

SENATE MEMBERS

**Robert Stivers**  
President, LRC Co-Chair  
**David Givens**  
President Pro Tempore  
**Damon Thayer**  
Majority Floor Leader  
**Morgan McGarvey**  
Minority Floor Leader  
**Julie Raque Adams**  
Majority Caucus Chair  
**Reginald Thomas**  
Minority Caucus Chair  
**Mike Wilson**  
Majority Whip  
**Dennis Parrett**  
Minority Whip



**LEGISLATIVE RESEARCH COMMISSION**  
State Capitol 700 Capital Avenue Frankfort, KY 40601

**502-564-8100**

Capitol Fax 502-564-2922  
Annex Fax 502-564-6543  
legislature.ky.gov

**Jay D. Hartz**  
Director

HOUSE MEMBERS

**David W. Osborne**  
Speaker, LRC Co-Chair  
**David Meade**  
Speaker Pro Tempore  
**Steven Rudy**  
Majority Floor Leader  
**Joni L. Jenkins**  
Minority Floor Leader  
**Suzanne Miles**  
Majority Caucus Chair  
**Derrick Graham**  
Minority Caucus Chair  
**Chad McCoy**  
Majority Whip  
**Angie Hatton**  
Minority Whip

**MEMORANDUM**

**TO:** Interim Joint Committee on Transportation  
**FROM:** Jay D. Hartz, LRC Director  
**SUBJECT:** Administrative Regulations  
**DATE:** July 7, 2021

At its June 8, 2021, meeting, the Administrative Regulation Review Subcommittee completed its review of the following administrative regulation: 601 KAR 001:005.

Pursuant to the provisions of KRS Chapter 13A, this regulation has been assigned to the Interim Joint Committee on Transportation. Pursuant to KRS Chapter 13A, the committee has ninety (90) days from the date of this assignment to review this regulation.

The Subcommittee minutes will be delivered to your committee staff upon completion. The material considered by the Subcommittee in its review is attached to the appropriate administrative regulation.

cc: Administrative Regulation Review Subcommittee  
John Snyder



**TRANSPORTATION CABINET**  
**Department of Vehicle Regulation**  
**Division of Motor Carriers**  
**(Amendment)**

**601 KAR 1:005. Safety administrative regulation.**

RELATES TO: KRS 138.665, 174.400 - 174.425 [281.013], 281.600, 281.730, 281.750, 281.880, Chapter 281A, 49 C.F.R. Parts 40, 107, 130, 171 - 173, 175, 177, 178, 180, 350, 381 - 385, 390-397, 1572

STATUTORY AUTHORITY: KRS 174.410(2), 281.600, 281.730, 281.750, 281.880 - 281.888, 49 C.F.R. 40, Parts 130, 171 - 173, 175, 177, 178, 180, 382 - 384, 385, 390 - 397, 1572

NECESSITY, FUNCTION, AND CONFORMITY: KRS 174.410(2) [281.600] requires [authorizes] the Secretary of the Transportation Cabinet, in consultation with the Secretary of the Energy and Environment Cabinet and the Secretary of the Cabinet for Health and Family Services, to adopt the Federal Hazardous Materials Transportation Regulations, 49 C.F.R. (1978), in order to effectively carry out the intent of KRS 174.400 through 174.425 relating to the transportation of hazardous materials by air or highway. KRS 174.410(3) requires the Transportation Cabinet and the Justice and Public Safety Cabinet to cooperate with and assist the Energy and Environment Cabinet in the implementation and enforcement of the transportation provisions of any state hazardous waste regulations promulgated pursuant to KRS Chapter 224. KRS 281.600 authorizes the Transportation Cabinet to promulgate administrative regulations relating to safety requirements for motor vehicles and the method of operation, including adoption of any federal motor carrier safety regulations. This administrative regulation establishes requirements for motor carriers operating in Kentucky. This administrative regulation establishes requirements related to exemptions from medical examination for private motor carriers of passengers that are more stringent than the requirements in 49 C.F.R. 391.68(c), which allows these carriers to avoid medical examination. Kentucky does not allow these medical waivers.

Section 1. Definitions.

(1) [~~"City bus" is defined in KRS 281.013(1)(b).~~

(2) "Daylight hours" means that period of time one-half (1/2) hour before sunrise through one-half (1/2) hour after sunset.

(2)[(3)] "Farm-to-market agricultural transportation" means the operation of a motor vehicle that is controlled and operated by a farmer who, as a private motor carrier, is using a vehicle:

- (a)1. To transport agricultural products from his or her farm;
2. To transport farm machinery or farm supplies to his or her farm; or
3. Generally thought of as farm machinery; and

(b) That [Which] is not transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with this administrative regulation [601 KAR 1:025].

(3)[(4)] "Hazardous material" is defined in 49 C.F.R. 390.5. [~~"Load limit" means the seating capacity established by the manufacturer for a passenger-carrying vehicle plus an additional twenty-five (25) percent.~~

(5) "~~Suburban bus" is defined in KRS 281.013(2)(b).~~

(6) "~~Utility" means an entity which provides water, electricity, natural gas, sewage disposal, telephone service, television cable, or community antenna service.]~~

Section 2. Governing Federal Regulations. A commercial motor vehicle and its operator meeting the definitions established [set forth] in 49 C.F.R. 390.5 operating for-hire or in private carriage, interstate, or intrastate, including commercial motor vehicles and its operators [except] as established [set forth] in Section 3 of this administrative regulation, shall be governed by the following Motor Carrier Safety Regulations and Transportation Security Administration Regulations adopted and issued by the United States Department of Transportation[;]:

- (1) 49 C.F.R. 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs;
- (2) 49 C.F.R. 382, Controlled Substances and Alcohol Use and Testing;
- (3) 49 C.F.R. 383, Commercial Driver's License Standards; Requirements and Penalties;
- (4) 49 C.F.R. 384, State Compliance with Commercial Driver's License Program;
- (5) 49 C.F.R. 385, Safety Fitness Procedures;
- (6) 49 C.F.R. 390, General;
- (7) 49 C.F.R. 391, Qualifications of Drivers;
- (8) 49 C.F.R. 392, Driving of Commercial Motor Vehicles;
- (9) 49 C.F.R. 393, Parts and Accessories Necessary for Safe Operation;
- (10) 49 C.F.R. 395, Hours of Service of Drivers;
- (11) 49 C.F.R. 396, Inspection, Repair and Maintenance;
- (12) 49 C.F.R. 397, Transportation of Hazardous Materials; Driving and Parking Rules; and
- (13) 49 C.F.R. 1572, Credentialing and Security Threat Assessments [Background Checks for Maritime and Land Transportation Security].

Section 3. The following hazardous materials transportation regulations adopted and issued by the United States Department of Transportation shall govern the transportation of hazardous materials within Kentucky if, as established in Section 2 of this administrative regulation, the commercial motor vehicle and its operator meet the definitions established in 49 C.F.R. 390.5 operating for-hire or in private carriage, interstate, or intrastate, and transportation of hazardous material is by air or highway: [Exemptions and Exceptions. The following exemptions and exceptions to compliance with the provisions of Section 2 of this administrative regulation shall be made:]

(1) 49 C.F.R. Part 107. Hazardous Material Program Procedures; [(a) A city or suburban bus shall not be required to comply with the federal regulations governing this administrative regulation, except as required by paragraph (b) of this subsection.

(b) The operator of one (1) of these vehicles who is required by KRS Chapter 281A to obtain a commercial driver's license shall:

1. Comply with the provisions of 49 C.F.R. 382 and 383; and

2.a. Provide proof of having passed the medical examination set forth in 49 C.F.R. 391; or

b. Have received a medical waiver as set forth in 601 KAR 11:040 and subsection (7) of this section for intrastate operators or as set forth in 49 C.F.R. 381 for interstate operators.]

(2) 49 C.F.R. Part 130. Oil Spill Prevention and Response Plans; [

(a) A motor vehicle operated by the federal government, a state government, a county government, a city government, or a board of education shall not be required to comply with the federal regulations adopted in this administrative regulation, except as required by paragraphs (b) and (c) of this subsection.

(b) An operator of one (1) of these vehicles who is required by KRS Chapter 281A to obtain a commercial driver's license shall provide proof of:

1. Having passed the medical examination set forth in 49 C.F.R. 391; or

2. Having received a medical waiver as set forth in 601 KAR 11:040 and subsection (7) of this section for intrastate operators or as set forth in 49 C.F.R. 381 for interstate operators.

~~(c) The operator of a vehicle specified in paragraph (a) of this subsection shall meet the requirements of 49 C.F.R. 382 relating to drug and alcohol testing.]~~

~~(3) 49 C.F.R. Part 171. General information, Regulations, and Definitions; [(a) A motor vehicle which is used exclusively in intrastate commerce and exclusively in farm-to-market agricultural transportation when operated during daylight hours by a private motor carrier shall not be required to comply with 49 C.F.R. 393.9 to 393.33, relative to lighting device requirements, except as required by paragraph (b) of this subsection.~~

~~(b) A motor vehicle as described in paragraph (a) of this subsection shall have two (2) stop lamps and mechanical turn signals as set forth in 49 C.F.R. 393.9 to 393.33.]~~

~~(4) 49 C.F.R. Part 172. Hazardous Materials Table, Special Provisions, Hazardous Materials communications, Emergency Response information, Training Requirements, and Security Plans; [(a) A motor vehicle which is used exclusively in intrastate commerce and exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility which is located at a point not more than fifty (50) air miles (eighty and five-tenths (80.5) air kilometers) from the harvest area when operated during daylight hours shall not be required to comply with 49 C.F.R. 393.9 to 393.33, relative to lighting devices requirements, except as required by paragraph (b) of this subsection.~~

~~(b) A motor vehicle as described in paragraph (a) of this subsection shall have two (2) stop lamps and mechanical turn signals as set forth in 49 C.F.R. 393.9 to 393.33.]~~

~~(5) 49 C.F.R. Part 173. Shippers-general requirements for Shipments and Packagings; [Except for a transporter of hazardous materials subject to the requirements of 601 KAR 1:025, a motor vehicle operator who is operating a vehicle in intrastate commerce shall not be required to be twenty-one (21) years of age as set forth in 49 C.F.R. 391.11(b)(1). However, he shall be at least eighteen (18) years of age.]~~

~~(6) 49 C.F.R. Part 175. Carriage by Aircraft; [A utility service vehicle as defined in 49 C.F.R. 395.2 shall be exempt from the maximum driving and on-duty time for drivers as set forth in 49 C.F.R. 395.]~~

~~(7) 49 C.F.R. Part 177. Carriage by Public Highway; [Medical waivers for intrastate drivers.~~

~~(a) A commercial vehicle driver who operates a commercial vehicle exclusively in intrastate commerce within Kentucky may apply for a medical waiver of the requirements of 49 C.F.R. 391 under the provisions of 601 KAR 11:040.~~

~~(b) If a medical waiver is issued, the waiver shall be in the possession of the commercial driver any time the driver is operating a commercial motor vehicle.]~~

~~(8) 49 C.F.R. Part 178. Specifications for Packagings; and [Except for a farm-to-market agricultural transportation motor vehicle with a gross vehicle weight rating of 26,000 pounds or less, a motor carrier which operates exclusively in intrastate commerce shall:~~

~~(a) Apply for an intrastate motor carrier identification number on Form TC 95-1, "Kentucky Trucking Application", October 2004 edition or Form TC 92-150, "Application for Intrastate Carrier Identification Number", March 1996 edition;~~

~~(b) Display the assigned intrastate motor carrier identification number and the name of the motor carrier in the same manner as required pursuant to 49 C.F.R. 390.21 except the identification number shall be preceded by the letters "USDOT" and followed by the letters "KY".]~~

~~(9) 49 C.F.R. Part 180. Continuing Qualification and Maintenance of Packagings. [Notwithstanding 49 C.F.R. 391.68(c), a Kentucky licensed commercial driver operating a passenger transportation vehicle on behalf of a private motor carrier of passengers shall not be exempt from the sections of 49 C.F.R. 391.41 and 391.45 requiring a driver to be medically examined and to have a medical examiner's certificate on his or her person.]~~

Section 4. Exemptions and Exceptions. The exemptions and exceptions to compliance with the provisions of Section 2 of this administrative regulation shall be as established in this section.

(1)(a) A motor vehicle operated by the federal government, a state government, a county government, a city government, or a board of education shall not be required to comply with the federal regulations adopted in this administrative regulation, except as required by paragraphs (b) and (c) of this subsection.

(b) An operator of one (1) of these vehicles who is required by KRS Chapter 281A to obtain a commercial driver's license shall provide proof of having:

1. Passed the medical examination established in 49 C.F.R. 391; or

2. Received a medical waiver as established in 601 KAR 11:040 and subsection (3) of this section for intrastate operators or as established in 49 C.F.R. 381 for interstate operators.

(c) The operator of a vehicle established in paragraph (a) of this subsection shall meet the requirements of 49 C.F.R. 382 relating to drug and alcohol testing.

(2) Except for a transporter of hazardous materials subject to the requirements of 601 KAR 1:025, a motor vehicle operator who is operating a vehicle in intrastate commerce shall not be required to be twenty-one (21) years of age as established in 49 C.F.R. 391.11(b)(1), but shall be at least eighteen (18) years of age.

(3) Medical waivers for intrastate drivers.

(a) A commercial vehicle driver who operates a commercial vehicle exclusively in intrastate commerce within Kentucky may apply for a medical waiver of the requirements of 49 C.F.R. 391 under the provisions of 601 KAR 11:040.

(b) If a medical waiver is issued, the waiver shall be in the possession of the commercial driver any time the driver is operating a commercial motor vehicle.

(4) Except for a farm-to-market agricultural transportation motor vehicle with a gross vehicle weight rating of 26,000 pounds or less, a motor carrier that operates exclusively in intrastate commerce shall:

(a) Apply for an intrastate USDOT number using the Application for USDOT Number, Form MCS-150, by visiting the Federal Motor Carrier Safety Administration at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov); and

(b) Display the assigned intrastate motor carrier identification number and the name of the motor carrier in the same manner as required pursuant to 49 C.F.R. 390.21, except the identification number shall be preceded by the letters "USDOT" and followed by the letters "KY."

(5) Exception to 49 C.F.R. 391.68(c). A Kentucky licensed commercial driver operating a passenger transportation vehicle on behalf of a private motor carrier of passengers shall not be exempt from the sections of 49 C.F.R. 391.41 and 391.45 requiring a driver to be medically examined and to have a medical examiner's certificate on his or her person.[Buses

~~(1) A bus shall be maintained in a clean and sanitary condition so that the health of passengers will not be impaired.~~

~~(2) A seat shall be comfortable in order that passengers will not be subjected to unreasonable discomfort which might be detrimental to their health and welfare.~~

~~(3) An employee in charge of buses shall be courteous and helpful to passengers, properly caring for baggage so that it will not be damaged, and shall be acquainted with the routes traveled and schedules maintained, so that the passengers will not be subjected to unnecessary delays.~~

~~(4) An operator shall take into consideration the health and welfare of his or her passengers and control his or her operations in the public interest.~~

~~(5) Express and freight, mail bags, newspapers and baggage shall be so placed as not to interfere with the driver or with the safety and comfort of passengers. These items shall be pro-~~

~~ected from the weather but shall not be carried in the aisles or in a position to block exits or doorways on the bus.~~

~~Section 5. Overcrowding of Passenger Vehicles. A bus operated by an authorized carrier, except city or suburban buses, shall not be used to transport passengers in excess of its load limit. A passenger shall not be permitted to occupy the rear door well of any bus vehicle that is equipped with a rear door well.]~~

~~Section 5[6]. Out-of-service Criteria [and Sticker].~~

~~(1) The basic safety criteria to be followed by the Kentucky State Police or other individual certified through KSP to complete commercial vehicle inspections [Transportation Cabinet] in determining if a commercial motor vehicle driver is declared unqualified or if a commercial motor vehicle is [shall be declared unqualified or] placed out-of-service shall be the ["]North American Uniform Out-of-service Criteria["] issued by the Commercial Vehicle Safety Alliance.~~

~~(2)(a) If a commercial motor vehicle is being operated in interstate or intrastate commerce with improper or invalid registration, without registration, [or] in violation of any safety regulation or requirement, or with a current federal Out-Of-Service Order issued by the Federal Motor Carrier Safety Administration, a North American Standard (NAS) certified inspector authorized by the Kentucky State Police may place the vehicle out-of-service until the defect or condition is corrected [an officer or inspector of the Division of Motor Vehicle Enforcement shall be authorized to affix to the vehicle a notice indicating the nature of the violation and requiring its correction before the commercial motor vehicle is further operated].~~

~~(b) Refusal of the vehicle operator to grant permission for a law enforcement officer or inspector to conduct a safety inspection of the vehicle shall be cause for the officer or inspector to hold the vehicle in place or move the vehicle to a safe location, as established by 49 C.F.R. 396.7, [place the vehicle out-of-service] until the permission is granted.~~

~~(c) Operation of a vehicle in violation of the out-of-service notice affixed to it shall constitute a separate violation of this administrative regulation.~~

~~(3)(a) If a commercial motor vehicle driver is [determined to be] unqualified to drive and is placed out-of-service but the commercial motor vehicle is not placed out-of-service, the motor carrier may provide a different driver for the commercial motor vehicle.~~

~~(b) The commercial motor vehicle driver placed out-of-service shall not again operate a commercial motor vehicle until [he is] once again qualified.~~

~~(c) Refusal of the commercial motor vehicle driver to grant permission for a law enforcement officer or inspector to conduct a safety inspection regarding the actual driver [himself] shall be cause for suspension of the certificate or permit of the motor carrier as established by KRS 281.755 [the officer to place the driver out-of-service until the permission is granted].~~

~~(d) Operating a commercial motor vehicle in violation of an out-of-service order shall constitute a separate violation of this administrative regulation.~~

~~Section 6[7]. Persons Allowed to Perform Physical Examinations. A physical examination required pursuant to state or federal law shall be conducted by a "medical examiner" as defined by [in] 49 C.F.R. 390.5. [The following shall qualify:~~

- ~~(1) Physician licensed by the Kentucky Board of Medical Licensure;~~
- ~~(2) Osteopath licensed by the Kentucky Board of Medical Licensure;~~
- ~~(3) Physician assistant certified by the Kentucky Board of Medical Licensure if working under the direct supervision of a licensed physician;~~
- ~~(4) Advanced registered nurse practitioner licensed by the Kentucky Board of Nursing; and~~
- ~~(5) Chiropractor licensed by the Kentucky State Board of Chiropractic Examiners.~~

~~Section 8. Intrastate Safety Rating System.~~

~~(1) The Transportation Cabinet may issue a safety rating to a motor carrier subject to the provisions of this administrative regulation if all of the commercial motor vehicles operated by the motor carrier are operated exclusively in intrastate commerce.~~

~~(2) The safety standards and rating criteria set forth in 49 C.F.R. 385 shall be used by the Transportation Cabinet in issuing a safety rating.]~~

Section 7[9]. Random Alcohol Testing Rate. A commercial motor vehicle employer shall randomly test a percentage of the average number of driver positions employed by the employer. The applicable percentage shall be determined by the Federal Motor Carrier Safety Administration's Administrator annually established [as set forth] in 49 C.F.R. 382.305.

Section 8[40]. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for USDOT Number," or "Form MCS-150," by the Federal Motor Carrier Safety Administration, revised November 14, 2019, available at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov); and ["North American Uniform Out-of-Service Criteria" revised April 1, 2005 by the Commercial Vehicle Safety Alliance;]

(b) "North American Uniform Out-Of-Service Criteria" updated annually, effective April 1 of each year, by the Commercial Vehicle Safety Alliance. [TC 95-1, "Kentucky Trucking Application," revised October, 2004; and

(c) TC 92-150, "Application for Intrastate Carrier Identification Number," revised March, 1996.]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, [at any of the weigh stations operated by the Transportation Cabinet, and] at the Division of Motor Carriers, 2nd Floor, Transportation Cabinet Office Building, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.

JIM GRAY, Secretary, Transportation Cabinet

MATT COLE, Acting Commissioner, Department of Vehicle Regulation

REBECCA GOODMAN, Secretary, Energy and Environment Cabinet

JUSTICE MARY C. NOBLE, Secretary, Justice and Public Safety Cabinet

COLONEL PHILLIP BURNETT, JR., Acting Commissioner, State Police

ERIC FRIEDLANDER, Secretary, Cabinet for Health and Family Services

APPROVED BY AGENCY: March 12, 2021

FILED WITH LRC: March 12, 2021 at 12:23 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM EST on May 24, 2021, at the Transportation Cabinet, Transportation Cabinet Building, 200 Mero Street, Frankfort, Kentucky 40622. In the event the declaration of a State of Emergency in Executive Order 2020-215 and the State of Emergency Relating to Social Distancing in Executive Order 2020-243 are not rescinded by May 24, 2021, this hearing will be done by video teleconference. Members of the public wishing to attend may utilize the following link: Join from PC, Mac, Linux, iOS or Android: <https://bluejeans.com/497647287/3192?src=calendarLink> Or Telephone: +1.408.419.1715 (United States (San Jose)) +1.408.915.6290 (United States (San Jose)) Meeting ID: 497 647 287, Participant Passcode: 3192, Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be can-



celed. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on May 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Jon Johnson, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 564-7650, fax (502) 564-5238, email jon.johnson@ky.gov.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jon Johnson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation adopts the Federal Hazardous Materials Transportation Regulations, 49 C.F.R. (1978), by reference or in its entirety, in order to carry out the intent of KRS 174.400 through 174.425 relating to the transportation of hazardous materials by air or highway. This administrative regulation establishes requirements for motor carriers operating in Kentucky and relates to the safety requirements for motor vehicles and the method of operation. This administrative regulation establishes the requirements related to exemptions from medical examination for private motor carriers of passengers. Modifications to the current regulation eliminate findings that the FMCSA identified as non-compliant with the FMCA regulations.

(b) The necessity of this administrative regulation: This administrative regulation is required by KRS 174.410(2) in order to carry out the intent of KRS 174.400 through 174.425, and it is also required by KRS 281.600 in order to provide safety and operational requirements for commercial motor vehicles.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by providing safety and operational requirements for commercial motor vehicles and by administering the intent of KRS 174.400 through 174.425 in relation to the applicable federal laws, including 49 C.F.R. (1978), as amended.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will establish the regulatory requirements of KRS 174.425 and 281.600 by providing safety and operational requirements for commercial motor vehicles operating in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation will change this existing administrative regulation by incorporating the requirements of KRS 174.410(2) in order to carry out the intent of KRS 174.400 through 174.425 relating to the transportation of hazardous materials by air or highway. KRS 174.410(2) authorizes the Secretary of the Transportation Cabinet to (1) consult with the Secretary of the Environmental and Public Protection Cabinet and the Secretary of the Cabinet for Health and Family Services, and to (2) adopt the Federal Hazardous Materials Transportation Regulations, 49 C.F.R. (1978), as amended, by reference or in its entirety.

(b) The necessity of the amendment to this administrative regulation: KRS 174.410(2) and 281.600 allows the Transportation Cabinet to promulgate administration regulations in order to administer this program.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to KRS 174.410(2) and 281.600. KRS 174.410(2) requires the cabinet to (1) consult with the Secretary of the Environmental and Public Protection Cabinet and the Secretary of the Cabinet for Health and Family Services, and to (2) adopt the Federal Hazardous Materials Transportation Regulations, 49 C.F.R. (1978), as amended, by reference or in its entirety. KRS 281.600 allows the cabinet to establish administrative regulations related to the safety and operational requirements for commercial motor vehicles operating in Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will clarify provisions in the current administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect: Motor carriers, including owners and operators of motor carriers as well as passengers; Kentucky State Police and KSP sub-grantees; Kentucky Transportation Cabinet, Department of Vehicle Regulation, Division of Motor Carriers; Environmental and Public Protection Cabinet; Cabinet for Health and Family Services

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: This administrative regulation establishes requirements related to exemptions from medical examination for private motor carriers of passengers that are more stringent than the requirements in 49 C.F.R. 391.68(c), which allows these carriers to avoid medical examination. Kentucky does not allow these medical waivers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is no cost associated with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities: Compliance with this administrative regulation will allow safe operation of motor carriers throughout the Commonwealth of Kentucky.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no cost associated with implementing this administrative regulation.

(b) On a continuing basis: There is no cost associated with implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no cost associated with implementing this administrative regulation, therefore there is no source of the funding to be used for the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no cost associated with implementing this administrative regulation, therefore there is no need for an increase in fees or funding in order to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No tiering is required under any law nor is it necessary for proper application of the law.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky State Police and KSP sub-grantees; Kentucky Transportation Cabinet, Department of Vehicle Regulation, Division of Motor Carriers; Environmental and Public Protection Cabinet; the Cabinet for Health and Family Services

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 174.410(2), KRS 281.600, 49 C.F.R. (1978)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. This administrative regulation should cause no effect on the expenditures and revenues of a state or local government agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not expected to generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not expected to generate revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation is not expected to generate costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation is not expected to generate costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No revenues will be generated by this program.

Expenditures (+/-): No expenditures will be generated by this program.

Other Explanation: n/a

## FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate: 49 C.F.R. (1978)

2. State compliance standards: KRS 174.410(2) and 281.600

3. Minimum or uniform standards contained in the federal mandate: 49 C.F.R. 391.68(c) allows private motor carriers of passengers to be exempt from medical examination in order to operate, but Kentucky does not allow private motor carriers of passengers to be exempted.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation establishes requirements related to exemptions from medical examination for private motor carriers of passengers that are more stringent than the requirements in 49 C.F.R. 391.68(c), which allows these carriers to avoid medical examination. Kentucky does not allow these medical waivers.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Due to the cabinet's compelling interest of public safety, a Kentucky licensed commercial driver operating a passenger transportation vehicle on behalf of a private motor carrier of passengers shall not be exempt from the sections of 49 C.F.R. 391.41 and

391.45 requiring a driver to be medical examined and to have a medical examiner's certificate on his or her person. This is notwithstanding 49 C.F.R. 391.68(c). There are instances, however, where a medical waiver is acceptable, as in the case of intrastate Kentucky motor carriers.