

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



20210909114022  
Kansas Corporation  
Commission  
Phone: 785-271-3100  
Fax: 785-271-3354  
<http://kcc.ks.gov/>

Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Susan K. Duffy, Commissioner

Laura Kelly, Governor

**NOTICE OF PENALTY ASSESSMENT**  
22-TRAM-115-PEN

September 9, 2021

Que Fullmer, Owner  
Fullmer Auto Company Texas LLC d/b/a Fullmer Cattle Co.  
PO Box 986  
Syracuse, KS 67878

This is a notice of a penalty assessment against Fullmer Auto Company Texas LLC d/b/a Fullmer Cattle Co. (Fullmer Cattle Co.) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted from August 17 to August 19, 2021, by Kansas Corporation Commission Special Investigator Penny Fryback and Erica Pargas. Penalties are assessed in accordance with the FY 2022 Uniform Penalty Assessment Matrix, approved by the Commission on June 29, 2021. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

**IF YOU ACCEPT THE PENALTY:** Fullmer Cattle Co. has been assessed a \$1,100 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$1,100, through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of Fullmer Cattle Co. to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website [http://www.kcc.state.ks.us/trans/safety\\_meetings.htm](http://www.kcc.state.ks.us/trans/safety_meetings.htm).

**IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing.** A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Fullmer Cattle Co. must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel.<sup>1</sup>

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$1,100 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,  
*/s/ Ahsan A. Latif*  
Ahsan A. Latif  
Litigation Counsel  
(785) 271-3118  
[a.latif@kcc.ks.gov](mailto:a.latif@kcc.ks.gov)

<sup>1</sup> K.A.R. 82-1-215; K.S.A. 77-542.

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners:      Andrew J. French, Chairperson  
                                      Dwight D. Keen  
                                      Susan K. Duffy

In the Matter of the Investigation of **Fullmer**      )  
**Auto Company Texas LLC d/b/a Fullmer**      )  
**Cattle Co., of Syracuse, KS,** Regarding the      )  
Violation(s) of the Motor Carrier Safety Statutes,      ) Docket No. 22-TRAM-115-PEN  
Rules and Regulations and the Commission's      )  
Authority to Impose Penalties, Sanctions and/or      )  
the Revocation of Motor Carrier Authority.      )

**PENALTY ORDER**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

**I.      JURISDICTION**

1.      Pursuant to K.S.A 66-1,108b, 66-1,111, 66-1,112, 66-1,112g, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2.      Pursuant to K.S.A. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the

regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

3. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and issue an order on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

## **II. BACKGROUND**

4. Fullmer Auto Company Texas LLC d/b/a Fullmer Cattle Co. (Fullmer Cattle Co. or Carrier) has private and common operating authority with the Commission and further operates under USDOT number 2006007.

5. Laila Kammerman attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on November 3, 2020, on behalf of Fullmer Cattle Co.

6. Fullmer Cattle Co. is a private and common motor carrier which primarily hauls passengers, livestock, grain, feed, hay, and farm supplies.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, from August 17 to August 19, 2021, Commission Staff (Staff) Special Investigator Penny Fryback and Erica Pargas conducted a safety compliance review of the operations of Fullmer Cattle Co. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified three (3) violation(s) of the Motor Carrier Safety Regulations.

- a. On June 15, 2021, Fullmer Cattle Co. required or permitted its driver, Casey Vanatte, to operate a CDL-required commercial motor vehicle, a 2007 Kenworth T800, VIN ending in 182426, GVWR 33,000 lbs., pulling a 1999 X-L Specialized Drop Deck trailer, VIN ending in 002338, in intrastate commerce in from Syracuse, Kansas to Hays, Kansas. This trip is evidenced by a Driver's Daily Log, dated June 15, 2021, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Fullmer Cattle Co. permitted its driver, Casey Vanatte, to operate a commercial motor vehicle without a valid commercial driver's license. The Carrier's operations of using a driver without a valid commercial driver's license is in violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 8-2, 125. Staff recommends a fine of \$500.
- b. During the transportation described in paragraph a., above, Fullmer Cattle Co. failed to ensure they had a designated individual trained in Supervisor Reasonable Suspicion testing. The Carrier's failure to have a designated person undergo 60 minutes of training for controlled substance and 60 minutes of training for alcohol to determine drivers undergo reasonable suspicion testing is a violation of 49 C.F.R. 382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$100.
- c. During the transportation described in paragraph a., above, Fullmer Cattle Co. failed to have commercial registrations on their power units. The

Special Investigators found four (4) counts of this violation. The Carrier's failure to have proper commercial registrations on their power units is a violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 8-143m. Staff recommends a fine of \$500.

#### **IV. STAFF'S RECOMMENDATIONS**

8. Staff submitted a Report and Recommendation (R&R), dated August 31, 2021, attached hereto as Attachment "C" and is hereby incorporated by reference. In its R&R, Staff made recommendation regarding the above-mentioned violations.

9. Based upon the available facts, Staff recommends the Commission finds Fullmer Cattle Co. committed three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

10. Additionally, Staff recommends a civil penalty of \$1,100 for three (3) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff further recommends that a representative from Fullmer Cattle Co. be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at [http://kcc.ks.gov/trans/safety\\_meetings.htm](http://kcc.ks.gov/trans/safety_meetings.htm).

12. Staff further recommends Fullmer Cattle Co. submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and

detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

13. Finally, Staff recommends that Fullmer Cattle Co. submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

## **V. CONCLUSIONS OF LAW**

14. The Commission finds it has jurisdiction over Fullmer Cattle Co. pursuant to K.S.A. 66-1,108b because it is a motor carrier as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f.

15. The Commission finds Fullmer Cattle Co. committed three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

### **THE COMMISSION THEREFORE ORDERS THAT:**

A. Fullmer Auto Company Texas LLC d/b/a Fullmer Cattle Co., of Syracuse, KS is hereby assessed a \$1,100 civil penalty for three (3) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Fullmer Cattle Co. is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

C. Carrier is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting

the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Fullmer Cattle Co. is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the Carrier to set up the appointment.

E. Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Fullmer Cattle Co.'s right to a hearing, and this Penalty Order will become a Final Order.

F. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest.<sup>2</sup>

G. If you do not request a hearing, the payment of the civil penalty of \$1,100 is due in thirty (30) days from the date of service of this Order. Payment of \$1,100 must be made

---

<sup>2</sup> . K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

H. Failure to pay the \$1,100 civil penalty within thirty (30) days from the date of service of this Penalty Order and/or failure to comply with the provisions of this Order may result in suspension of Fullmer Cattle Co.'s motor carrier operating authority without further notice.<sup>3</sup> Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

**BY THE COMMISSION IT IS SO ORDERED.**

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: \_\_\_\_\_



\_\_\_\_\_  
Lynn M. Retz  
Executive Director

AAL

---

<sup>3</sup> K.S.A. 66-1,105.



## **ATTACHMENT “A”**

# UNITED STATES DEPARTMENT OF TRANSPORTATION



**U.S. DOT#:** 2006007  
**MC/MX#:** 0

**Legal:** FULLMER AUTO COMPANY TEXAS LLC  
**Operating (DBA):** FULLMER CATTLE CO

**Investigation Date:**  
08/30/21

**Investigation Type:** Onsite Comprehensive Investigation

**Location of Investigation:** Company principal place of business (PPOB)

**Extent of Operations:** Entire Operation

## Physical Address

3200 S HWY 27  
SYRACUSE, KS 67878  
United States

## Mailing Address

P O Box 986  
Syracuse, KS 67878  
United States

## Contact Information

**Contact Name:** LAILA KAMMERMAN, RANDY RADMALL

**Email:** [REDACTED]

**Phone:** [REDACTED] **Cell:** [REDACTED] **Fax:** (620)384-7507

## Business and Financial

**Business Type:** Corporation

**Gross Revenue:** [REDACTED] **For Year Ending:** 12/31/20

**Federal Tax ID:** [REDACTED]

## Operation Classification and Type

**Type of Operation:** Non-HM Interstate Carrier, Non-HM Intrastate Carrier

### Operation Classification

For-Hire Motor Carrier

Property

Other Non-Hazardous Freight

Private Motor Carrier

Passengers – Business

Property – Non-Hazardous Materials

## Cargo

Passengers, Grain, Feed, Hay, Livestock, Farm Supplies, Other (Manure)

Equipment				Driver Information		
	Owned	Term Leased	Trip Leased	Drivers		
Straight Trucks	12				Intrastate	Interstate
Truck Tractors	6			< 100 Miles		
Trailers	18			>= 100 Miles		12
<b>Power units used in the U.S.:</b> 18 <b>Percentage of time used in the U.S.:</b> 100%				<b>Average trip leased driver/month:</b> 0 <b>Drivers with CDL:</b> 3 <b>Total Drivers:</b> 12		
Person(s) Interviewed						
<b>Name:</b> LAILA KAMMERMAN				<b>Title:</b> SAFETY MANAGER /HR		
<b>Name:</b> RANDY RADMALL				<b>Title:</b> CONSULTANT		
Questions						
Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:				1303 SW FIRST AMERICAN PL STE 200 TOPEKA, KS 66604-4040 Phone: (785) 271-1260 Fax: (877) 547-0378		
<b>This report will be used to assess your safety compliance.</b>						

# Violations

## 1. Primary: 392.2 State Equivalent: K.S.A. 8-143m

Operating a commercial motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated - Other.



**Critical**  
At least 10% of the number checked had violations

Violations Discovered			BASIC Impacted	Rating Factor 3: Operational = Part 392
Fed	State	Total		
	4	4		

Checked		
Fed	State	Total
	8	8

### Example/Notes:

On 6/15/21, Fullmer Auto Company Texas d/b/a Fullmer Cattle Co. operated Unit #426 using a regular County Tag, failing to register the Commercial Motor Vehicle with Commercial Tags on their power units.

Trip date 6/15/2021  
Driver's name: Casey Vanatta  
Vehicle number: Unit #426

### Drivers/Vehicles

In Violation	Checked
4	8

## 2. Primary: 382.603

Failing to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances.

### Example/Notes:

Trip Date: 6/15/21  
Driver Name: Casey Vanatta

Violations Discovered		
Fed	State	Total
1		1

Checked		
Fed	State	Total
1		1

### Drivers/Vehicles

In Violation	Checked
1	1

Fullmer Auto Company Texas d/b/a Fullmer Cattle Co. failed to provide proof of completion of reasonable suspicion training.

### 3. Primary: 391.21(a)

Using a driver who has not completed and furnished an employment application.

#### Violations Discovered

Fed	State	Total
1		1

#### Checked

Fed	State	Total
5		5

#### Example/Notes:

Driver name: Casey Vanatta

Trip date: 6/15/2021

Description of violation: Driver Casey Vanetta operated a commercial motor vehicle Unit 426 and Unit DD1 from Syracuse, Kansas to Hays, KS. Driver Casey Vanetta's application for employment was missing 10 years of employment history. This carrier would have had four of five drivers with an incomplete application for employment except the rest of the drivers fell under the emergency declaration and were not counted.

#### Drivers/Vehicles

In Violation	Checked
1	5

### 4. Primary: 391.23(e)(1)

Failing to investigate the driver's alcohol and controlled substances history for the previous 3 years.

#### Violations Discovered

Fed	State	Total
1		1

#### Checked

Fed	State	Total
5		5

#### Example/Notes:

Driver name: Casey Vanatta

Trip date: 6/15/2021

Description of violation: Driver Casey Vanetta operated a commercial motor vehicle Unit 426 and Unit DD1 from Syracuse, Kansas to Hays, KS. Fullmer Auto Company Texas LLC d/b/a Fullmer Cattle Co. failed to complete a previous employer inquiry.

#### Drivers/Vehicles

In Violation	Checked
1	5

### 5. Primary: 391.51(b)(6)

Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

#### Violations Discovered

Fed	State	Total
-----	-------	-------

	<table><tr><td>1</td><td></td><td>1</td></tr><tr><td colspan="3"><b>Checked</b></td></tr><tr><td><b>Fed</b></td><td><b>State</b></td><td><b>Total</b></td></tr><tr><td>5</td><td></td><td>5</td></tr></table>	1		1	<b>Checked</b>			<b>Fed</b>	<b>State</b>	<b>Total</b>	5		5
1		1											
<b>Checked</b>													
<b>Fed</b>	<b>State</b>	<b>Total</b>											
5		5											
<b>Example/Notes:</b>  Driver name: Driver Casey Vanetta Trip date: 6/15/2021 Discription of violation: Drivers certificate of violations was incomplete as it was not not dated. This carrier would have had four of five drivers with incomplete certificates of violations but the other drivers fell under the emergency declaration.	<b>Drivers/Vehicles</b> <table><tr><td><b>In Violation</b></td><td><b>Checked</b></td></tr><tr><td>1</td><td>5</td></tr></table>	<b>In Violation</b>	<b>Checked</b>	1	5								
<b>In Violation</b>	<b>Checked</b>												
1	5												

<div><div><div>6. Primary: 392.2</div><div>State Equivalent: K.S.A. 8-2,125</div></div><div>Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated.</div></div>	<div><div>Violations Discovered</div><table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>1</td><td>1</td></tr></table><div>Checked</div><table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>5</td><td>5</td></tr></table></div>	Fed	State	Total		1	1	Fed	State	Total		5	5
Fed	State	Total											
	1	1											
Fed	State	Total											
	5	5											
<div><div>Example/Notes:</div><div><div>Trip Date: 6/15/21</div><div>Driver: Casey Vanatta</div></div><div>On 6/15/21, Fullmer Auto Company Texas d/b/a Fullmer Cattle Co. allowed or required driver, Casey Vanatta to operate a commercial motor vehicle Unit 426 and Unit DD1 from Syracuse, Kansas to Hays, KS. At the time of this transportation, driver Casey Vanatta's CDL restricted the driver from operating a CMV with a truck tractor and semi-trailer combination.</div></div>	<div><div>Drivers/Vehicles</div><table><tr><th>In Violation</th><th>Checked</th></tr><tr><td>1</td><td>5</td></tr></table></div>	In Violation	Checked	1	5								
In Violation	Checked												
1	5												

**Example/Notes:**

Driver name(s): Casey Vanatta  
Trip date: 6/3/21

Fullmer Auto Company Texas LLC d/b/a Fullmer Cattle Co.'s driver, Casey Vanatta failed to make notation of the "Shipper & Commodity" on the drivers records of duty status.

**Drivers/Vehicles**

In Violation	Checked
1	5

## Safety Fitness Rating

Your proposed safety rating is: **SATISFACTORY** 0 UNSATISFACTORY rating factors and 2 or fewer CONDITIONAL rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory		
Factor 2: Driver = Parts 382, 383 and, 391	Satisfactory		
Factor 3: Operational = Parts 392 and 395	Conditional		1
Factor 4: Vehicle = Parts 393 and 396 OOS Vehicles (CR): 0 Number of Vehicles Inspected (CR): 0 OOS Vehicles (MCMIS): 0 Number of Vehicles Inspected (MCMIS): 0 OOS Rate: 0%	Satisfactory		
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	Not Rated		
Factor 6: Accident Factor = Recordable Rate Total Miles Operated: 0 Recordable Accidents: 0 Recordable Accidents/Million Miles: 0.00	Satisfactory	N/A	N/A

You must take corrective actions for any violations (deficiencies) identified in the Violations section of this report.

**DataQs:** If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.



## Process Breakdown and Remedies

None

# Recommendations

## 1. **Acute and Critical Violations**

Acute and/or Critical violations were recorded on this investigation report. These violations will impact your safety record.

NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six-year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six-year period.

## 2. **Additional Information**

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

## 3. **Accident Countermeasures website has strategies and forms.**

Accident Countermeasures is a set of defensive strategies designed to reduce preventable accidents. The strategies and forms for implementing accident countermeasures can be found on the FMCSA website at:

<http://www.fmcsa.dot.gov/forms/print/accident.htm>

## 4. **Obtain copies of the regulations, forms, interpretations, manuals.**

Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. [www.fmcsa.dot.gov/safety-security/eta/index.htm](http://www.fmcsa.dot.gov/safety-security/eta/index.htm)

## 5. **A copy of your profile can be obtained by accessing the Portal.**

A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).

## 6. **Ensure that all vehicles are properly marked.**

Ensure that all vehicles are properly marked with your name or trade name and U.S. DOT number. If your vehicles are also periodically operating for other carriers, they must be marked with that carrier's name and U.S. DOT#.

## 7. **Conduct periodic internal reviews. (non-HM)**

Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.

## 8. **Obtain a copy of each driver's driving record and review it.**

Obtain a copy of each driver's driving record and review it annually.

## 9. **10-year driver employment history required.**

Ensure that drivers provide a 10-year employment history on their employment application.

## 10. **Maintain a complete file documenting the qualification process.**

Ensure that all drivers are fully and properly qualified before operating in interstate and intrastate commerce. Maintain a complete file as required for each driver, documenting the qualification process.

## 11. **Require drivers to prepare complete and accurate records.**

Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months.

## 12. **Duty status records must be kept on file for 6 months.**

Ensure that all documents supporting records of duty status (such as toll, fuel repair and other on-the-road expense receipts, as well as invoices, bills of lading, dispatch records, etc.) are kept on file for at least 6 months.

## 13. **Ensure that all drivers' logs are accurate.**

Ensure that all drivers' records of duty status (logs) are accurate. Check them against "supporting documents" to verify accuracy. Prohibit falsification of logs by any driver. Review the rules on supporting documents. Take appropriate action against drivers who falsify logs.

## 14. **Reasonable Suspicion Training**

Provide new-hire and refresher training, to all managers, other designated personnel, and the designated employer representative

(DER), on controlled-substance and alcohol regulations and related company policies and procedures, including those pertaining to prohibited behavior; testing protocols and monitoring, for example, on grounds of "reasonable suspicion"; the consequences of a positive test result; referral to a substance-abuse professional (SAP); and confidentiality requirements in relation to recordkeeping.

**15. New Hires**

Ensure that applicants for safety-sensitive positions do not have a current controlled-substance and/or alcohol problem by querying them and checking with their previous employers regarding controlled-substance and alcohol violations, related background, conditions and behaviors indicative of controlled-substance and/or alcohol abuse or misuse, and by conducting pre-employment testing as required by regulation and company policy. Create a detailed written record of each inquiry.

Review and evaluate driver applicants' gaps in employment, frequent job changes, and incomplete applications. Require applicants to explain reasons for any gaps in their employment record in order to allay suspicion of controlled-substance and/or alcohol abuse or misuse.

**16. Drug and Alcohol Clearinghouse**

Find out your responsibilities and requirements for FMCSA's Drug and Alcohol Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov>.

**17. Violations/Signature Page**

Required recommendation

Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.

Document and Follow Through on Action Plans: Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.

NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.

NOTICE: 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information: <http://www.psp.fmcsa.dot.gov/Pages/default.aspx>

All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities.

For all Investigations that could result in a Penalty Order:

PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Penalty Order.

Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified. Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual is available on the Internet at the Federal Motor Carrier Safety Administration's web site at <http://www.fmcsa.dot.gov/> and <http://www.safer.fmcsa.dot.gov/>.

#### CAP Requirements:

The KCC requires that you prepare a corrective action plan (CAP), addressing the measures taken to correct all violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent there reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken.

Submit the letter along with copies of your supporting evidence to:

e-mail: [g.davenport@kcc.ks.gov](mailto:g.davenport@kcc.ks.gov)

FAX: 785-271-3124;

or mail to;

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Road

Topeka, KS 66604-4027

#### CAP Penalty:

Motor carriers are responsible for complying with all tasks ordered by the Commission. You are required to prepare a corrective action plan (CAP), addressing the measures taken to correct all violations identified within this report. Failure to fulfill this requirement may lead to the issuance of further penalties or other repercussions, including revocation of authority to operate intrastate in Kansas.

#### Acknowledgement Statement:

I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Fulmer Auto Company Texas L.L.C. d/b/a Fulmer Cattle Co. operating authority and/or the impoundment of Fulmer Auto Company Texas L.L.C. d/b/a Fulmer Cattle Co. Company vehicles.

X \_\_\_\_\_

Signature

X \_\_\_\_\_

Date

#### Monetary Penalties:

I understand that monetary penalties will be assessed as a result of violations found in this compliance review. The penalty schedule can be found at this web site: [http://kcc.ks.gov/trans/penalty\\_assessment\\_table.htm](http://kcc.ks.gov/trans/penalty_assessment_table.htm)

## **ATTACHMENT “B”**



6 / 15 / 21  
(Month) (Day) (Year)

# **DRIVER'S DAILY LOG** (24 HOURS)

Original - File at home terminal  
Duplicate - Driver retains in his/her possession for eight days

**RECAP**  
Complete at  
end of workday.

121

121

Total Miles Driving Today

Total Mileage Today

Fullmer cattle

Name of Carrier or Carriers

Main Office Address

Syracuse KS

Home Terminal Address

I certify these entries are true and correct:

*[Signature]*

426

DDI

Truck/Tractor and Trailer Numbers or  
License Plate(s) / State (show each unit)

Driver's Full Signature

Co-Driver's Name

MID-NIGHT	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	TOTAL HOURS
-----------	---	---	---	---	---	---	---	---	---	----	----	------	---	---	---	---	---	---	---	---	---	----	----	-------------

1. OFF DUTY

2. SLEEPER BERTH

3. DRIVING

4. ON DUTY  
(NOT DRIVING)

21

0

1.30

1.30

REMARKS

MID-NIGHT	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	TOTAL HOURS
-----------	---	---	---	---	---	---	---	---	---	----	----	------	---	---	---	---	---	---	---	---	---	----	----	-------------

24

SHIPPING  
DOCUMENTS:

B/L or Manifest No.  
or

Shipper & Commodity

Enter name of place you reported and where released from work and when and where each change of duty occurred.

From: Syracuse KS

To: Hwy KS

USE TIME STANDARD AT HOME TERMINAL

Copyright 2013 J. J. Keller & Associates, Inc.® All rights reserved.

19361 (545-MP)



On-duty hours  
today. (Total  
lines 3 & 4)

70 Hr./8 Day  
Drivers

A.  
Total hours on  
duty last 7 days,  
including today.

B.  
Total hours  
available  
tomorrow.  
70 hr. minus A.\*

C.  
Total hours on  
duty last 8 days,  
including today.

60 Hr./7 Day  
Drivers

A.  
Total hours on  
duty last 6 days,  
including today.

B.  
Total hours  
available  
tomorrow.  
80 hr. minus A.\*

C.  
Total hours on  
duty last 7 days,  
including today.  
\*If you meet the  
34-hour restart  
requirements in  
§395.3, you have  
60/70 hours  
available again.

## **ATTACHMENT “C”**

Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Susan K. Duffy, Commissioner

Laura Kelly, Governor

## **REPORT AND RECOMMENDATION TRANSPORTATION DIVISION**

**TO:** Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Susan K. Duffy, Commissioner

**FROM:** Mike Hoeme, Director of Transportation  
Gary Davenport, Deputy Director of Transportation

**DATE:** August 31, 2021

**SUBJECT: Docket No. 22-TRAM-115-PEN**  
In the Matter of the Investigation of Fullmer Auto Company Texas LLC d/b/a Fullmer Cattle Co. of Syracuse, Kansas Regarding the Violation of the Motor Carrier Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority.

### **EXECUTIVE SUMMARY:**

Fullmer Auto Company Texas LLC d/b/a Fullmer Cattle Co. (Fullmer Cattle Co. or Carrier) is a motor carrier possessing private and common operating authority from the Commission, primarily hauling passengers, livestock, grain, feed, hay, and farm supplies. Fullmer Cattle Co. operates under USDOT 2006007. From August 17 to August 19, 2021, Commission Staff Special Investigator Penny Fryback and Erica Pargas conducted a safety compliance review of the operations of Fullmer Cattle Co. As a result of this investigation, the special investigator identified three (3) violation(s) of the Motor Carrier Safety Regulations, resulting in a recommended penalty of \$1,100.

### **DISCUSSION AND ANALYSIS:**

From August 17 to August 19, 2021, Commission Staff Special Investigator Penny Fryback and Erica Pargas conducted a safety compliance review of the operations of Fullmer Cattle Co. As a result of this investigation, the special investigator identified three (3) violation(s) of the Motor Carrier Safety Regulations.

#### **Violation One (1 of 3)**

On June 15, 2021, Fullmer Cattle Co. required or permitted its driver, Casey Vanatte, to operate a CDL-required commercial motor vehicle, a 2007 Kenworth T800, VIN ending in 182426, GVWR 33,000 lbs., pulling a 1999 X-L Specialized Drop Deck trailer, VIN ending in 002338, in intrastate commerce in from Syracuse, Kansas to Hays, Kansas. This trip is evidenced



by a Driver's Daily Log, dated June 15, 2021. At the time of this transportation, Fullmer Cattle Co. permitted its driver, Casey Vanatte, to operate a commercial motor vehicle without a valid commercial driver's license. The Carrier's operations of using a driver without a valid commercial driver's license is in violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 8-2, 125. Staff recommends a fine of \$500.

#### Violation Two (2 of 3)

During the transportation described in Violation One, above, Fullmer Cattle Co. failed to ensure they had a designated individual trained in Supervisor Reasonable Suspicion testing. The Carrier's failure to have a designated person undergo 60 minutes of training for controlled substance and 60 minutes of training for alcohol to determine drivers undergo reasonable suspicion testing is a violation of 49 C.F.R. 382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$100.

#### Violation Three (3 of 3)

During the transportation described in Violation One, above, Fullmer Cattle Co. failed to have commercial registrations on their power units. The Special Investigators found four (4) counts of this violation. The Carrier's failure to have proper commercial registrations on their power units is a violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 8-143m. Staff recommends a fine of \$500.

### **RECOMMENDATION:**

Transportation Staff recommends the Commission find Fullmer Cattle Co. committed three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

Additionally, Staff recommends a civil penalty of \$1,100 for three (3) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.

Staff further recommends that a representative from Fullmer Cattle Co. be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at [http://kcc.ks.gov/trans/safety\\_meetings.htm](http://kcc.ks.gov/trans/safety_meetings.htm).

Staff further recommends Fullmer Cattle Co. submit a written, comprehensive Corrective Action Plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in the Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

Finally, Staff recommends that Fullmer Cattle Co. submit to one follow-up safety compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for the review.

## **CERTIFICATE OF SERVICE**

22-TRAM-115-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 09/09/2021.

Que Fullmer, OWNER  
Fullmer Auto Company Texas LLC  
D/B/A Fullmer Cattle Co.  
PO Box 986  
Syracuse, KS 67878  
lailak@fullmercattle.com

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
a.latif@kcc.ks.gov

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe