



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
20-TRAM-350-PEN

February 20, 2020

Mark A. Picking
Abilene Rent-All and Sales, Inc.
1701 W 1st Street
Abilene, KS 67401

This is a notice of a penalty assessment against Abilene Rent-All and Sales, Inc. (Abilene Rent-All) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on January 23, 2020, by Kansas Corporation Commission Special Investigator Gregory Askren. Penalties are assessed in accordance with the FY 2020 Uniform Penalty Assessment Matrix, approved by the Commission on July 16, 2019. 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: Abilene Rent-All has been assessed a \$100 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$100, through your personal account with the Kansas Corporation Commission's 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 Abilene Rent-All 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. The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

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. Abilene Rent-All 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. K.A.R. 82-1-215; K.S.A. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$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,

Ahsan A. Latif
Litigation Counsel
(785) 271-3118

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

Before Commissioners: Susan K. Duffy, Chair
 Shari Feist Albrecht
 Dwight D. Keen

In the Matter of the Investigation of **Abilene**)
Rent-All and Sales, Inc., of Abilene, KS,)
Regarding the Violation(s) of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 20-TRAM-350-PEN
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 66-1,111, 66-1,112, 66-1,114, 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. Abilene Rent-All and Sales, Inc. (Abilene Rent-All) has private operating authority with the Commission and further operates under USDOT number 3065567.

5. Mark A. Picking attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on October 30, 2017, on behalf of Abilene Rent-All.

6. Abilene Rent-All is a private motor carrier which primarily hauls motor vehicles and general freight.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on January 23, 2020, Commission Staff (Staff) Special Investigator Gregory Askren conducted a safety compliance review of the operations of Abilene Rent-All. 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 one (1) violation(s) of the Motor Carrier Safety Regulations.

- a. On December 3, 2019, Abilene Rent-All required or permitted its driver, Mark Picking, to operate a CDL-required commercial motor vehicle, a

2005 Dodge, VIN ending in 710282, GVWR 9,000 lbs., pulling a 2002 Hill trailer, VIN ending in 9761, GVWR 23,520 lbs., in intrastate commerce from Abilene, Kansas to Junction City, Kansas. This trip is evidenced by Driver's Time Record, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Abilene Rent-All failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. The carrier's failure to inquire into its driver's MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,112. Staff recommends a fine of \$100.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Abilene Rent-All committed one (1) 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.

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

10. Staff further recommends that a representative from Abilene Rent-All 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.

11. Finally, Staff recommends that Abilene Rent-All 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

12. The Commission finds it has jurisdiction over Abilene Rent-All 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.

13. The Commission finds Abilene Rent-All committed one (1) 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. Abilene Rent-All and Sales, Inc., of Abilene, KS is hereby assessed a \$100 civil penalty for one (1) 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. Abilene Rent-All 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.

D. Abilene Rent-All 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 Abilene Rent-All's right to a hearing, and this Penalty Order will become a Final Order assessing a \$100 civil penalty against Abilene Rent-All, and ordering a representative from Abilene Rent-All 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, and to submit to a safety compliance review within 18 months from the date of this 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. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil

penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$100 is due in thirty (30) days from the date of service of this Order. Payment of \$100 must be made through your personal account with the Kansas Corporation Commission's 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 \$100 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Abilene Rent-All's motor carrier operating authority without further notice. 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.

I. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 02/20/2020




Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

UNITED STATES DEPARTMENT OF TRANSPORTATION

 U.S. DOT#: 3065567 MC/MX#:		Legal: ABILENE RENT-ALL AND SALES INCORPORATED Operating (DBA):		Investigation Date: 01/23/20	
Investigation Type: Onsite Comprehensive Investigation			Location of Investigation: Company principal place of business (PPOB) Extent of Operations: Entire Operation		
Physical Address			Mailing Address		
1701 W 1ST ST ABILENE, KS 67410-3501 United States			1701 W 1ST ST ABILENE, KS 67410-3501 United States		
Contact Information					
Contact Name: MARK A PICKING Email: Phone:					
Business and Financial					
Business Type: Corporation Gross Revenue: Year Ending: 12/31/19 Federal Tax ID:					
Operation Classification and Type			Cargo		
Type of Operation: Non-HM Intrastate Carrier Operation Classification Private Motor Carrier Property – Non-Hazardous Materials			Motor Vehicles, General Freight		
Equipment			Driver Information		
	Owned	Term Leased	Trip Leased	Drivers	
Straight Trucks	1				
Trailers	4				
Power units used in the U.S.: 1 Percentage of time used in the U.S.: 100%				Average trip leased driver/month: 0 Drivers with CDL: 1 Total Drivers: 1	

Person(s) Interviewed**Name:** MARK A PICKING**Title:** OWNER/PRESIDENT**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 PLACE, SUITE 200
TOPEKA, KS 66604-4040
Phone: (785) 271-1260
Fax: (785) 228-9725

This report will be used to assess your safety compliance.

Violations

1. Primary: 391.51(b)(4)

Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

Violations Discovered

Fed	State	Total
	1	1

Checked

Fed	State	Total
	1	1

Example/Notes:

Driver name - Mark Picking

Trip date - 12/3/2019

Description of violation - Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

Drivers/Vehicles

In Violation	Checked
1	1

2. Primary: 391.51(b)(5)

Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

Violations Discovered

Fed	State	Total
	1	1

Checked

Fed	State	Total
	1	1

Example/Notes:

Driver name - Mark Picking

Trip date - 12/3/2019

Description of violation - Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

Drivers/Vehicles

In Violation	Checked
1	1

3. 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
	1	1

Checked

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

	1	1
Example/Notes: Driver name - Mark Picking Trip date - 12/3/2019 Description of violation - Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.	Drivers/Vehicles	
	In Violation	Checked
	1	1

Safety Fitness Rating

This Investigation is Not Rated

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

BASIC: Driver Fitness

Process Breakdown: Monitoring and Tracking

Abilene Rent-All and Sales inc failed to monitor annual MVR reviews.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Monitoring and Tracking:

1. Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files; applying the performance standards fairly, consistently, and equitably; and documenting the evaluations.

BASIC: Driver Fitness

Process Breakdown: Policies and Procedures

Abilene Rent-All and Sales Inc failed to follow policy and review the annual MVRs.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. Develop a policy for the periodic review (at least twice per year) of driver qualification files. The motor carrier should not rely on third-party sources, such as insurance agencies. The procedure should include controls to ensure that documents requiring renewals are in place, to remind drivers of expiration dates on medical certificates, so they can schedule another physical examination in advance, and to prevent falsification of documents related to driver qualification.

Recommendations

1. **Additional Information**

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

2. **For All Investigations Intra, Satisfactory, no PO #**

For all Investigations:

- **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.

3. **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

4. **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>).

5. **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.

6. **CAP Requirement**

The KCC requires that you prepare a corrective action plan, addressing the measures taken to correct all the 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 their 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:

Email: g.davenport@kcc.ks.gov
FAX: 785-271-3124

or mail:

Kansas Corporation Commission
Attn: Gary Davenport
1500 SW Arrowhead Rd
Topeka, KS 66604-4027T

7. **Amber required**

I acknowledge that these requirements/violations 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 Abilene Rent-All and Sales Inc. vehicles operating authority and/or the impoundment of Abilene Rent-All and Sales Inc. vehicles. Signed _____

Date _____

ATTACHMENT “B”

DRIVER'S TIME RECORD

Driver's Name (Print) MARK A PICKENS ^{11/16/19} Month DEC Year 2019

Date	Start Time (AM / FM)	End Time (AM / FM)	Total Hours	Driving Hours	Comments
1	CLOSED				
2	8-1145	1245-530	8.5	0	
3	8-1100	1200-530	8.5	1.5	CDL 11:00-2:30 J.C.
4	10-1130	1230-300	4	0	DEER HUNTING
5	8-1130	1230-230	5.5	0	
6	8-1100	1-530	7.5	0	CLAY CENTER - DEER
7	8-1130	1230-500	8	0	
8	CLOSED			0	
9	8-1130	1230-530	8.5	0	
10	8-1130	1230-530	8.5	0	
11	8-1130	1230-530	8.5	2	1250-135-345 CDL
12	8-1130	1-2 4-530	8	0	DRS.
13	8-1130	1245-530	8.25	0	
14	8	500	8	0	
15	CLOSED		8.5	0	
16	8-1130	1230-530	8.5	0	
17	8-1130	1230-530	8.5	0	
18	8-1130	1230-530	8.5	0	
19	8-1130	1230-530	8.5	0	
20	8-1145	1245-530	8.5	0	
21	8-1200	1-500	8	0	
22	CLOSED			0	
23	8-10		2	0	OFF ATCHISON
24	8-230	6-5	6.5	0	
25	OFF			0	
26	8-1130	1230-530	8.5	0	
27	8-1130	1230-530	8.5	0	
28	8-1130	1230-500	8	0	
29	CLOSED			0	
30	8-1130	1230-530	8.5	0	
31	8-230		6.50	0	

Signature



Date

12/30/19

CERTIFICATE OF SERVICE

20-TRAM-350-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/hand delivered on 02/21/2020.

MARK PICKING, PRESIDENT
ABILENE RENT-ALL AND SALES, INC.
1701W 1ST ST
ABILENE, KS 67410-3501

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
a.latif@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe