

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(New Administrative Regulation)

201 KAR 15:125. Surface transportation permit.

RELATES TO: KRS 316.165

STATUTORY AUTHORITY: KRS 316.165, 316.210

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.210 requires the Board of Embalmers and Funeral Directors to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316. KRS 316.165(3) requires the board to issue a permit to an applicant for the sole and limited purpose of being allowed to provide surface transportation of dead human remains. This administrative regulation establishes the criteria for issuance of such permits.

Section 1. Application. (1) Any person seeking a permit to provide surface transportation for dead human remains shall be of the age of eighteen (18) prior to submitting an application.

(2) All persons applying for a permit to provide surface transportation and removal services for dead human remains shall submit:

(a) A completed and signed application form, "Application for Permit to Transport Dead Human Remains", 2019;

(b) A fee in the amount of \$150;

(c) Evidence of training and compliance with the standards of the Occupational Safety and Health Administration for universal precautions and blood-borne pathogens, 29 Code of Federal Regulations (C.F.R.) 1910.1030;

(d) Two (2) passport-sized photographs of the applicant;

(e) An official copy of a criminal justice information system (CJIS) report obtained from the Federal Bureau of Investigation no more than ninety (90) days prior to the application; and

(f) Evidence of possession and control, or ownership of an appropriate vehicle and necessary supplies for surface transportation of dead human remains.

(3)(a) An appropriate vehicle shall have enclosed cargo space of sufficient size to transport a dead human body securely and without exposure to weather.

(b) Necessary supplies shall include:

1. Mortuary/ambulance cot;

2. Collapsible or flexible stretcher;

3. Sheets and cot cover;

4. Pillow or head block;

5. Rubber or plastic sheeting;

6. Towels;

7. Zippered mortuary body bag or disaster pouch;

8. Straps;

9. Protective clothing; and

10. Sanitary accessories.

Section 2. Examination. (1) Any person seeking a surface transportation permit shall be required to pass an examination on Kentucky laws and transport procedures. The examination fee shall be seventy-five (75) dollars and may be paid at the time of application or at the time of examination.

(2) The examination shall be administered by the board concurrently with other monthly ex-

aminations.

(3) The board shall offer a training course related to the subject matter of the examination.

Section 3. Scope of Permit. (1) Permit holders shall only engage in surface transportation of dead human remains requested by an authorized person from the establishment by which the permit holder is employed. Surface transportation shall be limited to obtaining the dead human remains from the location from which the transportation services were requested, and transport to the establishment by which the permit holder is employed.

(2) Permit holders shall present a photo identification to the person or establishment requesting transport, to establish that the permit holder is employed by the establishment to which transport is being requested.

(3) Permit holders shall not engage in any services of funeral directing or embalming or distribute any documents or materials related to such services.

(4) Permit holders may only be employed by one (1) establishment at one (1) time.

(5) Permit holders shall not be required to use a casket for transportation of dead human remains, but shall be required to use a container as may be required by the above referenced OSHA guidelines.

(6) No individual who obtains or holds a permit from this board to transport dead human bodies may use transport removals performed under that permit to accumulate the number of removals required to complete an apprenticeship. All apprenticeship removals shall be performed within the requirements of the apprenticeship and under supervision, to the extent set forth in these administrative regulations. Hours accumulated in performing removals under a Transport Permit will not be counted toward the apprentice's weekly work hours requirement.

Section 3. Incorporation by Reference. (1) "Application for Permit to Transport Dead Human Remains", 2019, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Embalmers and Funeral Home Directors, 9114 Leesgate Rd., Suite 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

HAROLD E. CORDER, Board Chair

APPROVED BY AGENCY: June 13, 2019

FILED WITH LRC: June 14, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 11:00 a.m. on June 28, 2019 at 911 Leawood Drive, Frankfort, Ky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five 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 canceled. 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 p.m. on June 30, 2019. 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: David C. Trimble, General Counsel, 911 Leawood Drive, Frankfort, Kentucky 40601, phone 502-782-8823, fax 502-564-3969, email davidc.trimble@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David C. Trimble

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is for implementation of a new statute that creates a permit for surface transportation of dead human bodies.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement a new statute and develop an application process for the newly created permits for surface transportation of dead human bodies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation implements a new statute that creates a permit for surface transportation of dead human bodies. The statute provides for the Board to create a regulation for application and issuance of permits.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation is for implementation of a new statute that creates a permit for surface transportation of dead human bodies. The statute provides for the Board to create a regulation for application and issuance of permits.

(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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Funeral establishments, and individuals seeking these permits. Kentucky licenses over 500 funeral establishments.

(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: Any individual seeking a permit will have to obtain required training and apply for the permit.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: \$150 application fee, and \$75 testing fee.

(c) As a result of compliance, what benefits will accrue to the entities: This will expand the number of persons licensed to provide surface transportation of dead human bodies. Prior to this statute, only licensed embalmers and licensed funeral directors could provide such transportation.

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

(a) Initially: This will expand the number of persons licensed to provide surface transportation of dead human bodies. Prior to this statute, only licensed embalmers and licensed funeral directors could provide such transportation.

(b) On a continuing basis: This will expand the number of persons licensed to provide surface transportation of dead human bodies. Prior to this statute, only licensed embalmers and licensed funeral directors could provide such transportation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Permit fees will fund 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: Permit fees will fund the implementation and enforcement of this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The regulation establishes permit fees and testing fees.

(9) TIERING: Is tiering applied? No tiering is applied because similarly situated applicants will be treated similarly.

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? This administrative regulation will affect the Kentucky Board of Embalmers and Funeral Directors; it will also make surface transportation of dead human bodies easier for local Coroners and other entities who may need transport services, such as EMT's and other first responders.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. New statute passed by 2019 General Assembly, HB 435.

(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.

(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? Because this administrative regulation is creating a new license, it is unclear how much revenue will be generated for the board.

(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? Because this administrative regulation is creating a new license, it is unclear how much revenue will be generated for the board.

(c) How much will it cost to administer this program for the first year? The board anticipates minimal costs to administer this program for the first year, which will be dependent upon the number of applicants for licensure.

(d) How much will it cost to administer this program for subsequent years? The board anticipates minimal costs to administer this program for subsequent years; the primary costs will be the administration of examinations and maintaining accurate lists of licensees.

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

Revenues (+/-): Increase.

Expenditures (+/-): Slight increase.

Other Explanation: The minimal costs of administering this program should be more than offset by permit fees received as a new revenue stream. The amount of permit fee income will depend on the number of applications received.