

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

RAILROADS: Provides relative to safety regulations for contract carriers transporting railroad employees. (8/1/13)

DIGEST

Present law classifies transport lines in the business of transporting railroad employees as "for-hire carriers". Proposed law changes this classification to "contract carriers" and defines the term as a transportation company operating in intrastate commerce by motor vehicle or bus under contract to transport railroad employees for compensation.

Present law defines "driving time" as all time spent at the driving controls of a commercial for-hire vehicle designed to transport railroad employees. Proposed law changes this term to "drive time" and defines it as the length of time a driver spends behind the wheel of a motor vehicle performing intrastate commerce as employed by a contract carrier to transport railroad employees.

Present law defines "on-duty time" as all time the driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Proposed law changes this definition to the length of time a driver spends at work as an employee of a contract carrier including the following conditions:

- (1) All time spent at a plant, terminal, facility, or other property of a contract carrier or shipper waiting to be dispatched, unless the driver has already been relieved from duty.
- (2) All time spent inspecting, servicing, or conditioning a contract carrier vehicle used in the duty of transport assignments.
- (3) All drive time as defined in the term "drive time".
- (4) All time, other than driving, in or upon a contract carrier motor vehicle used in the duty of transport assignments.
- (5) All time supervising, attending, or assisting the loading or unloading of a contract carrier transport vehicle, time spent giving or receiving receipts for shipments loaded or unloaded, or remaining in readiness to complete a transport assignment.
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled contract carrier transport vehicle.
- (7) All time spent providing a breath sample or urine specimen, including time to and from the testing site.
- (8) Time spent performing any other work in the capacity, employment, or service of a contract carrier.

Proposed law defines "transport vehicle driver" as a driver employed by a contract carrier to fulfill transport assignments in accordance with the intrastate transportation of railroad employees.

Proposed law defines "uninterrupted rest" as a period of time in which a contract carrier shall not communicate with a driver by telephone, pager, or any manner that would disrupt the driver's rest. This is commonly referred to as "off-duty".

Present law prohibits a driver from operating a vehicle for more than 10 hours in any 24-hour period without eight consecutive hours off-duty. Proposed law changes this regulation to 12 hours following eight consecutive hours of uninterrupted rest.

Present law prohibits drivers from operating a vehicle after the driver has been on-duty for 15 hours without eight consecutive hours of off-duty time. Proposed law changes this regulation to 15 hours of combined on-duty and drive time after the driver completes eight consecutive hours of off-duty time.

Present law prohibits drivers from operating a vehicle after the driver has been on-duty for a total of 70 hours within eight consecutive days until the beginning of the next eight consecutive days. Proposed law changes this regulation to 70 hours of combined on-duty and drive time in any period of seven consecutive days.

Present law prohibits a driver from performing any compensated work for a person who is not a motor carrier within eight hours prior to coming on duty. Proposed law removes this regulation and adds that after an off-duty period of at least 24 hours, a driver shall begin a new consecutive work period, and the driver's off-duty time shall reset to zero.

Proposed law provides that a transport vehicle driver who cannot safely complete a transportation assignment within the 12 hour maximum driving time permitted due to an emergency shall be permitted to drive a motor vehicle for not more than two additional hours to complete the transport assignment or to reach a destination offering safety and security for the transport motor vehicle and its passengers.

Proposed law provides that a contract carrier shall maintain time records for a period of six months indicating the time all transport vehicle drivers report for duty, the time of relief from duty, hours driven, hours on duty, and hours off duty. The records shall be made available to the Dept. of Public Safety and Corrections, office of state police, for inspection and shall be subject to the provisions of R.S. 32:1505. The Dept. of Public Safety and Corrections, office of state police, shall adopt rules and regulations, in accordance with the Administrative Procedure Act, as are necessary to implement the provisions of this Section.

Proposed law provides that a contract carrier shall maintain a transport vehicle driver qualification and personnel file for each driver it employs. The driver qualification file shall include the following:

- (1) The driver's employment application as provided by 49 CFR 391.21 of the U.S. Dept. of Transportation.
- (2) Request for information from the driver's previous employer as provided by 49 CFR 391.23(a)(2) and (c) of the U.S. Dept. of Transportation.
- (3) Documentation related to the annual inquiry and review of the driver's motor vehicle operation record as provided by the La. Dept. of Public Safety and Corrections, office of motor vehicles. Such documentation shall confirm the driver's qualifications and ability to operate a motor vehicle in this state and shall include a record of all motor vehicle laws and ordinance violations committed by the driver.
- (4) Medical examination report and certificate to be completed every two years which confirms the physical ability if the driver is to operate a motor vehicle.
- (5) A copy of the driver's current Class E driver's license.

Proposed law provides that the provisions of proposed law shall not limit the right of a railroad company to contract with an employee of a contract carrier, transportation company, or entity that certifies to the railroad company that it is in compliance with the provisions of proposed law or any applicable federal requirements.

Proposed law provides that a driver shall be disqualified from employment as a transport vehicle driver for a contract carrier if the driver has committed two or more traffic violations

resulting in the suspension or revocation of license or driving privileges by the office of motor vehicles for conviction of any of the following:

- (1) Any intoxication related offense.
- (2) Any commercial motor vehicle violation.
- (3) Driving 15 or more miles per hour over the posted speed limit of the roadway.
- (4) Negligent homicide with a motor vehicle or vehicular homicide.
- (5) Using a motor vehicle to commit a felony.
- (6) Failure to maintain proof of financial responsibility as required by law.
- (7) Fleeing the scene of an accident on foot or by use of a motor vehicle.
- (8) Evading arrest.
- (9) Careless and imprudent driving.
- (10) Prohibited passing of another motor vehicle.
- (11) Passing a stopped school bus.
- (12) Failure to obey a posted traffic signal or device.
- (13) Failure to obey a railroad crossing barrier.
- (14) Driving with a suspended, revoked, or cancelled driver's license.
- (15) Driving the wrong way down a one-way street.

Proposed law requires transport vehicle drivers performing transport assignments for contract carriers to undergo alcohol and controlled substance testing provided by federal transportation guidelines. A driver will be qualified for employment if the alcohol test results indicate a blood alcohol concentration of zero and the controlled substance test results indicate a negative test result once confirmed by a certified medical review officer.

Proposed law provides that a driver will be disqualified from employment for the following:

- (1) The driver refuses to provide a specimen for an alcohol or controlled substance test.
- (2) The driver submits an adulterated, dilute positive, or substituted specimen on an alcohol or controlled substance test.

Proposed law provides that in the event of a motor vehicle accident occurring in the duty of a transport assignment, involving a motor vehicle owned or operated by a transport vehicle driver, the contract carrier shall test each surviving transport vehicle driver for alcohol or controlled substances, if:

- (1) The accident involved the loss of human life.
- (2) The transport vehicle driver received a moving traffic violation citation as a result of the motor vehicle accident that involved bodily injury to a person who received immediate medical attention or disabling damage occurring to one or more motor vehicles involved in the accident.

Proposed law provides that alcohol and controlled substance testing shall be completed immediately following a motor vehicle accident. In the event alcohol testing cannot be completed immediately, testing shall be performed within eight hours following the motor

vehicle accident. In the event controlled substance testing cannot be completed immediately following the motor vehicle accident, testing shall be performed within 32 hours following the motor vehicle accident. The results of such testing shall be submitted to the office of motor vehicles.

Proposed law provides that a contract carrier shall maintain all records of alcohol and controlled substance testing for each driver it employs for a period of five years from the date the test is administered.

Proposed law provides that a contract carrier shall inspect all motor vehicles and components utilized for the transportation of railroad employees at least once in each 12-month period in compliance with federal law. A contract carrier and its officers, drivers, agents, and employees concerned with the inspection and maintenance of motor vehicles shall comply with and be knowledgeable of the contract carrier's maintenance and repair program.

Proposed law provides that contract carriers shall require each transport vehicle driver it employs to complete a written motor vehicle report upon completion of operation of the motor vehicle in accordance with federal law.

Proposed law provides that a contract carrier shall establish a maintenance and repair program to include weekly inspections of the motor vehicles operated in the transportation of railroad employees.

Proposed law provides that a contract carrier shall maintain records for its maintenance and repair program for each motor vehicle for a time period of one year. In the event a motor vehicle changes ownership, records shall be maintained by the contract carrier for a period of six months. The records shall include:

- (1) Identifying information of the motor vehicle to include vehicle identification number, make, model, year of manufacture, and company identification number if so provided.
- (2) Owner information if the motor vehicle is not owned by the contract carrier.
- (3) Inspection history to include documentation of all repairs and maintenance activity.

Proposed law provides that all motor vehicles operated by contract carriers shall have the following:

- (1) Tires with sufficient tread in accordance with federal law.
- (2) A fully inflated spare tire.
- (3) A secure location for personal baggage, including proper restraints.
- (4) Fully operational seatbelts for all passenger seats.
- (5) Traction devices, studs, or chains in the event of inclement weather.
- (6) An operational heater and air conditioner with fans.
- (7) An emergency road kit containing a tire inflation aerosol, flares or reflective triangles, battery cables, a fire extinguisher, and a readily available first aid kit complying with the standards set forth in federal law.

Proposed law provides that all motor vehicles operated by contract carriers shall be equipped with an operable amber light or strobe light which shall be mounted to the roof of the motor vehicle in the rear 1/3 portion in order to provide warning to motorist the vehicle has slowed or stopped on a roadway.

Proposed law provides that all motor vehicles operated by contract carriers shall not be operated in a condition that is likely to cause a motor vehicle accident or mechanical breakdown.

Proposed law provides that a contract carrier shall allow an employee of the Department of Public Safety and Corrections or its designee access to a facility to determine compliance of proposed law and records or information related to a motor vehicle accident investigation.

Proposed law provides that the provisions of proposed law shall be considered minimum standards and shall not be construed to supercede or abrogate any law, rule, or regulation which imposes stricter standards or regulations upon the operation of contract carriers which transport railroad employees.

Proposed law provides that any person, corporation, or entity that violates the provisions of proposed law or any rule promulgated thereto, shall be subject to a civil penalty in an amount not more than \$2,000 for each offense or violation. Each violation shall constitute a separate and distinct offense. In the event of continuing violations, each such violation shall constitute a distinct and separate offense.

Effective date August 1, 2013.

(Amends R.S. 32:1524; Adds R.S. 32:1524.1, 1524.2, and 1524.3)

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Made technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the reengrossed bill

1. Deleted seat belt violation convictions from list of two or more traffic violations that shall disqualify a transport vehicle driver from employment by a contract carrier to transport railroad employees.