

601 KAR 1:040. Application for operating authority and registration of motor carriers.

RELATES TO: KRS 281.014, 281.610, 281.615, 281.618, 281.619, 281.620, 281.625, 281.632, 281.637, 281.650, 281.655, 281.660, 281A.010(8), 49 C.F.R. Part 367, 49 U.S.C. 14504a

STATUTORY AUTHORITY: KRS 281.600(1), 281.620(1), 281.752, 49 U.S.C. 14501

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600(1) authorizes the Transportation Cabinet to regulate motor carriers. This administrative regulation establishes the application procedure for intrastate operating authority in the Commonwealth and the registration procedure for interstate motor carriers operating in Kentucky pursuant to authority granted by the United States Department of Transportation.

Section 1. Kentucky Intrastate Passenger or Household Goods Authority.

(1)

(a) An application for operating authority to engage in Kentucky intrastate commerce relating to the transportation of persons, except for charter bus transportation, or household goods shall be made on the following appropriate forms:

1. Transportation Cabinet form TC 93-10E, Application for Operating Authority, Household Goods;
2. Transportation Cabinet form TC 93-11E, Application for Operating Authority, Disabled Persons Carrier;
3. Transportation Cabinet form TC 93-12E, Application for Operating Authority, Bus and Airport Shuttle;
4. Transportation Cabinet form TC 93-13E, Application for Operating Authority, City Limousine and, Taxicab; or
5. Transportation Cabinet form TC 93-15E, Application for Operating Authority, County Limousine and, Taxicab.

(b) The application shall be accompanied by a filing fee of twenty-five (25) dollars.

(c) All applications and exhibits shall be filed with answers typewritten or printed legibly in ink. Each question shall be fully answered and all instructions with the application shall be read and fully complied with.

(2)

(a) If the applicant is a corporation, a copy of the corporation's certificate of good standing from the Secretary of State in the jurisdiction in which it was incorporated shall be submitted with the application.

(b) This certification shall not be more than thirty (30) days old when the application is submitted to the Transportation Cabinet.

(c) If the applicant is a foreign corporation, a Kentucky process agent shall be listed.

(3) The application shall be accompanied by the applicant's financial statement prepared in accordance with 601 KAR 2:010.

(4)

(a) An application shall be sworn to by the applicant or a responsible official acting for the applicant.

(b) A hearing shall not be called or authority issued upon an incomplete application.

Section 2. Temporary Authority Applications.

(1)

(a) An application for temporary authority shall be made to the Transportation Cabinet by petition.

(b) The petition shall set forth the facts relied on by the applicant as showing an immediate and urgent need for the authority sought.

(c) All existing carriers having authority to perform the proposed service between any of the points sought in the petition shall be fully identified and the authority of each as affected by the application shall be stated.

(d)

1. The applicant shall have the burden of proof in showing that any existing carriers with authority are not capable of meeting the need for service.

2. In lieu of meeting this burden, the applicant may file a waiver from each carrier authorized to serve the area sought or any part thereof in the form of a letter from each carrier waiving any objection to the temporary grant of authority.

(2) There shall also be filed with the petition a verified statement. The supporting statement shall contain at least the following information:

(a) Name and address of the motor carrier who has filed the application for temporary authority;

(b) Statement of character and reputation of the applicant and a brief history of the applicant's work history, including any experience in providing transportation services;

(c) Name, address and interest of each person filing a supporting affidavit;

(d) A statement of how the transportation service, if any, is now obtained and how it was obtained in the past;

(e) A statement of when the transportation service is needed and the reasons why the need is immediate and urgent;

(f) An estimate of how long the need for the transportation service will continue and a statement that the person making the supporting statement would support a permanent service application;

(g) A statement of the consequences if this transportation service is not made available; and

(h) A statement of incidents where efforts have been made to obtain the service from existing motor carriers and the:

1. Dates and results of these efforts;

2. Name and address of all existing carriers who have either failed or refused to provide the service; and

3. Reasons given for the failure or refusal.

(3) The department may issue temporary authority without following any of the requirements listed in subsection (2) of this section if one (1) of the following conditions exists:

(a) There are no existing carriers with authority within the scope and area of the application;

(b) All existing carriers with authority within the scope and area of the application issue waivers for the issuance of temporary authority;

(c) There are unusual and emergency conditions; or

(d) The application is for temporary approval under KRS 281.632(2).

(4) If no application for corresponding permanent authority is made, an application for temporary authority shall be accompanied by a filing fee of twenty-five (25) dollars and the financial statement of the applicant prepared in accordance with 601 KAR 2:010.

Section 3. Application for Approval of Transfer of Certificate or Permit.

(1)

(a) An application for approval to transfer a certificate or permit issued by the Transportation Cabinet authorizing Kentucky intrastate commerce shall be accompanied by a filing fee of twenty-five (25) dollars.

(b) The application shall be made on "Application for Approval of Transfer of Certificate or Permit", form TC 93-17E.

(c) All applications and exhibits shall be filed with answers typewritten or printed legibly in ink. Each question shall be fully answered and all instructions with the application shall be read and fully complied with.

(2)

(a) If the applicant is a corporation, a copy of the corporation's certificate of good standing from the Secretary of State in the jurisdiction in which it was incorporated shall be submitted with the application. This certification shall not be more than thirty (30) days old when the application is submitted to the department.

(b) If the applicant is a foreign corporation, a Kentucky process agent shall be listed.

(3)

(a) The application shall be accompanied by the transferee's financial statement prepared in accordance with 601 KAR 2:010.

(b) An application shall be sworn to by the applicant or a responsible official acting for the applicant.

(c) A hearing shall not be called or authority issued upon an incomplete application.

(4) A copy of the executed transfer agreement and a copy of the certificate or permit sought to be transferred shall accompany the application.

(5) If the application is for the transfer of contract carrier authority, a copy of the contract to be transferred and a duly executed assignment by the original shipper shall be attached to the application.

Section 4. Interstate Operating Authority - Motor Carriers.

(1) 49 U.S.C. 14504a, the Unified Carrier Registration Act of 2005, shall govern the registration of motor carriers which meet the following criteria:

(a)

1. Those whose principal place of business is Kentucky; or

2. Those who selected Kentucky as their base state pursuant to the Unified Carrier Registration Act of 2005, 49 U.S.C. 14504(a)(2); and

(b) Those which are operating in interstate commerce.

(2) The Unified Carrier Registration Agreement shall govern the procedures of the Department of Vehicle Regulation in the registration of motor carriers operating in interstate commerce.

(3) A motor carrier which maintains its principal place of business in Kentucky shall apply to the Department of Vehicle Regulation for registration pursuant to 49 C.F.R. Part 367.

(4) The fee for the issuance of the registration required under the Unified Carrier Registration Agreement shall be the fee established in 49 C.F.R. 367.20.

Section 5. Charter Bus Applications.

(1) An application for operating authority as a charter bus operator pursuant to KRS 281.637 shall be made on form TC 95-308E, "Application for Charter Bus Operating Authority".

(2) In accordance with KRS 281A.010(8)(d), a charter bus shall be considered to be a commercial motor vehicle as defined by KRS 281A.010(8) except that it shall be designed to transport seventeen (17) or more persons, including the driver.

(3) Each application shall include a filing fee of twenty-five (25) dollars.

(4) The applicant shall certify knowledge of and compliance with 601 KAR 1:005, Sections 2, 3(1)(b) and 4 and with the provisions of KRS Chapter 281A relating to commercial drivers licenses.

(5) The applicant shall be required to file evidence of insurance as required by KRS 281.655(4).

(6)

(a) If an applicant for a charter bus certificate has complied with the provisions of this administrative regulation, the Department of Vehicle Regulation shall issue the carrier a registration receipt authorizing charter bus operations between all points and places in Kentucky.

(b) The carrier shall keep a copy of this receipt in each vehicle operating pursuant to this authority.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form TC 93-10E, "Application for Operating Authority, Household Goods", July 2006;

(b) Form TC 93-11E, "Application for Operating Authority, Disabled Persons Carrier", July 2006;

(c) Form TC 93-12E, "Application for Operating Authority, Bus and Airport Shuttle", July 2006;

(d) Form TC 93-13E, "Application for Operating Authority, City Limousine and Taxi", July 2006, revised April 1999;

(e) Form TC 93-15E, "Application for Operating Authority, County Limousine and Taxi", July 2006;

(f) Form TC93-17E, "Application for Approval of Transfer or Lease of Certificate or Permit", July 2006;

(g) Form TC 95-308E, "Application for Charter Bus Operating Authority", September 2002; and

(h) "Unified Carrier Registration Agreement", approved by the Unified Carrier Registration Board, June 11, 2007.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet, 200 Mero Street Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.

(DMT-3; 1 Ky.R. 784; eff. 5-14-1975; 18 Ky.R. 2359; 2695; 2961; 3195; eff. 5-1-1992; 20 Ky.R. 1381; eff. 2-10-1994; 22 Ky.R. 1725; 2299; eff. 6-6-1996; 26 Ky.R. 201; eff. 9-7-1999; 28 Ky.R. 1688; 2572; eff. 6-14-2002; 35 Ky.R. 1274; 1737; eff. 2-6-2009; Crt eff. 11-26-2019.)