

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Amendment)

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 authorizes 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(1) authorizes 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 bodies. This administrative regulation establishes the criteria for issuance of these permits.

Section 1. Application.

- (1) An applicant seeking a permit to provide surface transportation for dead human bodies shall be of the age of eighteen (18) prior to submitting an application.
- (2) An applicant applying for a permit to provide surface transportation and removal services for dead human bodies shall submit:
 - (a) A completed and signed application form, "Surface Transportation & Removal Permit Application", ~~3/2022~~~~9/2019~~;
 - (b) ~~The [A] fee [in the amount of \$150] established in 201 KAR 15:030;~~
 - (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 bodies.
- (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 or 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) An applicant seeking a surface transportation permit shall be required to pass an examination on Kentucky laws and transport procedures. The examination fee established in 201 KAR 15:030 shall~~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 examinations.]~~ at the conclusion of the course.
- (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 bodies 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 bodies from the location from which the transportation services were requested~~[,]~~ and transporting the dead human bodies[transport] to the establishment by which the permit holder is employed.
- (2) To establish that the permit holder is employed by the establishment to which transport is being requested, a permit holder[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 ~~those[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 bodies, but shall be required to use a container as may be required by ~~[the above referenced]~~ OSHA guidelines.
- (6) An [No] individual who obtains or holds a permit from this board to transport dead human bodies shall not[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 shall[will] not be counted toward the apprentice's weekly work hours requirement.

Section 4. Permit Issuance and Renewal.

- (1) The Surface Transportation Permit issued or renewed under this administrative regulation shall be effective for a period of one (1) year from its date of issuance.
- (2) An individual seeking renewal of the Surface Transportation Permit shall submit[may be effected by sending] to the board:
 - (a) A completed Surface Transportation and Removal Permit Application with the Renewal box checked~~[. An applicant for renewal need not include any information already given on the original application, but]~~ and shall include on the form any new or changed information;
 - (b) A renewal fee ~~[of fifty (50) dollars]~~ as established in 201 KAR 15:030; and
 - (c) Evidence that the permit holder has in his or her possession or control an acceptable vehicle and the requisite equipment and supplies to perform surface transportation of dead human bodies.

Section 5. Incorporation by Reference.

- (1) "Surface Transportation & Removal Permit Application", 3/2022[10/2019], 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.
(46 Ky.R. 292, 1102; eff. 11-1-2019; 48 Ky.R. 2846; eff. 11-1-2022.)

KANETHA DORSEY, Executive Director

APPROVED BY AGENCY: February 24, 2022

FILED WITH LRC: April 7, 2022 at 2:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2022 at 1:00 pm, Via ZOOM. 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 was received by that date, the hearing may be cancelled. A transcript of this 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 until May 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does:

Describes the process to obtain and renew a surface transport license.

(b) The necessity of this administrative regulation:

This regulation allows citizens to transport dead human bodies.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

The board is authorized to issue a permit to an applicant for the sole purpose of being allowed to provide surface transportation of dead human bodies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

Allows the board to approve and supervise individuals who may come into contact with dead human bodies for the purpose of transporting them in the employ of funeral establishment owners or managers.

(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:

Wording and phrasing errors are corrected, Fees are removed as required by HB 220.

(b) The necessity of the amendment to this administrative regulation:

HB 20 removed fees from statutes placing them in administrative regulations. The bill went into effect 6/29/21. Board renewals are 7/1/22.

(c) How the amendment conforms to the content of the authorizing statutes:

N/A

(d) How the amendment will assist in the effective administration of the statutes:

N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

150 current surface transport license holders, 510 funeral establishments who do or may employ surface transport license holders.

(4) Provide an analysis of how the entities identified in question (3) 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 that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

The amendment clarifies wording, The amendment includes updated form that includes the renewal box as outlined in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

License application fee \$150, Course and examination fee \$75, Renewal Fee \$150.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Compliance entitles the holder to transport dead human bodies safely for 1 year, Funeral Directors and Embalmers at the establishments can dedicate their time to the specific tasks associated with their roles.

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

(a) Initially:

No additional cost

(b) On a continuing basis:

No additional cost

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

No special or additional funding will be required for implementation or enforcement.

(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:

These fees are not increasing; just being moved to a single regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

No fees are being established or increased with this amendment.

(9) TIERING: Is tiering applied?

No,

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?

Surface Transport License Holders, Funeral Establishments and Embalming Services

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KAR 201 15:030, KRS 316.030(4)(g) KRS 316.030(5)(f), KRS 316.125(2)(a), KAR 201 15:040 Section 1(1), KAR 201 15:040 Section 3(3) KAR 201 15:040 Section 4(1) KAR 201 15:050 Section 4(5), KAR 201 15:110 Section 5(5)b, KAR 201 15:110 Section 5(5)c, KAR 201 15:110 Section 5(5)d, KAR 201 15:110 Section 5(5)e, KAR 201 15:125 Section 1(2)(b), KAR 201 15:125 Section 2(1).

(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.

None

(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?

Application for Licensure: \$150-\$22,500 (150 applicants in first year); Course and Examination: \$75-\$11,250 (150 applicants in first year).

(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?

Annual Renewal: \$150-\$22,500

(c) How much will it cost to administer this program for the first year?

Paper for testing purposes \$12

(d) How much will it cost to administer this program for subsequent years?

Paper for testing purposes \$12

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

Revenues (+/-): About \$33,750/ year

Expenditures (+/-): None

Other Explanation:

None