

Regular Session, 2013

ACT No. 193

HOUSE BILL NO. 409

BY REPRESENTATIVE JOHNSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

AN ACT

To amend and reenact R.S. 32:1524 and to enact R.S. 32:1524.1, 1524.2, and 1524.3, relative to contract carriers transporting railroad employees; to provide for certain safety regulations for such contract carriers, including driver qualifications, alcohol and controlled substance testing, vehicle inspections, and records; to provide for violations and penalties; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:1524 is hereby amended and reenacted and R.S. 32:1524.1, 1524.2, and 1524.3 are hereby enacted to read as follows:

§1524. ~~For-hire~~ Contract carriers transporting railroad employees; definitions; driving time; rules and regulations

A. When used in this Section, the following words and phrases shall have the following meanings, unless the context clearly indicates a different meaning:

(1) "Contract carrier" means a transportation company operating in intrastate commerce by motor vehicle or bus under contract to transport railroad employees for compensation.

(~~1~~)(2) "Driving Drive time" means all time spent at the driving controls of a commercial for-hire vehicle designed to the length of time a driver spends behind the wheel of a motor vehicle performing intrastate commerce as employed by a contract carrier to transport railroad employees.

1 (2)(3) "~~Eight~~ Seven consecutive days" means the period of ~~eight~~ seven
 2 consecutive days beginning on any day and time designated by the ~~for-hire~~ contract
 3 carrier for the terminal from which the driver is normally dispatched.

4 (3) "~~For-hire carrier~~" means any motor carrier engaged in the business of
 5 ~~transporting railroad employees for compensation.~~

6 (4) "On-duty time" means ~~all time from the time a driver begins to work or~~
 7 ~~is required to be in readiness to work until the time the driver is relieved from work~~
 8 ~~and all responsibility for performing work~~ the length of time a driver spends at work
 9 as an employee of a contract carrier. On-duty time shall include:

10 (a) All time at a plant, terminal, facility, or other property of a ~~motor~~ contract
 11 carrier or shipper, or on any other property waiting to be dispatched, unless the driver
 12 has been relieved from duty by the ~~for-hire~~ contract carrier.

13 (b) All time inspecting, servicing, or conditioning any ~~for-hire commercial~~
 14 contract carrier motor vehicle used for transport assignments ~~at any time.~~

15 (c) All ~~driving~~ drive time as defined in the term ~~driving~~ "drive time".

16 (d) All time, other than driving, in or upon any ~~for-hire commercial~~ contract
 17 carrier motor vehicle used for transport assignments.

18 (e) All time supervising, attending, or assisting the loading or unloading of
 19 ~~a for-hire~~ contract carrier transport ~~commercial motor~~ vehicle, all time spent giving
 20 or receiving receipts for shipments loaded or unloaded, ~~supervising, or assisting in~~
 21 ~~the loading or unloading, attending a for-hire commercial motor vehicle being loaded~~
 22 ~~or unloaded, or remaining in readiness to operate the for-hire commercial motor~~
 23 contract carrier transport vehicle, ~~or in giving or receiving receipts for shipments~~
 24 ~~loaded or unloaded.~~

25 (f) All time repairing, obtaining assistance, or remaining in attendance upon
 26 a disabled ~~for-hire commercial~~ contract carrier transport motor vehicle.

27 (g) All time spent providing a breath sample or urine specimen, including
 28 travel time to and from the ~~collection~~ testing site, in order to comply with any
 29 federal, state, or employer regulation or rule.

1 (h) ~~All time~~ Performing performing any other work in the capacity, ~~employ~~
 2 employment, or service of a ~~motor~~ contract carrier.

3 (5) "Transport vehicle driver" means a driver employed by a contract carrier
 4 to fulfill transport assignments in accordance with the intrastate transportation of
 5 railroad employees.

6 (5)(6) "Twenty-four-hour period" means any twenty-four consecutive hour
 7 period beginning at the time designated by the for-hire contract carrier for the
 8 terminal from which the driver is normally dispatched. The times designated for the
 9 beginning of a twenty-four-hour period and eight seven consecutive days shall be the
 10 same.

11 (7) "Uninterrupted rest", commonly referred to as "off-duty", means a period
 12 of time in which a contract carrier shall not communicate with a driver by telephone,
 13 pager, or any manner that could disrupt the driver's rest.

14 B. The provisions of this Section shall apply only to ~~for-hire carriers~~
 15 transport vehicle drivers employed by contract carriers designed to transport railroad
 16 employees on any public highway or road in this state.

17 C.(1) ~~Drivers of for-hire motor carrier vehicles transporting railroad~~
 18 ~~employees shall be prohibited from~~ A contract carrier shall not require or allow a
 19 transport vehicle driver to be on-duty for more than:

20 (1)(a) ~~Driving a for-hire vehicle for more than ten hours in any twenty-four-~~
 21 ~~hour period without eight consecutive hours off duty~~ Twelve hours following eight
 22 consecutive hours of uninterrupted rest.

23 (2)(b) ~~Driving a for-hire vehicle after the driver has been on duty for fifteen~~
 24 ~~hours without eight consecutive hours off duty~~ Fifteen hours of combined on-duty
 25 and drive time after the driver completes eight consecutive hours of off-duty time.

26 (3)(c) ~~Driving a for-hire vehicle after the driver has been on duty for a total~~
 27 ~~of seventy hours within eight consecutive days until the beginning of the next eight~~
 28 ~~consecutive days~~ Seventy hours of combined on-duty and drive time in any period
 29 of seven consecutive days.

1 ~~(4)(2) Performing any compensated work for a person who is not a motor~~
 2 ~~carrier within eight hours prior to coming on duty~~ After an off-duty period of at least
 3 ~~twenty-four hours, a driver shall begin a new consecutive day work period and the~~
 4 ~~driver's off-duty time shall reset to zero.~~

5 (3) A transport vehicle driver who cannot safely complete a transportation
 6 assignment within the twelve-hour maximum driving time permitted due to an
 7 emergency shall be permitted to drive a motor vehicle for not more than two
 8 additional hours to complete the transport assignment or to reach a destination
 9 offering safety and security for the transport motor vehicle and its passengers.

10 ~~D. For-hire motor carrier companies~~ A contract carrier shall keep maintain
 11 ~~time records for a period of six months indicating the time all for-hire motor carrier~~
 12 ~~transport vehicle drivers report for duty, the time of relief from duty, hours driven,~~
 13 ~~hours on duty, and hours off duty. The records shall be made available to the~~
 14 ~~Department of Public Safety and Corrections, office of state police, for inspection~~
 15 ~~and shall be subject to the provisions of R.S. 32:1505. The Department of Public~~
 16 ~~Safety and Corrections, office of state police, shall adopt rules and regulations, in~~
 17 ~~accordance with the Administrative Procedure Act, as are necessary to implement~~
 18 ~~the provisions of this Section.~~

19 ~~E. The Department of Public Safety and Corrections, office of state police,~~
 20 ~~shall adopt rules and regulations, in accordance with the Administrative Procedure~~
 21 ~~Act, as are necessary to implement the provisions of this Section~~ A contract carrier
 22 shall maintain a transport vehicle driver qualification and personnel file for each
 23 driver it employs. The driver qualification file shall include:

24 (1) The driver's employment application as required by 49 CFR 391.21.

25 (2) Requests for information from the driver's previous employer as required
 26 by 49 CFR 391.23(a)(2) and (c).

27 (3) Documentation related to the annual inquiry and review of the driver's
 28 motor vehicle operation record as provided by the Department of Public Safety and
 29 Corrections, office of motor vehicles. Such documentation shall confirm the driver's

1 qualifications and ability to operate a motor vehicle in this state and shall include a
2 record of all motor vehicle laws or ordinance violations committed by the driver.

3 (4) Medical examination reports and certificates to be completed every two
4 years which confirm the physical ability of the driver to operate a motor vehicle.

5 (5) A copy of the driver's current Class E driver's license.

6 F. The provisions of this Section shall not limit the right of a railroad
7 company to contract with an employee of a contract carrier, transportation company,
8 or entity that certifies to the railroad company that it is in compliance with the
9 provisions of this Section or any applicable federal requirements.

10 §1524.1. Contract carriers transporting railroad employees; transport vehicle driver
11 disqualification

12 A. A driver shall be disqualified from employment as a transport vehicle
13 driver if the driver has committed two or more traffic violations within a three-year
14 period, resulting in the suspension or revocation of the driver's license or privilege
15 to operate a motor vehicle by the Department of Public Safety and Corrections,
16 office of motor vehicles, or other administrative agency for conviction of any of the
17 following:

18 (1) Any intoxication related offense.

19 (2) Any commercial motor vehicle violation.

20 (3) Driving fifteen or more miles per hour over the posted speed limit of the
21 roadway.

22 (4) Negligent homicide with a vehicle or vehicular homicide.

23 (5) Using a motor vehicle to commit a felony.

24 (6) Failure to maintain proof of financial responsibility as required by law.

25 (7) Fleeing the scene of an accident on foot or by use of a motor vehicle.

26 (8) Evading arrest.

27 (9) Careless and imprudent driving.

28 (10) Prohibited passing of another motor vehicle.

29 (11) Passing a stopped school bus.

30 (12) Failure to obey a posted traffic signal or device.

1 (13) Failure to obey a railroad crossing barrier.

2 (14) Driving with a suspended, revoked, or cancelled driver's license.

3 (15) Driving the wrong way down a one-way street.

4 B. All transport vehicle drivers performing transport assignment duties for
 5 contract carriers shall undergo testing for alcohol and controlled substances as
 6 provided by 49 CFR Parts 40 and 382. A driver shall be qualified to operate a
 7 transport motor vehicle for a contract carrier if the following conditions are met:

8 (1) The alcohol test results indicate a blood alcohol concentration of zero.

9 (2) The controlled substance test results from a medical review officer as
 10 defined by 49 CFR 40.3 indicate a verified negative test result.

11 C. A transport vehicle driver shall be disqualified from operating a motor
 12 vehicle for a contract carrier if:

13 (1) The driver refuses to provide a specimen for an alcohol or controlled
 14 substance test.

15 (2) The driver submits an adulterated, dilute positive, or substituted
 16 specimen on an alcohol or controlled substance test.

17 D. In the event a motor vehicle accident occurs during a transport assignment
 18 involving a motor vehicle owned or operated by a transport vehicle driver, the
 19 contract carrier shall test each surviving transport vehicle driver for alcohol or
 20 controlled substances, if:

21 (1) The accident involved the loss of human life.

22 (2) The transport vehicle driver received a moving traffic violation citation
 23 as a result of the motor vehicle accident and the accident involved:

24 (a) Bodily injury to a person who received immediate medical attention.

25 (b) Disabling damage to one or more motor vehicles involved in the
 26 accident.

27 E. Alcohol and controlled substance testing shall be completed immediately
 28 following a motor vehicle accident. In the event alcohol testing cannot be completed
 29 immediately, testing shall be performed within eight hours following the motor
 30 vehicle accident. In the event controlled substance testing cannot be completed

1 immediately following the motor vehicle accident, testing shall be performed within
2 thirty-two hours following the motor vehicle accident. The results of such testing
3 shall be submitted to the Department of Public Safety and Corrections, office of
4 motor vehicles.

5 F. The contract carrier shall maintain all records of alcohol and controlled
6 substance testing for each driver it employs for a period of five years from the date
7 the test is administered. The records shall be maintained in a secure location on the
8 premises of the contract carrier.

9 §1524.2. Contract carriers transporting railroad employees; motor vehicle
10 inspections; records

11 A. Contract carriers shall inspect all motor vehicles and components utilized
12 for the transportation of railroad employees at least once in each twelve-month
13 period in compliance with 49 CFR 396.17 and Appendix G. Such inspection shall
14 be performed by an individual qualified to perform such inspections in accordance
15 with 49 CFR 396.19.

16 B. A contract carrier shall require each transport vehicle driver it employs
17 to complete a written motor vehicle report upon completion of operation of the motor
18 vehicle in accordance with 49 CFR 396.11.

19 C. A contract carrier shall establish a maintenance and repair program to
20 include weekly inspections of the motor vehicles operated in the transportation of
21 railroad employees. The program shall include checking parts and accessories for
22 safety and proper operation at all times including overall cleanliness of the motor
23 vehicle. A contract carrier and its officers, drivers, agents, and employees concerned
24 with the inspection and maintenance of motor vehicles shall comply with and be
25 knowledgeable of the contract carrier's maintenance and repair program. A contract
26 carrier shall maintain records for its maintenance and repair program for each motor
27 vehicle for a time period of one year. In the event a motor vehicle changes
28 ownership, records shall be maintained by the contract carrier for a period of six
29 months. The records shall include:

1 (1) Identifying information of the motor vehicle to include vehicle
2 identification number, make, model, year of manufacture, and company
3 identification number if so provided.

4 (2) Owner information if the motor vehicle is not owned by the contract
5 carrier.

6 (3) Inspection history to include documentation of all repairs and
7 maintenance activity.

8 D. All motor vehicles operated by contract carriers shall have the following:

9 (1) Tires with sufficient tread in accordance with 49 CFR 393.75.

10 (2) A fully inflated spare tire.

11 (3) A secure location for personal baggage, including proper restraints.

12 (4) Fully operational seatbelts for all passenger seats.

13 (5) Traction devices, studs, or chains in the event of inclement weather.

14 (6) An operational heater and air conditioner with fans.

15 (7) An emergency road kit containing a tire inflation aerosol, flares or
16 reflective triangles, battery cables, a fire extinguisher, and a readily available first aid
17 kit complying with the standards set forth in 29 CFR 1910.151, Appendix A, and the
18 American National Standards Institute Z308.1 minimum requirements.

19 E. All motor vehicles operated by contract carriers shall be equipped with
20 an operable amber light or strobe light which shall be mounted to the roof of the
21 motor vehicle in the rear one-third portion in order to provide warning to motorists
22 that the vehicle has slowed or stopped on a roadway.

23 F. All motor vehicles operated by contract carriers shall not be operated in
24 a condition that is likely to cause a motor vehicle accident or mechanical breakdown.

25 G. A contract carrier shall allow an employee of the Department of Public
26 Safety and Corrections or its designee access to:

27 (1) A facility to determine compliance with this Section.

28 (2) Records or information related to a motor vehicle accident investigation.

1 §1524.3. Contract carriers; penalties

2 A. The provisions of R.S. 32:1524, 1524.1, and 1524.2 shall be considered
3 minimum standards and shall not be construed to supercede or abrogate any law,
4 rule, or regulation which imposes stricter standards or regulations upon the operation
5 of contract carriers which transport railroad employees.

6 B. Any person, corporation, or entity that violates the provisions of R.S.
7 32:1524, 1524.1, and 1524.2 or any rule promulgated thereto, shall be subject to a
8 civil penalty in an amount not more than two thousand dollars for each offense or
9 violation. Each violation shall constitute a separate and distinct offense. In the event
10 of continuing violations, each such violation shall constitute a distinct and separate
11 offense.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____