

1 HB278
2 159670-1
3 By Representative Ford
4 RFD: Public Safety and Homeland Security
5 First Read: 12-MAR-15

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8 SYNOPSIS: This bill would relate to railroad employee
9 safety and would require certain contract carriers
10 who transport operating employees of railroads in
11 motor vehicles to comply with certain safety
12 standards for any driver employed by the contract
13 carrier.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 Relating to railroads and certain contract carriers
20 who transport operating employees of railroads in motor
21 vehicles; to require a contract carrier to comply with certain
22 safety standards for any driver employed by the contract
23 carrier.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. The following terms shall have the
26 following meanings:

1 (1) CONTRACT CARRIER. A common carrier who contracts
2 to transport an operating employee of a railroad on a road or
3 highway of this state in a motor vehicle designed to carry 15
4 or fewer passengers.

5 (2) ON-DUTY TIME. Time spent by a contract carrier
6 driver at a terminal, facility, or other property of a
7 contract carrier or on any public property waiting to be
8 dispatched. On-duty time includes time spent inspecting,
9 servicing, or conditioning the motor vehicle, unless the
10 driver has been relieved from duty by the contract carrier.

11 (3) SERIOUS TRAFFIC VIOLATION. Any violation
12 resulting in the driver's license or privilege to operate a
13 motor vehicle being suspended or revoked by the Department of
14 Public Safety, or other administrative agency if the
15 suspension or revocation occurred in another state, or any
16 violation in which a driver has been found guilty of any of
17 the following:

- 18 a. Traffic offense related to intoxication.
- 19 b. Seat belt violation.
- 20 c. Commercial motor vehicle violation.
- 21 d. Driving 15 or more miles per hour over the speed
22 limit.
- 23 e. Negligent homicide.
- 24 f. Using a vehicle to commit a felony.
- 25 g. Failure to maintain proof of financial
26 responsibility as required by law.
- 27 h. Leaving the scene of an accident.

- 1 i. Evading arrest.
- 2 j. Fleeing by use of a motor vehicle.
- 3 k. Careless and imprudent driving.
- 4 l. Prohibited passing of another vehicle.
- 5 m. Passing a stopped school bus.
- 6 n. Failure to obey a traffic signal or device.
- 7 o. Failure to obey a railroad crossing barrier.
- 8 p. Driving with a suspended, revoked, or cancelled
- 9 license.
- 10 q. Driving the wrong way down a one-way street.

11 (4) UNINTERRUPTED REST. A period of time within
12 which the contract carrier does not communicate with a driver
13 by telephone, pager, or in any other manner that could
14 reasonably be expected to disrupt the driver's rest.

15 Section 2. (a) A contract carrier shall not permit a
16 driver to drive or remain on duty:

17 (1) More than 10 hours after eight consecutive hours
18 of uninterrupted rest off-duty.

19 (2) More than 15 hours of combined on-duty time and
20 drive time since last obtaining eight consecutive hours of
21 off-duty time.

22 (3) More than 70 hours of on-duty and drive time in
23 any period of seven consecutive days.

24 (b) After 24 hours off-duty, a driver shall begin a
25 new consecutive seven-day period and on-duty time is reset to
26 zero.

1 (c) A driver for a contract carrier who encounters
2 an emergency and cannot, because of that emergency, safely
3 complete a transportation assignment within the 10-hour
4 maximum driving time permitted under this section may drive
5 and be permitted or required to drive a transport motor
6 vehicle for not more than two additional hours in order to
7 complete that transportation assignment or to reach a place
8 offering safety for the occupants of the transport motor
9 vehicle and security for the transport motor vehicle if the
10 transportation assignment reasonably could have been completed
11 within the 10-hour period absent the emergency.

12 (d) A contract carrier shall maintain and retain for
13 a period of six months accurate time records that show all of
14 the following:

15 (1) The time the driver reports for duty each day.

16 (2) The total number of hours of on-duty time for
17 each driver for each day.

18 (3) The time the driver is released from duty each
19 day.

20 (4) The total number of hours driven each day.

21 Section 3. (a) A contract carrier shall maintain a
22 driver qualification file for each driver it employs. The
23 driver qualification file may be combined with the personnel
24 file of the employee and the driver qualification file shall
25 include all of the following:

26 (1) A certificate of physical examination taken
27 within the last two years conducted by a physician that

1 certifies the physical ability of the driver to operate a
2 motor vehicle.

3 (2) Documentation that establishes that the driving
4 record of the driver has been reviewed at least one time
5 within a year.

6 (3) Documentation related to the violation, if any,
7 of applicable motor vehicle laws or ordinances by the driver.

8 (4) Any other documentation related to the
9 qualification or general ability of the driver to drive a
10 motor vehicle.

11 (5) The driver's application for employment as
12 provided by 49 C.F.R. 391.21, as amended.

13 (6) Responses from previous employers, if required
14 by the current employer.

15 (7) A copy of the current driver's license of the
16 driver showing the qualifications, or the equivalent thereof,
17 of the driver.

18 Section 4. (a) A driver shall be disqualified from
19 driving for a contract carrier if the driver has committed two
20 or more serious traffic violations within a three-year period.

21 (b) Before a driver performs any duties for a
22 contract carrier, the driver shall undergo testing for alcohol
23 and controlled substances as provided by 49 C.F.R. Part 40 and
24 Part 382, as amended.

25 (c) A driver shall be considered qualified to drive
26 for a contract carrier if the alcohol test result indicates an
27 alcohol concentration of zero and the controlled substances

1 test result from the medical review officer as defined in 49
2 C.F.R. Part 40.3, as amended, indicates a verified negative
3 test result.

4 (d) A driver shall be disqualified from driving for
5 a contract carrier if any of the following apply:

6 (1) The alcohol test result and the controlled
7 substances test result are not in compliance with subsection
8 (c).

9 (2) The driver refuses to provide a specimen for an
10 alcohol test or a controlled substances test, or both.

11 (3) The driver submits an adulterated specimen, a
12 dilute positive specimen, or a substituted specimen for an
13 alcohol test or a controlled substances test that is
14 performed.

15 (e) After an accident involving a motor vehicle
16 owned or operated by a contract carrier, the contract carrier
17 shall test each surviving driver for alcohol and controlled
18 substances immediately following the accident under any of the
19 following circumstances:

20 (1) The accident involved the loss of human life.

21 (2) The driver received a citation for a moving
22 traffic violation arising from the accident and the accident
23 involved bodily injury to a person who received medical
24 treatment immediately after the accident.

25 (3) Disabling damage occurred to one or more motor
26 vehicles involved in a motor vehicle accident.

1 (f) If alcohol testing cannot be conducted
2 immediately following an accident, testing shall be conducted
3 within eight hours of the accident. If controlled substances
4 testing cannot be conducted immediately following an accident,
5 testing shall be administered within 32 hours of the accident.
6 The results of such testing shall be submitted to the
7 Department of Public Safety.

8 (g) The contract carrier shall maintain records of
9 any alcohol testing and controlled substances testing of each
10 driver for five years. The records shall be maintained in the
11 driver qualification file provided in Section 3.

12 Section 5. (a) A contract carrier shall inspect or
13 cause to be inspected a motor vehicle and its components that
14 it operates for passenger transportation at least one time per
15 year in compliance with the rules promulgated by the United
16 States Department of Transportation as provided under 49
17 C.F.R. 396.17, Appendix G. The inspection shall be performed
18 by an individual who is qualified to perform the inspection as
19 prescribed in 49 C.F.R. Part 396.19, as amended.

20 (b) A contract carrier shall require each driver to
21 complete a daily written motor vehicle report upon completion
22 of work on the motor vehicle that the driver operated as
23 prescribed under 49 C.F.R. Part 396.11, as amended.

24 Section 6. (a) A contract carrier shall establish a
25 maintenance and repair program to include at least weekly
26 inspections.

1 (b) The maintenance and repair program of the
2 contract carrier shall include checking parts and accessories
3 for safety and proper operation at all times, including the
4 items under subsection (c), and overall cleanliness of the
5 motor vehicle.

6 (c) A motor vehicle used by a contract carrier shall
7 have all of the following:

8 (1) Tires with sufficient tread as prescribed under
9 49 C.F.R. Part 393.75, as amended.

10 (2) A spare tire that is fully inflated.

11 (3) A secured location for personal baggage,
12 including proper restraints.

13 (4) Fully-operational seatbelts for all passenger
14 seats.

15 (5) If the weather requires it, traction devices,
16 studs, or chains.

17 (6) Heating and cooling devices that are properly
18 working with properly working fans.

19 (7) An emergency road kit that contains at least a
20 tire inflating aerosol can, flares or reflective triangles,
21 jumper cables, and a fire extinguisher.

22 (8) A readily available first aid kit complying with
23 the standards set forth in 29 C.F.R. 1910.151, as amended. The
24 first aid kit shall contain, at a minimum, those articles
25 described in the most recent American National Standard (ANSI)
26 Z308.1 as recommended by Appendix A to 29 C.F.R. 1910.151, as
27 amended.

1 (d) All vehicles in a fleet of the contract carrier
2 shall be equipped with an operable amber light or strobe light
3 which shall be mounted to the roof of the vehicle in the rear
4 one-third portion of the vehicle in order to provide warning
5 to other motorists when the vehicle has slowed or stopped on
6 or near a roadway.

7 (e) A vehicle shall not be operated in a condition
8 that is likely to cause an accident or mechanical breakdown.

9 (f) A contract carrier shall maintain records for
10 the maintenance and repair of each motor vehicle. The records
11 shall include all of the following:

12 (1) Identifying information for the motor vehicle to
13 include the vehicle identification number, make, year
14 manufactured, and company identification number if one is
15 provided.

16 (2) Owner information if the contract carrier is not
17 the owner of the vehicle.

18 (3) History of inspections, repairs, and maintenance
19 that describe the activity and the date the activity was
20 performed.

21 (g) The records required to be maintained under this
22 section shall be maintained by the contract carrier at its
23 principal place of business for at least one year. After a
24 motor vehicle leaves the control of a contract carrier, the
25 records of the motor vehicle shall be maintained by the
26 contract carrier at its principal place of business for at
27 least six months.

1 (h) A contract carrier and its officers, drivers,
2 agents, and employees who are involved in the inspection or
3 maintenance of motor vehicles shall comply with and be
4 knowledgeable of the maintenance and repair program of the
5 contract carrier.

6 Section 7. A contract carrier shall allow an
7 employee of the Department of Public Safety or the Public
8 Service Commission or its designee access to a facility to
9 determine compliance with this act and records or information
10 related to an accident investigation.

11 Section 8. (a) A contract carrier shall obtain and
12 maintain insurance coverage of two million dollars
13 (\$2,000,000) per person for bodily injury or death and up to a
14 maximum of six million dollars (\$6,000,000) for each motor
15 vehicle that transports railroad employees.

16 (b) A contract carrier shall obtain and maintain
17 uninsured and underinsured insurance coverage for each
18 passenger in each motor vehicle in a minimum amount of one
19 million dollars (\$1,000,000).

20 Section 9. (a) Any person, corporation, or entity
21 that violates the provisions of this act, or any rule
22 promulgated thereto, shall be subject to a civil penalty in an
23 amount of not more than two thousand dollars (\$2,000) for each
24 offense or violation.

25 (b) Each violation of this act shall constitute a
26 separate and distinct offense, and in the case of a continuing

1 violation, each day the violation continues shall be deemed to
2 be a separate and distinct offense.

3 (c) (1) The Department of Public Safety or the Public
4 Service Commission shall assess penalties for violations under
5 this act by written notice to the violator.

6 (2) To determine the amount of the penalty, the
7 department, the commission, or its designee shall evaluate all
8 of the following:

9 a. The nature, circumstances, extent, and gravity of
10 the violation.

11 b. The degree of culpability, history of prior
12 offenses, ability to pay, and effect on the ability to
13 continue to do business of the person found to have committed
14 the violation.

15 c. Other circumstances as justice may require.

16 Section 10. (a) This act is not intended to limit,
17 and may not be construed as limiting, the right of a railroad
18 to contract with a contract carrier or entity that certifies
19 to the railroad that it is in compliance with the provisions
20 of this act or any applicable federal requirements.

21 (b) This act shall be considered minimum standards
22 and may not be construed as superseding or abrogating any law,
23 rule, or regulation that imposes stricter standards or
24 regulations upon the operation of contract carriers that
25 transport railroad employees.

1 Section 11. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.