

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];~~

(b) The fee established in 201 KAR 15:030;

(c) Evidence of recent (within the previous twelve (12) months) 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~~from an agency approved by the Kentucky Board of Embalmers and Funeral Directors 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 by providing proof of insurance with not less than thirty (30) days before the expiration date;

(g) Proof of an active driver's license.

(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 be paid at the time of application.
- (2) The examination shall be administered 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 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 shall present a photo identification to the person or establishment requesting transport.
- (3) Permit holders shall not engage in any services of funeral directing or embalming or distribute any documents or materials related to those services.
- (4) Permit holders may only be employed by one (1) establishment and its registered affiliate establishments at one (1) time.
- ~~(5) Permit holders must register to assist affiliated establishments and pay the applicable fee for each establishment.~~
- ~~(6) (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 OSHA guidelines.
- ~~(7) (6)~~ An individual who obtains or holds a permit from this board to transport dead human bodies shall not 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 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 expire July 31 following the date of issuance unless sooner revoked, surrendered, or canceled.~~[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 to the board:
 - (a) A completed Surface Transportation and Removal Permit Application with the Renewal box checked and shall include on the form any new or changed information;
 - (b) A renewal fee as established in 201 KAR 15:030;~~[and]~~
 - (c) Evidence of possession and~~[that the permit holder has in his or her possession or control or ownership of an appropriate [acceptable] vehicle and the necessary [requisite equipment and] supplies for [to perform] surface transportation of dead human bodies by providing proof of insurance with not less than thirty (30) days before the expiration date;~~
 - (d) Evidence of recent (within the previous twelve (12) months) training and compliance with the standards of the Occupational Safety and Health Administration for universal precautions and blood-borne pathogens, 29 C.F.R. 1910.1030;
 - (e) Two (2) passport-sized photographs of the applicant as requested; and
 - (f) Proof of an active driver's license.

Section 5. Incorporation by Reference.

(1) "Surface Transportation & Removal Permit Application", ~~6/2024~~~~[3/2022]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Rd., ~~Ste~~~~[Suite]~~ 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. Materials incorporated by reference can also be found on the Kentucky Board of Embalmers and Funeral Directors Web site at <https://kbefd.ky.gov/Pages/forms.aspx>.

KANETHA DORSEY, Executive Director
JONATHAN RIDEOUT, Chairman

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: August 15, 2024 at 12:05 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on, October 24, 2024, at 9:00 am Eastern, at 9114 Leesgate Rd, Ste 4, Louisville, Kentucky. 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 was received by that date, the hearing may be cancelled. 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 October 31, 2024. 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, 9114 Leesgate Rd, Ste 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:

This administrative regulation describes role, and responsibility of the permit holder for removal and ground transportation of dead human bodies by an establishment.

(b) The necessity of this administrative regulation:

This administrative regulation sets out the steps to obtain or renew the permit to remove and transport dead human bodies for Kentucky-licensed establishments.

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

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

This administrative regulation provides the procedure for obtaining a removal and surface transportation permit per KRS 316.165.

(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:

Section 1 (c) clarifies the timeline for bloodborne pathogens training. Section 1(e) The amendment changes the strict FBI check policy, which has been hard for applicants to obtain in some areas of the Commonwealth. The requirement for a criminal background check is still expected however, the board will be able to accept reports from other entities. Section 1 (f) clarifies the timeline for proof of insurance expiration date. Section 1 (g) is added to require proof of an active driver's license of the permit holder. Section 3 (4-5) Allows a permit holder to aid establishments owned by the same business. Section 4 (1) Changes the date of expiration to July 31 to be in line with license expiration.

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

Section 1 (c), 1(f) set the expectation that the permit holder will maintain up-to-date bloodborne pathogens training and insurance on the removal vehicle. The FBI report requirement has postponed several applicants since its inception and the various changes to the process for obtaining an FBI report have created a hardship for establishments. This amendment seeks to aid applicants in obtaining an appropriate national criminal background report by accepting the report from entities other than directly from the FBI. Section 1 (g) is added to ensure that the permit holder prove they are legally able to drive in the Commonwealth of Kentucky. Section 3 (4-5) Establishment owners have communicated that they do not have enough staff to employ one transporter for each establishment when more than one establishment is owned. This is an attempt to alleviate the hardship. Section 4 (1) changes the expiration date to the same date as the funeral director, embalmer and establishment licenses per request of licensed supervisors of the permit holders. The difference has been a cause of confusion and expired permits.

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

This amendment seeks to allow the applicant to hold a permit to remove and transport dead human bodies safely and legally according to KRS 316.165.

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

This amendment will allow for more timely processing of applications due to obtaining the national criminal background check faster. This amendment will decrease the employment hardship communicated by establishment owners while ensuring the permit holders are safe and legally able to drive the removal vehicles.

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

There are currently 510 funeral service establishments in Kentucky. There are 200-300/permit 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:

Applicants will now have to provide their proof of valid vehicle driver's license, up-to-date bloodborne pathogens training, and up-to-date vehicle insurance with initial and renewal applications. Applicants will be able to use national criminal background checks from entities other than the FBI.

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

Unknown-no new fees are established, the external costs may decrease as options for the national criminal background check increase.

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

Applicants will be able to attend the permit course sooner due to a decrease in wait times for the FBI background checks.

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

(a) Initially:

No initial cost

(b) On a continuing basis:

No additional cost on an ongoing basis

(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:

Additional fees are not necessary to implement the amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This regulation does not increase fees for any applicant.

(9) TIERING: Is tiering applied?

No

FISCAL IMPACT STATEMENT

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

KRS 316.010, KRS 316.030, KRS 316.165

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

Kentucky Board of Embalmers and Funeral Directors is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures:This administrative regulation does not change any fees; however, staff time will be expended for phone calls to follow up regarding the need for the driver's license to be included in the application packet. Without the cost for staff time, expenditures are estimated to be the same as with previous years, only requiring the purchase of ribbon at \$125 for the program (2500 cards were purchased in 2022 to support a project to provide cards to all license holders who wanted one, only a few hundred license-holders requested cards so there are enough cards leftover to cover the need to provide surface transporters with cards.

Revenues:Revenues from application and classes is estimated to be 150 new surface transporters per year and about 50-75 transporters who renew totaling revenues of \$33750-\$41250

Cost Savings:No savings are estimated at this time, the application process has not changed to make the procedure more efficient or decrease supplies.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

A nominal change in expenditures, revenues, and savings is expected. Allowing transporters to serve more than one establishment may allow establishments to hire less transporters, which would use less cards and ink and may decrease usage of ribbon and card blanks.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

All cities, counties, and fire departments are affected work with individuals permitted by this regulation

(a) Estimate the following for the first year:

Expenditures:None are estimated resulting from or to affected local entities

Revenues:None are estimated resulting from or to affected local entities

Cost Savings:None are estimated resulting from or to affected local entities

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

No change is anticipated

(4) Identify additional regulated entities not listed in questions (2) or (3):

Hospitals

(a) Estimate the following for the first year:

Expenditures:None are estimated resulting from or two affected local entities

Revenues:None are estimated resulting from or two affected local entities

Cost Savings:None are estimated resulting from or two affected local entities

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

No change is anticipated

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

This administrative regulation provides for individuals to work part-time to receive dead human remains and transport them by ground, vehicular transportation to the funeral home. A fee is required for the application and the class for all initial applicants. The renewal fee is the same as the application fee. This adds about \$41250 to the budget and assists funeral home owners by allowing them to employ a person part-time to transport decedents while employing license holders to provide services inside the funeral home.

(b) Methodology and resources used to determine the fiscal impact:

The budget request information as well as necessity, function, and conformity from the regulation and discussion with owners used to provide financial information for the fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

This administrative regulation will not have an impact in the amount of \$500,00 or more and will not have negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion:

The program results area of the budget request program was used to reach this conclusion.