A driver is disqualified from driving
16 for a contract carrier under this subchapter if the driver has
17 committed two or more traffic violations under 75 Pa.C.S.
18 (relating to vehicles) within a three-year period.

19 (b) Contract carrier duties.--

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

22 (i) ten hours after eight consecutive hours off
23 duty;

24 (ii) 15 hours of combined on-duty time and drive
25 time since last obtaining eight consecutive hours of off-
26 duty time; or

27 (iii) 70 hours of on-duty and drive time in any
28 period of eight consecutive days.

29 (2) After 24 hours off duty, a driver begins a new seven
30 consecutive-day period and on-duty time is reset to zero.

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

12 (c) Records.--A contract carrier shall maintain and retain
13 for a period of six months accurate time records that show:

14 (1) The time the driver reports for duty each day.

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

17 (3) The time the driver is released from duty each day.

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

19 § 2714. Driver testing.

20 (a) Testing.--Before a driver performs any duties for a
21 contract carrier, the driver shall undergo testing for alcohol
22 and controlled substances as provided under 49 CFR Pts. 40
23 (relating to procedures for transportation workplace drug and
24 alcohol testing programs) and 382 (relating to controlled
25 substances and alcohol use and testing), as in effect on January
26 1, 2009.

27 (b) Qualifications.--A driver is qualified to drive for a
28 contract carrier if:

29 (1) The alcohol test result under subsection (a)
30 indicates an alcohol concentration of zero.

1 (2) The controlled substances test result from the
2 medical review officer as defined under 49 CFR 40.3 (relating
3 to what do the terms used in this part mean?), as in effect
4 on January 1, 2009, indicates a verified negative test
5 result.

6 (c) Disqualification.--A driver is disqualified from driving
7 for a contract carrier if:

8 (1) the alcohol test result and the controlled
9 substances test result are not in compliance with subsection
10 (b);

11 (2) the driver refuses to provide a specimen for an
12 alcohol test result or the controlled substances test result
13 or both; or

14 (3) the driver submits an adulterated specimen, a dilute
15 positive specimen or a substituted specimen on an alcohol
16 test result or the controlled substances test result that is
17 performed.

18 (d) Accidents.--

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

23 (i) the accident involved the loss of human life; or

24 (ii) the driver received a citation for a moving
25 traffic violation arising from the accident and the
26 accident involved:

27 (A) bodily injury to a person who immediately
28 received medical treatment after the accident; or

29 (B) disabling damage that required the motor
30 vehicle to be towed from the accident scene to one or

1 more motor vehicles as a result of the accident.

2 (2) If alcohol testing and controlled substances testing
3 cannot be completed as soon as possible but not later than 32
4 hours after the accident, the records shall be submitted to
5 the Pennsylvania State Police.

6 (e) Records.--A common carrier or the employer of a driver
7 of a common carrier shall maintain records of the alcohol
8 testing and controlled substances testing of drivers for five
9 years. The records shall be maintained in a secure location.

10 § 2715. Vehicle inspection.

11 (a) Duty of contract carrier.--A contract carrier shall
12 inspect or cause to be inspected a motor vehicle that it
13 operates for passenger transportation.

14 (b) Commercial motor vehicles.--If a contract carrier uses a
15 commercial motor vehicle for passenger transportation, the
16 contract carrier shall perform an inspection on the commercial
17 motor vehicle and its components at least once in every 12-month
18 period in compliance with the rules promulgated by the United
19 States Department of Transportation under 49 CFR 396.17
20 (relating to periodic inspection).

21 (c) Performance of inspections.--The inspection under this
22 subsection shall be performed by an individual who is qualified
23 to perform the inspection as prescribed in 49 CFR 396.19
24 (relating to inspector qualifications), as in effect on January
25 1, 2009.

26 (d) Written motor vehicle report.--A contract carrier shall
27 require each of its drivers to complete a written motor vehicle
28 report upon completion of each day's work on the motor vehicle
29 that the driver operated as prescribed under 49 CFR 396.11
30 (relating to driver vehicle inspection report(s)), as in effect

1 on January 1, 2009.

2 § 2716. Maintenance and repair program.

3 (a) Duty of contract carrier.--A contract carrier shall
4 establish a maintenance and repair program to include at least
5 weekly inspections under this section.

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

11 (c) Requirements for motor vehicles.--A motor vehicle used
12 by a contract carrier shall have:

13 (1) Tires with sufficient tread as prescribed under 49
14 CFR 393.75 (relating to tires), as in effect on January 1,
15 2009.

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

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

19 (4) Fully operational seat belts for all passenger
20 seats.

21 (5) If the weather requires it, traction devices, studs
22 or chains.

23 (6) A heater and air conditioner that is properly
24 working with properly working fans.

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

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

1 (e) Records.--

2 (1) A contract carrier shall maintain records for its
3 maintenance and repair program for each motor vehicle.

4 (2) The records shall include:

5 (i) Identifying information for the motor vehicle to
6 include the vehicle identification number, make, year
7 manufactured and company identification number if one is
8 provided.

9 (ii) Owner information if the contract carrier is
10 not the owner of the vehicle.

11 (iii) The history of inspections, repairs and
12 maintenance that describe the activity and the date the
13 activity was performed.

14 (3) Except as provided under paragraph (4), the records
15 under this subsection shall be maintained by the contract
16 carrier at its place of business for one year.

17 (4) If the motor vehicle leaves the contract carrier's
18 control, the records under this subsection shall be
19 maintained by the contract carrier at its place of business
20 for six months.

21 (f) Requirements.--A contract carrier and its officers,
22 drivers, agents and employees who are concerned with the
23 inspection or maintenance of motor vehicles shall comply with
24 and be knowledgeable of the contract carrier's maintenance and
25 repair program established under this section.

26 § 2717. Access to facilities and records.

27 A contract carrier shall allow an employee of the
28 Pennsylvania State Police or its designee access to:

29 (1) A facility to determine compliance with this
30 subchapter.

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

3 § 2718. Liability protection.

4 A contract carrier shall obtain and maintain an insurance
5 policy of \$5,000,000 for each motor vehicle that transports
6 railroad employees.

7 § 2719. Penalties.

8 (a) Violations.--A person who knowingly violates a provision
9 of this subchapter is liable to the Commonwealth for a civil
10 penalty not to exceed \$1,000 for each violation. Each day that a
11 violation continues is a separate offense.

12 (b) Pennsylvania State Police.--The Pennsylvania State
13 Police shall assess penalties for violations under this
14 subchapter by written notice to the violator.

15 (c) Amount of penalty.--To determine the amount of the
16 penalty, the department or its designee shall evaluate:

17 (1) The nature, circumstances, extent and gravity of the
18 violation.

19 (2) The degree of culpability, history of prior
20 offenses, ability to pay and effect on the ability to
21 continue to do business of the person found to have committed
22 a violation.

23 (3) Other circumstances as justice may require.

24 § 2720. Right of railroad to contract.

25 (a) Intent and construction.--This subchapter is not
26 intended to limit, and shall not be construed as limiting, the
27 right of a railroad to contract with a contract carrier that
28 certifies to the railroad that it is in compliance with the
29 provisions of this subchapter or any applicable Federal
30 requirements.

1 (b) Reliance.--The railroad is entitled to rely on a
2 contract carrier's certification that it is operating in
3 compliance with this subchapter without further inquiry.

4 Section 3. This act shall take effect in 60 days.