



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

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

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT

July 11, 2019

20-TRAM-006-PEN

David M. Hines, President
Daves Inc, d/b/a
Daves Body Shop and Wrecker Service
1600 W Main
Independence, KS 67301

This is a notice of a penalty assessment against Daves Inc, d/b/a Daves Body Shop and Wrecker Service (Daves Body Shop and Wrecker Service) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on June 18, 2019, by Kansas Corporation Commission Special Investigator Michael Heenan. Penalties are assessed in accordance with the FY 2019 Uniform Penalty Assessment Matrix, approved by the Commission on August 7, 2018. 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: Daves Body Shop and Wrecker Service has been assessed an \$1,850 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$1,850, 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 Daves Body Shop and Wrecker Service 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. Daves Body Shop and Wrecker Service 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. 2018 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$1,850 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: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of the Investigation of **Daves Inc,**)
d/b/a Daves Body Shop and Wrecker Service,)
of Independence, KS, Regarding the Violation)
of the Motor Carrier Safety Statutes, Rules and) Docket No. 20-TRAM-006-PEN
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.A.R. 82-4-1b, 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 K.A.R. 82-4-1, 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. 2018 Supp. 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. Daves Inc, d/b/a Daves Body Shop and Wrecker Service (Daves Body Shop and Wrecker Service) has common operating authority with the Commission and further operates under USDOT number 928557.

5. David M. Hines attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on June 24, 2019, on behalf of Daves Body Shop and Wrecker Service.

6. Daves Body Shop and Wrecker Service is a common motor carrier which primarily hauls motor vehicles.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on June 18, 2019, Commission Staff (Staff) Special Investigator Michael Heenan conducted a safety compliance review of the operations of Daves Body Shop and Wrecker Service. 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 four (4) violation(s) of the Motor Carrier Safety Regulations.

- a. On March 13, 2019, Daves Body Shop and Wrecker Service required or permitted its driver, David M. Hines, to operate a CDL-required commercial motor vehicle, a 1985 Freightliner, VIN ending in 271921, GVWR 42,000 lbs., in intrastate commerce from Independence, Kansas to Longton, Kansas. This trip is evidenced by Repair Order Number 049929, dated March 13, 2019, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Daves Body Shop and Wrecker Service failed to obtain and document a successful periodic (annual) inspection on the commercial motor vehicle during the preceding 12-month period. The special investigator discovered five (5) violations of this type. The carrier’s failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$750.
- b. During the transportation described in paragraph a, above, Daves Body Shop and Wrecker Service 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 special investigator discovered three (3) violations of this type. 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. 2018 Supp. 66-1,112. Staff recommends a fine of \$250.

- c. During the transportation described in paragraph a, above, Daves Body Shop and Wrecker Service had not implemented an alcohol and controlled substance random testing program for its CDL driver. The carrier's failure to establish an alcohol and controlled substances testing program for its CDL drivers that complies with the procedures established in 49 C.F.R. 382.105 as adopted by K.A.R. 82-4-3c is a violation of 49 C.F.R. 382.115(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$350.
- d. During the transportation described in paragraph a, above, Daves Body Shop and Wrecker Service operated without common (for-hire) operating authority from the Kansas Corporation Commission. The carrier's authority was cancelled on January 18, 2019, for non-renewal. The carrier's commercial operations of motor vehicles prior to obtaining and maintaining proper Commission authority is a violation of K.S.A. 2018 Supp. 66-1,111 and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$500.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Daves Body Shop and Wrecker Service committed four (4) 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 \$1,850 for four (4) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Daves Body Shop and Wrecker Service 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 Daves Body Shop and Wrecker Service 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 Daves Body Shop and Wrecker Service because it is a motor carrier as defined in K.A.R. 82-4-1.

13. The Commission finds Daves Body Shop and Wrecker Service committed four (4) 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. Daves Inc, d/b/a Daves Body Shop and Wrecker Service, of Independence, KS is hereby assessed a \$1,850 civil penalty for four (4) 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. Daves Body Shop and Wrecker Service 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. Daves Body Shop and Wrecker Service 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.

D. Pursuant to K.S.A. 2018 Supp. 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 Daves Body Shop and Wrecker Service's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,850 civil penalty against Daves Body Shop and Wrecker Service, and ordering a representative from Daves Body Shop and Wrecker Service 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.

E. 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. 2018 Supp. 66-1,142b(e) and amendments thereto.

F. If you do not request a hearing, the payment of the civil penalty of \$1,850 is due in thirty (30) days from the date of service of this Order. Payment of \$1,850 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.

G. Failure to pay the \$1,850 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 Daves Body Shop and Wrecker Service'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.

H. 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.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner


Dated: 07/11/2019

A handwritten signature in cursive script, reading "Lynn M. Retz".

Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

	US DOT # 928557	Legal: DAVES INC Operating (DBA): DAVES BODY SHOP & WRECKER SERVICE			
MC/MX #: 1036308 State #: [REDACTED] Federal Tax ID: [REDACTED] (EIN)					
Review Type: Compliance Review (CR)					
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S.			Territory: C
Operation Types Interstate Intrastate					
Carrier: HM HM Shipper: N/A N/A Cargo Tank: N/A		Business: Corporation Gross Revenue: [REDACTED] for year ending: 12/31/2019			
Company Physical Address: 1600 W MAIN INDEPENDENCE, KS 67301 Contact Name: David M Hines Phone numbers: (1) [REDACTED] Fax E-Mail Address: [REDACTED]					
Company Mailing Address: 1600 W MAIN INDEPENDENCE, KS 67301					
Carrier Classification Authorized for Hire					
Cargo Classification Motor Vehicles					
Hazardous Materials 9 Miscellaneous HM Carried Non-Bulk					
Equipment					
		Owned	Term Leased	Trip Leased	
Truck		5	0	0	Truck Tractor
					Owned Term Leased Trip Leased
					1 0 0
Power units used in the U.S.: 6 Percentage of time used in the U.S.: 100					
Does carrier transport placardable quantities of HM? No					
Is an HM Permit required? N/A					
Driver Information					
		Inter	Intra		
< 100 Miles:		3		Average trip leased drivers/month: 0	
>= 100 Miles:				Total Drivers: 3	
				CDL Drivers: 1	





DAVES BODY SHOP & WRECKER SERVICE (DAVES INC dba)
U.S. DOT #: 928557

State #: [REDACTED]

Review Date:
06/19/2019

Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety or
Hazardous Materials rules may be addressed to the Office of Motor Carriers at:

Kansas Corporation Commission
1500 SW Arrowhead Rd
Topeka Ks 66604-4027 785-271-3151 (Gary Davenport)

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: David M Hines

Title: President

Name: Christopher M Hines

Title: Sec/treasurer





DAVES BODY SHOP & WRECKER SERVICE (DAVES INC dba)
U.S. DOT #: 928557

State #: [REDACTED]

Review Date:
06/19/2019

Part B Violations

1 FEDERAL ACUTE	Primary: 382.115(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
Description Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations. Example Trip date: 03-13-19 Driver name: David M Hines Origination: Independence Ks Destination: Longton Ks. At the time of this trip, and the time of this review, the carrier had no drug or alcohol testing program in place random or otherwise. The carrier has been operating a CDL required wrecker since 1982. The driver listed above is the only CDL driver in the company. All other drug and alcohol violations preclude to the fact the carrier had no drug program.					
2 STATE CRITICAL	Primary: 396.17(a) CFR Equivalent: 396.17(a)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5	Checked 5
Description Using a commercial motor vehicle not periodically inspected. Example Trip date: 03-13-19 Driver name: David M Hines Origination: Independence Ks Destination: Longton Ks. At the time of this trip, and the time of this review, the carrier had proper and complete maintenance files with all receipts and repair information. However, none of the vehicles had any annual inspections. The carrier had 6 power units and 5 were examined due to FOTM regulations.					
3 STATE	Primary: 391.21(b)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
Description Using a driver who has an incomplete employment application. Example Trip date: 03-13-19 Driver name: David M Hines Origination: Independence Ks Destination: Longton Ks. At the time of this trip, and the time of this review, the carrier had driver files that all included application for employment but were not completed, dated or signed. The driver listed above is the only CDL driver in the company.					





DAVES BODY SHOP & WRECKER SERVICE (DAVES INC dba)
U.S. DOT #: 928557

State #: [REDACTED]

Review Date:
06/19/2019

Part B Violations

4 STATE	Primary: 391.51(b)(4) CFR Equivalent: 391.51(b)(4)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
Description Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a). Trip date: 03-13-19 Driver name: David M Hines Origination: Independence Ks Destination: Longton Ks. At the time of this trip, and the time of this review, the carrier had driver files that stated that all drivers had been employed at least 3 years, however the carrier had not maintained any MVRs at least every 12 months..					
5 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
Description Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). Example Trip date: 03-13-19 Driver name: David M Hines Origination: Independence Ks Destination: Longton Ks. At the time of this trip, and the time of this review, the carrier had driver files that all included bland annual review of driving records, but none were completed or signed.					
6 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
Description Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. Example Trip date: 03-13-19 Driver name: David M Hines Origination: Independence Ks Destination: Longton Ks. At the time of this trip, and the time of this review, the carrier had driver files that all included certificates of violations, but none were completed or signed.					
7 STATE	Primary: 392.2 Secondary: KSA 66-1,111	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
Description Operating a commercial motor vehicle without KCC public carrier (KAN-C) operating Authority. Example Trip date: 03-13-19 Driver name: David M Hines Origination: Independence Ks Destination: Longton Ks. Distance: 28.8 miles At the time of this trip, and the time of this review, the carrier had his KCC For Hire authority cancelled on 01-18-19 for non renewal. On 6-13-17 this carrier changed his status to intrastate, did not pay UCR and failed to update his local state authority. Carrier is now re applying.					





DAVES BODY SHOP & WRECKER SERVICE (DAVES INC dba)
U.S. DOT #: 928557

State #: [REDACTED]

Review Date:
06/19/2019

Part B Violations

Safety Fitness Rating Information:

Total Miles Operated 50,000
Recordable Accidents 0
Recordable Accidents/Million Miles 0.00

OOS Vehicle (CR): 0

Number of Vehicle Inspected (CR): 0

OOS Vehicle (MCMIS): 0

Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

SATISFACTORY

Rating Factors

Acute Critical

Factor 1:	S	0	0
Factor 2:	C	1	0
Factor 3:	S	0	0
Factor 4:	C	0	1
Factor 5:	S	0	0
Factor 6:	S	-	-

Corrective actions must be taken for any violations (deficiencies) identified on Part B of this report.





DAVES BODY SHOP & WRECKER SERVICE (DAVES INC dba)
U.S. DOT #: 928557

State #: [REDACTED]

Review Date:
06/19/2019

Part B Requirements and/or Recommendations

1. The starting date for alcohol and/or controlled substance testing programs must be implemented no later than the date the employer begins commercial motor vehicle operations per 49 CFR 382.115(a).
2. Intrastate operation beyond exempt radius in Kansas requires carrier to obtain KAN-C operating authority from Kansas Corporation Commission prior to operating in commerce. Records indicate the carrier failed to renew and the authority was cancelled.
3. Ensure that all commercial motor vehicles, which would include trailers as well as power units, have a current Annual Inspection as required by 396.17. A motor carrier shall not use a commercial motor vehicle unless each component has passed an inspection at least once during the preceding 12 months. The inspection must identify the vehicle, the date of the inspection, and the name and address of the motor carrier or entity where the report is maintained.
4. The MCS-150 (Motor Carrier Identification Report) is required to be updated bi-annually. As required under 49 CFR 390.19(a) and 390.19(b), the carrier must file Form MCS-150 before it begins operations and every 24 months according to the schedule noted in 390.19(b)(2). Depending on the next to the last digit of the USDOT#, the carrier will be responsible for updating the USDOT# in either the even or odd number year. Example: The next to the last number in the USDOT# is 2, the carrier would need to update the MCS150 in an even numbered year. On the same hand, the last number of the USDOT# is the qualifier for the month in which the update must occur. If the last number of the USDOT# is 4, the USDOT# must be updated by the end of April. The required form must be filed with FMCSA Office of Information Management. The USDOT number needs to be filed electronically according to the instructions at the Agency's (www.fmcsa.dot.gov) Web site.
5. Each motor carrier shall maintain a driver qualification (DQ) file for each driver it employs. A driver's qualification file may be combined with his/her personnel file. The DQ file must include: driver's application for employment completed in accordance with 391.21; a copy of the motor vehicle record received from each State within 30 days of the hire date pursuant to 391.23(a)(1); certificate of the driver's road test issued to the driver [391.31(e)] or a copy of the CDL license [391.33]; copy of the annual motor vehicle record received from each State agency [391.25(a)]; note relating to the annual review of the driver's driving record [391.25(c)(2)]; list or certificate relating to violations of motor vehicle laws and ordinances of the annual review of the driver's driving record [391.27]; copy of the medical examiner's certificate [391.43(g)]; a note relating to the verification of medical examiner listing on the National Registry of Certified Medical Examiners [391.23(m)]; and a Skill Performance Evaluation Certificate if applicable [391.49].
6. Carrier is required to pay Unified Carrier Registration (UCR) fee when operating in Interstate commerce. Place a reminder in Outlook, jot a note on your calendar or assign a designated employee to handle UCR.
7. 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.





DAVES BODY SHOP & WRECKER SERVICE (DAVES INC dba)
U.S. DOT #: 928557

State #: [REDACTED]

Review Date:
06/19/2019

Part B Requirements and/or Recommendations

- 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. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>
FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carrier's currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site. The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes
8. This review contains violations that are serious in nature and may result in a penalty assessment against the company and/or drivers.
 9. Pursuant to 391.23 (a) (1) An inquiry to each state where the driver held or holds a motor vehicle operator's license or permit during the preceding 3 years to obtain that driver's motor vehicle record.
 10. As required by 391.25(a), motor carriers shall, at least once every 12 months, make an inquiry to obtain the motor vehicle record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.
 11. Certificates, reports, and records: falsification, reproduction, or alteration: No motor carrier, its agents, officers, representatives, or employees shall make or cause to make (a) A fraudulent or intentionally false statement on any application, certificate, report, or record required by Part 325 of subchapter A or this subchapter; (b) A fraudulent or intentionally false entry on any application, certificate, report, or record required to be used, completed, or retained, to comply with any requirement of this subchapter or Part 325 Subchapter A; or (c) A reproduction, for fraudulent purposes, of any application, certificate, report, or record required by this subchapter or Part 325 of Subchapter A.
 12. Per 49 CFR 391.51(b)(5) and (b)(6), the motor carrier is required to process an annual review and certification of the driver's driving record - 391.51(b)(5) A note relating to the annual review of the driver's driving record as required by 391.25(c)(2); 391.51(b)(6) A list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.
 13. 391.21 - A person shall not drive a commercial motor vehicle unless he/she has completed and furnished the motor





DAVES BODY SHOP & WRECKER SERVICE (DAVES INC dba)
U.S. DOT #. 928557

State #: [REDACTED]

Review Date:
06/19/2019

Part B Requirements and/or Recommendations

carrier that employs him/her with an application for employment that meets the requirements of paragraph (b) of this section.

14. 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 (Daves Inc dba Daves Body Shop & Wrecker Service) operating authority and/or the impoundment of (Daves Inc dba Daves Body Shop & Wrecker Service) vehicles.

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

X DAVID M HINES
Printed

X [Signature]
Signed

X M.W. Heenan KS 8213
Investigator Printed

X [Signature] KS 8213
Investigator(s) Signed

15. Ensure that you give drivers a written drug policy and educational materials
16. The starting date for alcohol and/or controlled substance testing programs must be implemented no later than the date the employer begins commercial motor vehicle operations per 49 CFR 382.115(a).
17. CDL Drivers operating vehicles which meet the definition of a CDL commercial motor vehicle (CMV) SHALL have an equal chance of being tested each time selections are made. These drivers shall be in a pool of CDL drivers. Non-CDL drivers cannot be allowed in the same pool as the CDL drivers as the non-CDL drivers will take the opportunity for a random selection away from the CDL driver resulting in the CDL driver not having an equal chance of being tested each time selections are made.
18. Each employer shall provide educational materials that explain the requirements of Part 382
19. Each employer shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of these materials described in this section. Each employer shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.
20. Written drug and alcohol policy shall include detailed discussion of the identity of the person designated by the employer to answer driver questions about the materials, the categories of drivers who are subject to the testing, information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance, information concerning driver conduct that is prohibited, and the circumstances under which a driver will be tested for alcohol and/or controlled substances including post-accident testing. The policy must also indicate the procedures that will be used to test for the presence of alcohol and controlled substances, protection of the driver and the integrity of the testing processes, safeguard the validity of





DAVES BODY SHOP & WRECKER SERVICE (DAVES INC dba)
U.S. DOT #: 928557

State #

Review Date:
06/19/2019

Part B Requirements and/or Recommendations

the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by 382.303(d). Explain the requirement that a driver submit to alcohol and controlled substances test, explain what constitutes a refusal to submit to an alcohol or controlled substances test and the consequences if a driver refuses to take the test. Indicate the consequences for drivers found to be in violation including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures that will be taken. Also include the consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04 and information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substance problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.

21. Stay in contact with your KCC Investigator for any questions or issues with continued safety compliance. You may contact me: KCC Special Investigator Mike Heenan at 620-338-0093 or email at m.heenan@kcc.ks.gov

22. For all investigations that did not result in a Cooperative Safety Plan:

The KCC requires that you prepare a corrective action letter 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 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. Mail Submit the letter along with

copies of your supporting evidence to:

e-mail: g.davenport@kcc.ks.gov,

FAX: 785.271.3124;

or mail:

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Rd

Topeka, KS 66604-4027



ATTACHMENT “B”

Out 12:00 Back at 4:30

551 - 66 -

DAVES, INC.
DAVES BODY SHOP & WRECKER SERVICE
1600 W. Main Independence, KS 67301
(620) 331-6907 FAX (620) 331-6930
Fed. I.D. #48-0942589 **BF**
Dave Hines & Dave Morris **DH**

Name GROUP ONE 049929

Address

Phone No.

Odometer Reading

Vin
No.

Date 5/2/77

LICENSE NO. AND STATE

MOTOR NO

QTY.	PART NO.	NAME OF PART	SALE AMT.	MAKE AND MODEL	LICENSE NO. AND STATE	MOTOR NO.
				TH	19Y00195	
			1306410	OPERATION NUMBER	INSTRUCTIONS	
				LUBRI-CATE <input type="checkbox"/>	CHANGE OIL <input type="checkbox"/>	TRANS. <input type="checkbox"/>
					DIFF. <input type="checkbox"/>	WASH <input type="checkbox"/>
						POLISH <input type="checkbox"/>
1		LARGE WRECKER	4.5	WRECKER CALL TO EAST OF LONGTON KS ON 160 Highway		
1		LARGE WRECKER	4.5	SET TRUCK up WINCH out of DEEP DITCH TO ROAD way 150 FT		
				HOOK up Pull DRIVE LINE TOW To VT HARKNEY IN		
				ACCESSORIES	AMOUNT	Total Labor
				INDSP	Rs 673.01	Total Parts
						Environmental Charges
						Gas, Oil, Grease
						Accessories
						Tires, Tubes
						Sublet Repairs
						Shop/Misc.
						TOTAL
						TAX
						TOTAL AMOUNT

REPAIR ORDER

ESTIMATES FOR LABOR ONLY.
MATERIAL ADDITIONAL

ARO-666-3
PRINTED IN U.S.A.

CERTIFICATE OF SERVICE

20-TRAM-006-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 07/12/2019.

DAVID M HINES, PRESIDENT
DAVES INC
D/B/A DAVES BODY SHOP AND WRECKER SERVICE
1600 W MAIN
INDEPENDENCE, KS 67301
davesinc@sbcglobal.net

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