

601 KAR 9:135. Apportioned registration.

RELATES TO: KRS 131.110(1), 131.340, 186.020(1), (3), 186.040, 186.050(13)(a), 186.051(2), 186.180, 186.240(2), 49 U.S.C. 31704

STATUTORY AUTHORITY: KRS 186.050(13), 186.051(3), 49 U.S.C. 31704

NECESSITY, FUNCTION, AND CONFORMITY: 49 U.S.C. 31704 requires each state to participate in the International Registration Plan. KRS 186.051(3) requires the Transportation Cabinet to promulgate an administrative regulation establishing a system of staggered registration time periods for commercial motor vehicles. KRS 186.050(13)(a) requires the Transportation Cabinet to promulgate an administrative regulation concerning the registration of commercial motor vehicles pursuant to the Articles of the International Registration Plan. This administrative regulation establishes the procedures required to register a commercial motor vehicle under the provisions of the International Registration Plan; clarifies if a vehicle licensed pursuant to KRS 186.050(13) is required to be licensed as established in other sections of KRS 186.050; and establishes the recordkeeping standards required for apportionable vehicles, auditing of the records by the Transportation Cabinet, and the appeal procedure if a disagreement occurs.

Section 1. Definitions. (1) "Apportionable vehicle":

(a) Means a power conveyance that is used or intended for use in two (2) or more International Registration Plan Jurisdictions that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property and:

1. Has two (2) axles and gross vehicle weight or registered gross vehicle weight in excess of 26,000 pounds (11,793.401 kilograms);
2. Has three (3) or more axles, regardless of weight; or
3. Is used in combination for a vehicle with a gross weight in which the combination exceeds 26,000 pounds (11,793.401 kilograms); and

(b) Does not mean a recreational vehicle; a vehicle displaying restricted plates, or a government-owned vehicle, except a truck or truck-tractor or a power conveyance in a combination of vehicles having a gross vehicle weight of 26,000 pounds (11,793.401 kilograms) or less. The vehicle types excluded by this paragraph are usually registered pursuant to a plan at the option of the registrant.

(2) "Base jurisdiction" means the member jurisdiction selected in accordance with the International Registration Plan to which an applicant applies for apportioned registration, or the member jurisdiction that issues apportioned registration to a registrant under the plan.

(3) "Established place of business" means a physical structure located within the base jurisdiction:

- (a) Owned, leased, or rented by the fleet registrant;
- (b) Designated by a street number or road location;
- (c) Open during normal business hours;
- (d) In which is located:

1. A person conducting the fleet registrant's business; and
2. The operational records of the fleet necessary for audit.

(4) "Fleet" means one (1) or more apportionable vehicles designated by a registrant for distance reporting as established in the International Registration Plan.

(5) "International Registration Plan" or "IRP" means a registration reciprocity agreement among the states of the United States and provinces of Canada providing for payment of license fees on the basis of total distance operated in all jurisdictions.

(6) "Jurisdiction" means a country, state, province, territory, possession, or federal district of a country.

(7) "Operational records" means source documents that evidence distance travelled by a fleet in a member jurisdiction such as fuel reports, trip sheets, and driver logs, including those that are generated through on-board recording devices and maintained electronically as required by the IRP Audit Assistance manual.

Section 2. Application for Apportioned Registration. (1) The operator of an apportionable vehicle operating in more than one (1) licensing jurisdiction shall apply for apportioned registration in the jurisdictions of operation that are members of the IRP unless a trip permit has been purchased for each trip into the jurisdiction.

(2) A vehicle, or combination of power unit and trailer having a gross vehicle weight of 26,000 pounds or less and two (2) axle vehicles may be apportioned registered at the option of the registrant.

(3) If Kentucky is the base jurisdiction for an operator of an apportionable vehicle, the operator's established place of business shall apply for the apportioned registration in Kentucky.

Section 3. Apportioned Mileage Reporting and Recordkeeping. (1)(a) The fleet miles required to be reported on Kentucky IRP Apportioned Registration Application Schedule B, TC 95-303B shall be the fleet miles traveled from July 1 through June 30 of the year immediately preceding the registration year.

(b) If the registration year begins on a date in July, August, or September, the reporting period shall be the previous twelve (12) month period.

(c) The following table is provided for illustration purposes:

| First Month of Registration Year | Reporting Period |
|----------------------------------|------------------------------|
| January, 1975 | July 1, 1973 - June 30, 1974 |
| February, 1975 | July 1, 1973 - June 30, 1974 |
| March, 1975 | July 1, 1973 - June 30, 1974 |
| April, 1975 | July 1, 1973 - June 30, 1974 |
| May, 1975 | July 1, 1973 - June 30, 1974 |
| June, 1975 | July 1, 1973 - June 30, 1974 |
| July, 1975 | July 1, 1973 - June 30, 1974 |
| August, 1975 | July 1, 1973 - June 30, 1974 |
| September, 1975 | July 1, 1973 - June 30, 1974 |
| October, 1975 | July 1, 1974 - June 30, 1975 |
| November, 1975 | July 1, 1974 - June |

| | |
|----------------|------------------------------|
| | 30, 1975 |
| December, 1975 | July 1, 1974 - June 30, 1975 |

(d) The mileage shall be distributed by jurisdiction. Miles travelled in a jurisdiction by an apportioned power unit, whether or not a member of the International Registration Plan, and whether the vehicle is empty or loaded, shall be reported.

(e) The mileage reported for a motor vehicle power unit that was added to, or deleted from the apportioned fleet during the mileage reporting period shall be the miles generated while the motor vehicle power unit was part of the apportioned fleet.

(f) Mileage shall include:

1. Loaded and unloaded trips;
2. Intrastate and interstate trips; and
3. Miles operated under trip permits.

(2)(a) An apportioned registrant shall maintain operational records for the current registration year and the three (3) registration years immediately prior to the current year.

(b) The information shall be retained in an individual vehicle mileage record.

(c) The individual vehicle mileage record shall contain the:

1. Registrant's name and fleet number;
2. Beginning and ending date of trip;
3. Trip origin and destination;
4. Route of travel for trip;
5. Beginning and ending odometer or hubometer reading of each trip;
6. Total trip miles and mileage;
7. Mileage by jurisdiction for each trip;
8. Vehicle unit number and vehicle identification number; and
9. Driver's name or signature.

Section 4. Proof of Insurance and Certificate of Apportioned Registration. (1) The applicant shall apply to the appropriate county clerk for a certificate of apportioned registration for each vehicle in the fleet, and a vehicle to be apportioned registered.

(2) The county clerk's fee shall be collected as established in KRS 186.040 and 186.050.

(3) A vehicle owned by a non-Kentucky registrant that is properly titled in a foreign jurisdiction and leased to a Kentucky based-motor carrier shall be registered in the name of the Kentucky based-motor carrier with copies of the foreign title, lease agreement, and the owner's commercial driver's license.

(4) The applicant shall submit proof of insurance to the county clerk with the application for the certificate of apportioned registration.

Section 5. Registration Fees. (1)(a) The applicant shall submit an application for apportioned registration to the Department of Vehicle Regulation.

(b) Original or renewal application shall be made by using:

1. Kentucky IRP Apportioned Registration Supplemental Application Schedule C, TC 95-303C; and

2. Kentucky IRP Apportioned Registration Application Schedule B, TC 95-303B.

(c) After the Department of Vehicle Regulation has approved an application, the department shall compute the apportioned registration fee due each jurisdiction under the International Registration Plan.

(d) The applicant shall return to the department, either in person or by mail or electronic payment, the bill and a certified check, cashier's check, personal check, business check, or money order made payable to the Kentucky State Treasurer.

(e) If the applicant is required to post a bond as established in 601 KAR 1:200, Section 6, or has had a personal or business check returned for insufficient funds to the Transportation Cabinet by the applicant's bank, the cabinet shall require the applicant to make payment by cash, certified check, money order, or cashier's check.

(2) The required tax and fee shall be accompanied by proof of payment of the federal heavy vehicle use tax.

(3)(a) The Department of Vehicle Regulation shall issue an IRP apportioned license plate and IRP cab card to the registrant for each IRP registered vehicle.

(b) The originally issued IRP license plate shall have a decal, indicating the expiration month and year.

(c) After the yearly renewal the registrant shall be issued a new decal designating the year of expiration and a new IRP cab card.

(d) The IRP cab card shall list the jurisdictions in which the registrant has apportioned his or her registration fees.

(e) The original IRP cab card shall be carried in the cab of the vehicle continuously.

Section 6. Supplemental Applications. (1) An applicant needing to add or delete a vehicle from a fleet shall file Kentucky IRP Apportioned Registration Supplemental Application, Schedule C, TC 95-303C with the department. This form shall be used to provide notice of a:

- (a) Vehicle addition;
- (b) Vehicle deletion;
- (c) Vehicle transfer; or
- (d) Gross weight increase.

(2)(a) A vehicle deletion notice shall be accompanied by the apportioned registration plate and the IRP cab card.

(b) At the end of the registration month, a registrant may apply for a refund of the fees that apply to the unexpired months of the registration year.

(3)(a) If a vehicle is added by a registrant at the same time another vehicle with the same weight within the fleet is deleted, the Kentucky registration tax shall be transferred from the deleted to the added vehicle.

(b) The Kentucky transfer fee of three (3) dollars shall be collected as established in KRS 186.180.

(c) The registrant shall be notified of the transfer fee owed to other jurisdictions.

(4) If the declared gross weight of the vehicle is increased, the increased fees shall be prorated from the date the increased weight is allowed.

Section 7. Conversion to Apportioned Registration. (1) If a vehicle is an interstate charter bus or is registered in Kentucky as a commercial or limited activity vehicle, and the registrant intends to convert to an apportioned registration, the registrant shall purchase an apportioned registration from the county clerk of residence.

(2) The current commercial vehicle, charter bus, or limited activity license plate shall be submitted to the Department of Vehicle Regulation with the application for apportioned registration.

(3)(a) The applicant shall be given credit for the remainder of the value of current Kentucky registration.

(b) This credit shall be applied toward fees due to other IRP jurisdictions and collected by Kentucky on the apportioned registration.

(4) All fees due to other jurisdictions and a fee due to Kentucky shall be paid in accordance with Section 5 of this administrative regulation before the apportioned credentials are issued.

Section 8. Replacement of Credentials. (1) The owner of a vehicle registered pursuant to KRS 186.050(13) may obtain a duplicate of a lost IRP cab card from the Department of Vehicle Regulation. A duplicate shall be obtained by:

(a) Filing Affidavit for Replacement or Non-exchange, TC 96-167; and

(b) Paying a fee of three (3) dollars as established in KRS 186.180.

(2) A registration plate issued pursuant to KRS 186.050(13) that is lost shall be reported as lost or stolen to the area state police post or local law enforcement agency and the Department of Vehicle Regulation.

(3)(a) A new certificate of apportioned registration shall be issued by the department after review and acceptance of the completed forms. A new license plate reissued by the department shall bear a different number from that of the lost plate.

(b) The original copy of the surrendered certificate of apportioned registration shall be maintained by the department.

(4) The department shall cancel the registration corresponding to the number of the lost plate.

(5) A person finding a lost registration plate shall return it to the Department of Vehicle Regulation or to a county clerk.

Section 9. Apportioned Registration of Leased Vehicles. (1) If an owner or lessor is the registrant of a vehicle, the vehicle may be registered in the name of the owner or lessor.

(a) The allocation of registration fees shall be based on the operational records of the owner or lessor; and

(b) The apportioned license plate and the IRP cab card shall be the property of the lessor.

(2) If the lessee is the registrant of a vehicle, the vehicle may be registered by the lessee in both the owner's or lessor's name and that of the lessee.

(a) The allocation of registration fees shall be based on the operational records of the lessee; and

(b) The apportioned license plate and IRP cab card shall be the property of the lessee.

Section 10. Audit of Apportioned Registrants. (1) As required by the IRP, the cabinet's Division of Road Fund Audits shall perform an audit of fifteen (15) percent of the apportioned registrants based in Kentucky every five (5) years.

(2) An audit shall be performed in accordance with the IRP Audit Assistance manual.

(3) The Division of Road Fund Audits shall notify the apportioned registrant in writing of the date, time, and location of the audit. Thirty (30) days advance notice shall be given to the registrant.

(4) Failure of the registrant to make the records required by Section 3 of this administrative regulation available upon request shall result in:

(a) A penalty assessment as established in the IRP Audit Assistance manual; or

(b) Cancellation of apportioned registration as established in the IRP.

(5)(a) An auditor shall conduct and document a pre-audit conference with the registrant listing:

1. Operation;

2. Audit procedures;
3. Records to be examined;
4. Sample period; and
5. Sampling procedures.

(b) The motor carrier and auditor shall determine at the pre-audit conference who has responsibility for final acceptance of the findings and the persons to be involved in the close-out conference.

(6) An auditor shall conduct and document a close-out conference with the registrant outlining preliminary findings that shall include:

- (a) Applicable penalty and interest;
- (b) Recommendations;
- (c) Rights of appeal; and
- (d) To whom the audit report should be addressed.

(7)(a) The Transportation Cabinet shall furnish the registrant a letter of audit findings and recap schedules.

(b) If requested, the cabinet shall supply other work papers to the registrant.

(8) If an audit indicates that additional tax is owed, the Transportation Cabinet shall issue a tax due statement.

(9) Within forty-five (45) days of the date of the tax due statement, the registrant shall:

- (a) Pay the supplemental tax; or
- (b) Protest in writing to the Transportation Cabinet, Division of Road Fund Audits.

Section 11. Protest or Appeal of Audit Results. (1)(a) A written protest may be filed by a taxpayer, or a person representing a taxpayer, and shall include a supporting statement, and documents that identify the specific adjustments requested, or the portion of the audit protested, and shall establish the reason for the protest as required by KRS 131.110(1).

(b) A protest shall be filed with the Transportation Cabinet, Division of Road Fund Audits within forty-five (45) days from the date of the tax due statement.

(2) If the supporting statements and documentation are not sufficient to change the assessment results, the taxpayer may request an information gathering, or protest conference with the Division of Road Fund Audits in writing by using regular mail, facsimile, or electronic mail.

(3) Within sixty (60) days from the date the taxpayer submits additional information, or within sixty (60) days of a protest conference, the Division of Road Fund Audits shall issue a final ruling to the taxpayer.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Kentucky IRP Apportioned Registration Application, Schedule B", TC Form 95-303B, August 2014;

(b) "Kentucky IRP Apportioned Registration Supplemental Application, Schedule C", TC Form 95-303C, March 2015;

(c) "Affidavit for Replacement or Non-Exchange", TC Form 96-167, October, 2014;

(d) "International Registration Plan with Official Commentary", January 1, 2015;

(e) "Kentucky IRP Apportioned Registration Policies and Procedures Manual", February 2013; and

(f) "IRP Audit Assistance", 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law,

as follows:

(a) For the items incorporated by reference in paragraphs (a), (b), (c), and (e) of this subsection, at the Department of Vehicle Regulation, Division of Motor Carriers, 200 Mero Street, Third Floor, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) For the item incorporated by reference in paragraph (d) of this subsection, at the Office of Audits, Division of Road Fund Audits, 200 Mero Street, Fourth Floor, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. (14 Ky.R. 1710; eff. 3-10-88; Am. 18 Ky.R. 2367; eff. 3-7-92; 24 Ky.R. 398; 909; eff. 11-4-97; 25 Ky.R. 425; 875; 1042; eff. 11-20-98; 30 Ky.R. 1355; 2026; 3-3-2004; 39 Ky.R. 1953; eff. 5-31-2013; 41 Ky.R. 2321; 42 Ky.R. 22; eff. 7-7-2015.)