

601 KAR 11:040. Medical waivers for intrastate operators of commercial motor vehicles.

RELATES TO: KRS 281.600, Chapter 281A, 49 C.F.R. 383, 391

STATUTORY AUTHORITY: KRS 281.600, 281A.040, 49 C.F.R. 383 Subpart E, 391 Subpart E

NECESSITY, FUNCTION, AND CONFORMITY: The federal requirements for the issuance of a commercial driver's license to a driver operating in interstate commerce include a certification that the driver meets the qualification requirements contained in 49 C.F.R. 391. The Federal Highway Administration does not require a person who operates entirely in intrastate commerce to be subject to 49 C.F.R. 391. He is subject however, to Kentucky driver qualification requirements. In 601 KAR 1:005 the Transportation Cabinet adopted the majority of the driver qualification requirements of 49 C.F.R. Part 391 on both an interstate and intrastate commerce basis. However, medical waivers in addition to those allowed in 49 C.F.R. 391.49 are allowed by the Federal Highway Administration for drivers operating exclusively in intrastate commerce. This administrative regulation sets forth the procedure and standards for obtaining an intrastate medical waiver.

Section 1. Application for Intrastate Medical Waiver. (1) A commercial driver may apply to the Transportation Cabinet for a medical waiver if he:

(a) Operates exclusively in intrastate commerce; and

(b) Has failed to meet the physical requirements of 49 C.F.R. 391, Subpart E, which govern 601 KAR 1:005.

(2) The application for medical waiver shall be on Kentucky Transportation Cabinet form TC 94-38, "Request for Medical Waiver" effective December 1996.

(3)(a) A copy of the completed medical examination form required by 49 C.F.R. 391.43 and 601 KAR 1:005 shall be attached to the application for medical waiver.

(b) The medical examination form shall have been completed by a health care professional as adopted in 601 KAR 1:005, Section 7.

(c) The medical examination form shall indicate the reason the applicant failed to meet the requirements of 49 C.F.R. 391 Subpart E.

(4)(a) Except as provided in paragraph (b) of this subsection, a copy of the applicable supplemental medical report form shall be completed by a licensed doctor of medicine or osteopathy.

(b) The "Vision Conditions" form shall be completed by a licensed doctor of optometry or ophthalmology. The licensed doctor of medicine or osteopathy shall determine which of the following supplemental medical report forms are applicable to the medical waiver applicant:

1. "Cardiovascular";

2. "Neurological";

3. "Musculoskeletal";

4. "Metabolic";

5. "Alcohol or Drug Dependence"; and

6. "Mental and Emotional Conditions".

(5) The application for medical waiver, medical examination form and supplemental medical report form shall be submitted to the Transportation Cabinet, Division of Driver Licensing, State Office Building, Frankfort, Kentucky 40622.

Section 2. (1) The Division of Driver Licensing shall base its decision on granting the requested medical waiver on the information obtained from the following:

(a) Driving history record of the applicant;

(b) Original medical examination form; and

(c) Supplemental medical report form;

(d) A skills test if suggested by the Medical Review Board, the applicant if his medical problem

is exoskeletal or visual, or the provisions of this administrative regulation; and

(e) Any other information supplied to the Division of Driver Licensing about the driving ability of the applicant by the Medical Review Board, a physician, police officer or acquaintance.

(2) The following medical guidelines shall be considered by the Division of Driver Licensing in evaluating the information related to the commercial driver:

(a) Paraplegics or quadriplegics. If the applicant has a loss or impairment of foot, leg, arm, hand or fingers, he shall not be issued a medical waiver unless he passes a skills test administered by the Kentucky State Police in the commercial vehicle adapted for his specific disability.

(b) Vision. To be considered for a medical waiver, the commercial driver shall:

1. Have a distance visual acuity of 20/60 (Snellen) or better with corrective lenses in one (1) or both eyes;

2. Have horizontal visual fields which are not narrowed to less than 110 degrees of total visual field;

3. Readily distinguish which light of traffic signals and devices showing standard red, green and amber is illuminated;

4. Not wear bioptic lenses; and

5. Not have uncorrectable double vision.

(c) Hearing. A waiver of 49 C.F.R. 391.41(11) shall not be issued.

(d) Epilepsy or other condition likely to cause loss of consciousness. A commercial driver with epilepsy or other condition which may cause loss of consciousness shall:

1. Have been seizure free for one (1) year prior to requesting the waiver;

2. Not have experienced loss of consciousness, blackout, fainting or disorientation in the year immediately prior to requesting the waiver; and

3. Be reliable in taking his prescribed medication to be considered for a medical waiver as proven by the blood content levels of his medication.

(e) Cardiovascular.

1. In the year immediately preceding a waiver request, a commercial driver shall not have experienced:

a. A fainting or blackout spell;

b. Uncontrollable attacks of choking, suffocation, or shortness of breath; or

c. Uncontrollable instances of syncope or vertigo.

2. A commercial driver shall not have heart disease symptoms while:

a. Operating a motor vehicle; or

b. Sitting at rest.

3. A commercial driver shall not have:

a. Difficulty in breathing;

b. Painful breathing; or

c. An aortic or ventricular aneurysm.

4. A commercial driver's:

a. Blood pressure shall not be irregular; or

b. Diastolic blood pressure shall not consistently be above 110 millimeters of mercury.

(f) Diabetes. A commercial driver shall not have:

1. An uncontrolled condition of diabetes; or

2. In the year immediately preceding a waiver request, had an instance of diabetes shock or coma.

(g) Alcohol or drugs. A commercial driver shall have been free of addiction to or abuse of alcohol or other drugs for at least one (1) year.

(h) Emotional or mental. A commercial driver shall:

1. Not exhibit homicidal, suicidal, or destructive behavior;

2. In the year immediately preceding a waiver request, not have experienced bouts of:
 - a. Extreme anxiety;
 - b. Depression;
 - c. Paranoia;
 - d. Confusion;
 - e. Delusions; or
 - f. Hallucinations.
3. Not, in the three (3) years immediately preceding a waiver request, have been hospitalized for a mental or emotional condition.

Section 3. (1) If a commercial driver is granted a medical waiver, he shall submit to medical reexaminations required by the Division of Driver Licensing.

(2) After a reexamination, a waiver shall remain in effect if the physician performing the reexamination certifies that:

- (a) The condition for which a waiver was issued has not worsened; and
- (b) An additional nonqualifying condition has not manifested.

(3)(a) The driving history record of a commercial driver approved for a medical waiver may be evaluated by the Division of Driver Licensing at any time.

(b) If a review of the person's driving history record, submitted medical information, or related items would cause the person to ordinarily be referred to the Medical Review Board under the provisions of 601 KAR 13:090, the waiver or waiver request shall be referred to the Medical Review Board for evaluation.

(4)(a) After completion of a test of the commercial driver's driving skills requested by the Division of Driver Licensing, the Kentucky State Police shall submit to the Division of Driver Licensing:

1. The test results; and
2. Recommendations for waiver refusal or restrictions on a medical waiver.

(b) If a medical waiver with restrictions is issued, the restriction shall be noted on the commercial driver's motor vehicle operator's license or commercial driver's license.

(5) If an intrastate medical waiver is issued to a commercial driver, he shall notify the Division of Driver Licensing immediately of any change in or worsening of his physical or mental condition.

(6) If an intrastate medical waiver is issued to a commercial driver with a progressive disease, the Division of Driver Licensing may require the commercial driver to submit to a periodic skills test with the Kentucky State Police.

(7) If an intrastate medical waiver is issued to a person with a pacemaker, he shall submit an annual report on the functioning of the device to the Division of Driver Licensing.

- (8) A medical waiver shall be cancelled if a commercial driver fails to within forty-five (45) days:
- (a) Submit to a periodic report requested by the Division of Driver Licensing; or
 - (b) Report for a skills test.

(9) The employer of a commercial driver who has obtained a medical waiver shall notify the Division of Driver Licensing of a change in the commercial driver's:

- (a) Physical or mental condition; or
- (b) Employment or employment conditions.

Section 4. (1) If a commercial driver is denied a medical waiver by the Division of Driver Licensing, he may request reconsideration from the Commissioner of the Department of Vehicle Regulation. In considering the request for reconsideration, the Commissioner of the Department of Vehicle Regulation shall request from the Medical Review Board established in accordance with 601 KAR 13:090 a review of the case and recommendation on the request for reconsideration.

(2) The request for reconsideration shall be filed with the Commissioner of the Department of

Vehicle Regulation in writing within thirty (30) days of the decision of the Division of Driver Licensing.

(3) A member of the Medical Review Board with specific qualifications in the medical area relating to the request for reconsideration shall review the request when requested by the commissioner.

(4) The commissioner's review shall be based on the information provided to the Division of Driver Licensing, the recommendation of the Medical Review Board and any additional information requested by the commissioner.

(5) The Commissioner of the Department of Vehicle Regulation shall provide a copy of his findings to the:

- (a) Commercial driver; and
- (b) Division of Driver Licensing.

(6) A commercial driver aggrieved by the findings of the Commissioner of the Department of Vehicle Regulation may file an appeal with the Secretary of the Transportation Cabinet in accordance with the provisions of KRS Chapter 13B.

Section 5. Medical Review Board. Any applicant denied a medical waiver under the provisions of this administrative regulation shall be referred to the Medical Review Board under the provisions of 601 KAR 13:090.

Section 6. Waiver Cancellation. If at any time after the issuance of a medical waiver, the Division of Driver Licensing cancels the waiver pursuant to the provisions of this administrative regulation, the driver's commercial driver's license shall also be cancelled.

Section 7. Material Incorporated by Reference. (1) The following Transportation Cabinet forms are incorporated by reference as a part of this administrative regulation:

- (a) TC 94-38, "Request for Medical Waiver" effective December 1996;
- (b) TC 94-38A "MEDICAL REPORT FORM - Vision" effective October 1996;
- (c) TC 94-38B "MEDICAL REPORT FORM - Metabolic" effective June 1995;
- (d) TC 94-38C "MEDICAL REPORT FORM - Neurological" effective April 1996;
- (e) TC 94-38D "MEDICAL REPORT FORM - Cardiovascular" effective March 1994;
- (f) TC 94-38E "MEDICAL REPORT FORM - Musculoskeletal" effective March 1994;
- (g) TC 94-38F "MEDICAL REPORT FORM - Alcohol or Drug Dependence" effective February 1991; and
- (h) TC 94-38G "MEDICAL REPORT FORM - Mental and Emotional Conditions" effective March 1994.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet, Division of Driver Licensing, Second Floor, 501 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. It is also available from the Driver Licensing Office of any Circuit Court Clerk. (17 Ky.R. 2570; eff. 4-5-1991; 18 Ky.R. 3228; 19 Ky.R. 45; eff. 7-4-1992; 1460; 1749; eff. 1-21-1993; 20 Ky.R. 145; eff. 9-3-1993; 24 Ky.R. 1387; 1702; eff. 2-19-1998; 30 Ky.R. 1833; eff. 3-3-2004; Crt eff. 11-26-2019.)