

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

In the Matter of the Investigation of **Benfer**)
Enterprises II LLC of Independence, Missouri,)
Pursuant to the Kansas Highway Patrol Issuance of a) Docket No. 17-GIMM-269-KHP
Notice of Violation(s) and Invoice for the Violations)
of the Kansas Motor Carrier Safety Statutes, Rules and)
Regulations.)

DIRECT TESTIMONY

OF

MIKE HOEME

ON BEHALF OF

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

March 31, 2017

1 **Q. Please state your name.**

2 A. Mike Hoeme.

3 **Q. Are you employed?**

4 A. Yes.

5 **Q. Who is your employer?**

6 A. The Kansas Corporation Commission.

7 **Q. Where is your employer located?**

8 A. 1500 Southwest Arrowhead Road, Topeka, Kansas 66604.

9 **Q. How long have you been employed at the Kansas Corporation Commission?**

10 A. 17 years.

11 **Q. What is your current position with the Kansas Corporation Commission?**

12 A. I am the Director of the Commission's Transportation Division.

13 **Q. Please summarize your educational and professional background.**

14 A. I have a bachelor's degree in business. My professional background is directly
15 related to safety compliance in the Transportation industry. Prior to joining the
16 Commission, I worked for a private motor carrier as its Safety Compliance
17 Director. My responsibilities were to oversee the company's safety program,
18 including compliance with motor carrier statutes and regulations.

19 In 2000, I accepted a position with the Commission as Public Service
20 Administrator in its Transportation Division. In 2001, I accepted the position of
21 Transportation Division Director. In this capacity, I oversee the Commission's
22 Transportation Division and am responsible for implementation and enforcement
23 of the Commission's motor carrier safety program.

1 In 2004, I was elected by my peers to the Executive Committee for the
2 National Conference of State Transportation Specialists, and on May 1, 2012, I
3 was elected by my peers to the Unified Carrier Registration Board of Directors.
4 Overall, I have more than twenty years of experience in the transportation
5 industry.

6 **Q. Have you previously testified before this Commission?**

7 A. Yes.

8 **Q. What is the purpose of your testimony in this proceeding?**

9 A. The purpose of my testimony is to explain the Commission's jurisdiction as it
10 pertains to Benfer Enterprises II LLC of Independence, Missouri.

11 **Q. Please explain this Commission's jurisdiction as it generally relates to motor
12 carriers.**

13 A. Pursuant to K.S.A. 2015 Supp. 66-1,108b, the Commission is given full power,
14 authority and jurisdiction to supervise and control motor carriers doing business
15 or procuring business in Kansas, and is empowered to do all things necessary and
16 convenient for the exercise of such power, authority and jurisdiction. Through
17 K.S.A. 2015 Supp. 66-1,112, the Commission is vested with broad power and
18 authority in its duty to license, supervise and regulate every public motor carrier
19 of property, household goods, or passengers in Kansas.

20 Furthermore, K.S.A. 2015 Supp. 66-1,111 provides that:

21 "[N]o public motor carrier of property or passengers or private motor
22 carrier of property or local cartage carrier shall operate any motor
23 vehicle for the transportation of either persons or property on any
24 public highway in this state except in accordance with the provisions
25 of this act, and amendments thereto, and other applicable laws."

1 K.S.A. 2015 Supp. 66-1,108(f) defines a “motor carrier” as any person operating
2 as a for-hire motor carrier or a private motor carrier, and any of that person’s
3 agents, officers, representatives, and employees.

4 **Q. How do the Commission’s statutes and regulations apply to Benfer**
5 **Enterprises II LLC?**

6 With specific respect to Benfer Enterprises II LLC, K.S.A. 2015 Supp. 66-
7 1,108(m) defines “public motor carrier of property” as any person who undertakes
8 for hire to transport the property of others by commercial motor vehicle.

9 Likewise, “private motor carrier” is defined by K.S.A. 2013 Supp. 66-1,108(i) as,
10 “a person who provides transportation of property or passengers by commercial
11 motor vehicle and is not a for-hire motor carrier.”

12 “Commercial motor vehicle” is defined in K.A.R. 82-4-1(f) as:

- 13 (1) A vehicle that has a gross vehicle weight rating or gross
14 combination weight rating, or a gross vehicle weight or gross
15 combination weight, of 4,536 kg (10,001 pounds) or more,
16 · whichever is greater;
- 17 (2) a vehicle designed or used to transport more than eight passengers,
18 including the driver, for compensation;
- 19 (3) a vehicle that is designed or used to transport more than 15
20 passengers, including the driver, and is not used to transport
21 passengers for compensation; or
- 22 (4) a vehicle used in transporting material found by the secretary of
23 transportation to be hazardous under 49 U.S.C. 5103 and
24 transported in a quantity requiring placarding according to
25 regulations prescribed by the secretary under 49 C.F.R. Part 172 as
26 adopted in K.A.R. 82-4-20.

27 **Q. Mr. Hoeme, based on the information in this docket, do you believe that**
28 **Benfer Enterprises II LLC is a motor carrier subject to this Commission’s**
29 **jurisdiction and authority?**

1 A. Yes. Based upon the information in this docket, I have concluded that Benfer
2 Enterprises II LLC is a public motor carrier of property that operates commercial
3 motor vehicles in interstate commerce.

4 **Q. Why do you believe Benfer Enterprises II LLC is a public motor carrier of**
5 **property and therefore subject to this Commission's jurisdiction and**
6 **authority?**

7 A. Benfer Enterprises II LLC is a public motor carrier because they utilize
8 commercial motor vehicles to tow property (vehicles of drivers who receive
9 citations in the Roeland Park Police Department license check line), while doing
10 business or procuring business in Kansas. According to the Kansas Highway
11 Patrol Driver/Vehicle Inspection Report KSHP01000842 attached to Trooper
12 Wright's testimony, the commercial motor vehicle operated by Benfer Enterprises
13 II LLC had a Gross Combined Vehicle Weight Rating (GCVWR) of 19,500
14 pounds. According to the Kansas Highway Patrol Driver/Vehicle Inspection
15 Report KSHP00531285 attached to Trooper Beabout's testimony, the commercial
16 motor vehicle operated by Benfer Enterprises II LLC had a Gross Combined
17 Vehicle Weight Rating (GCVWR) of 11,200 pounds. According to the Kansas
18 Highway Patrol Driver/Vehicle Inspection Report KSHP02520638 attached to
19 Trooper Mills' testimony, the commercial motor vehicle operated by Benfer
20 Enterprises II LLC had a Gross Combined Vehicle Weight Rating (GCVWR) of
21 25,950 pounds. This combined vehicle weight ratings of each vehicle exceeds the
22 10,001 pound threshold to be classified as a commercial motor vehicle as defined
23 in K.A.R. 82-4-1(d)(1).

1 **Q. Please list the elements necessary for a person or business to be classified as a**
2 **motor carrier.**

3 A. A “motor carrier” is defined by K.A.R. 82-4-1(y) as any corporation, limited
4 liability company, partnership, limited liability partnership, or individual subject
5 to the provisions of the motor carrier laws of Kansas and under the jurisdiction of
6 the Kansas Corporation Commission. They must use motor vehicles that meet the
7 definition of a commercial motor vehicle in the furtherance of a commercial
8 enterprise; meaning they must conduct or procure business in Kansas. The
9 specific definition and elements of a public motor carrier are detailed in my
10 testimony, above.

11 **Q. Does Benfer Enterprises II LLC satisfy those elements?**

12 A. Yes. Benfer Enterprises II LLC provides transportation of property for hire by
13 commercial motor vehicle, and they do so while conducting or procuring business
14 in Kansas.

15 Prior to being subject to the Kansas Corporation Commission’s
16 jurisdiction, a business entity must be a motor carrier. As evidenced in Kansas
17 Highway Patrol Troopers Wright, Mills and Beabout’s testimony, Benfer
18 Enterprises II LLC was the carrier of responsibility for the vehicles inspected.
19 The vehicles arrived at the site of the inspection to provide tow service to the
20 Roeland Park Police Department’s driver license checklane. Also evidenced by
21 Kansas Highway Patrol Troopers Wright, Mills and Beabout’s testimony, Benfer
22 Enterprises, II LLC planned to tow the vehicles to its tow lot in Independence,
23 Missouri using its 2008 Kenworth truck with a GVWR of 19,00 pounds, its 2007

1 Chevy truck with a GVWR of 11,200 pounds and its 2000 Chevy truck with a
2 GVWR of 25,950 pounds. K.A.R. 82-4-1(f)(1) defines a commercial motor
3 vehicle in part as “[A] vehicle that has a gross vehicle weight rating or gross
4 combination weight rating, or a gross vehicle weight or gross combination weight,
5 of 4,536 kg (10,001 pounds) or more, whichever is greater.” As evidenced by
6 Kansas Highway Patrol Wright, Mills and Beabout’s testimony and evidence,
7 and as described in my testimony, the combined weight of each vehicle inspected
8 meets the regulatory definition of a commercial motor vehicle. Therefore, Benfer
9 Enterprises II LLC was on standby to tow vehicles to Missouri via a commercial
10 motor vehicle.

11 In Kansas, motor carriers are subject to the Kansas Corporation
12 Commission’s jurisdiction if they are engaged in a commercial enterprise. K.S.A.
13 2013 Supp. 66-1,108b gives the Commission the authority and jurisdiction to
14 supervise and control motor carriers doing business or procuring business in
15 Kansas. Benfer Enterprises II LLC is a business that is modeled in part around
16 providing exclusive tow service to the Roeland Park Police Department,
17 transporting vehicles from Roeland Park, Kansas back to Independence, Missouri.
18 The commercial motor vehicles they use are: (1) necessary to physically transport
19 the vehicles they tow (i.e. property), (2) engage in successful commercial
20 operations, and (3) are clearly used in furtherance of their commercial enterprise.
21 Therefore, Benfer Enterprises II LLC satisfies every element necessary to be
22 considered a private motor carrier.

1 **Q. Can you explain the differences between a public motor carrier, a for-hire**
2 **motor carrier, and a private motor carrier?**

3 A. A public motor carrier and a for-hire motor carrier is a person or business that
4 holds itself out to transport the property of others for compensation. "Public" and
5 "for-hire" denote the same type of operation, and the classification is used
6 interchangeably. A private motor carrier only transports their *own* property or
7 supplies, and does not hold themselves out for-hire. Aside from those differences,
8 they remain subject to identical commercial motor vehicle and commerce
9 requirements described above.

10 **Q. Despite those differences, are public motor carriers, for-hire motor carriers,**
11 **and private motor carriers subject to the Commission's authority and**
12 **jurisdiction?**

13 A. Yes.

14 **Q. What is your understanding of Benfer Enterprises II LLC's reasons for**
15 **requesting this hearing?**

16 A. It appears that Benfer Enterprises II LLC is contesting violations that were
17 identified during three September 27th, 2017, routine motor carrier inspections, in
18 addition to civil penalties that were assessed as a result of those same inspections.
19 The following civil penalties were documented in the Kansas Corporation
20 Commission's Invoice No. H000564756:

21 1. 392.2UCR - Failure to pay UCR Fees - \$300.00;

22 A true and correct copy of the Kansas Corporation Commission's Invoice No.
23 H000564756 is attached to this testimony as Hoeme Attachment "A."

1 The following civil penalties were documented in the Kansas Corporation
2 Commission's Invoice No. H000564753:

- 3 1. 392.2UCR - Failure to pay UCR Fees - \$0.00;
- 4 2. 393.41 – No parking brake - \$150.00

5 A true and correct copy of the Kansas Corporation Commission's Invoice No.
6 H000564753 is attached to this testimony as Hoeme Attachment "B."

7 The following civil penalties were documented in the Kansas Corporation
8 Commission's Invoice No. H000564878:

- 9 1. 392.2UCR - Failure to pay UCR Fees - \$0.00;
- 10 2. 393.75C – Tire-other tread depth lesss than 2/32 of inch - \$150.00

11 A true and correct copy of the Kansas Corporation Commission's Invoice No.
12 H000564878 is attached to this testimony as Hoeme Attachment "C."

13 **Q. Can you describe the Unified Carrier Registration Agreement?**

14 A. The Unified Carrier Registration Agreement is found in 49 USC § 14504a
15 (hereinafter referred to as section 14504a). The Unified Carrier Registration
16 Agreement is established by federal law in the Unified Carrier Registration Act,
17 which is part of the federal highway reauthorization bill known as the Safe,
18 Accountable, Flexible, Efficient Transportation Equity Act, A Legacy for Users
19 ("SAFETEA-LU"), Public Law 109-59, enacted August 10, 2005. The Unified
20 Carrier Registration Act is sections 4301 through 4308 of SAFETEA-LU. In
21 particular, the structure of the Unified Carrier Registration Agreement is set forth
22 in section 4305 of the Unified Carrier Registration Act, which enacts section
23 14504a as a new section in Title 49 of the United States Code.

1 The federal Unified Carrier Registration Agreement requires all for-hire
2 motor carriers transporting property or passengers, and motor private carriers
3 transporting property in interstate commerce, as well as brokers, freight
4 forwarders, and leasing companies to register with the United States Department
5 of Transportation and pay Unified Carrier Registration fees. Entities that are
6 purely intrastate carriers, and private motor carriers transporting only passengers
7 are not subject to Unified Carrier Registration fees. *See* 49 U.S.C. 14504a; *see*
8 *also* the Unified Carrier Registration Agreement, § 2, updated July 14, 2016,
9 attached hereto as Hoeme Attachment “D”.

10 Enforcement of non-payment of Unified Carrier Registration fees began
11 on or around January 1, 2009, and is conducted by the Kansas Highway Patrol
12 verifying compliance through roadside inspections and at Ports of Entry, and
13 through the Transportation Division Compliance Reviews. Additionally,
14 Transportation mails notices to each Kansas-based motor carrier which
15 acknowledges interstate activity on its Unified Carrier Registration profile, but
16 has not registered or paid Unified Carrier Registration fees for the appropriate
17 year.

18 **Q. Has Kansas adopted the Unified Carrier Registration Agreement?**

19 A. Yes. Specifically, K.A.R. 82-4-30a(c) states “[a]n interstate regulated motor
20 carrier shall not operate in interstate commerce over the highways of this state
21 unless the carrier is registered in the carrier's base state pursuant to 49 U.S.C.
22 14504a(a)(2).”

1 K.S.A. 66-1,115 states that “[i]t shall be unlawful for any private motor
2 carrier to operate as a carrier of property . . . within this state either in intrastate
3 commerce or interstate commerce . . . without being registered pursuant to federal
4 statutes.” The legislative history behind this motor carrier statute directly
5 supports the idea that private motor carriers who operate in interstate commerce
6 must pay Unified Carrier Registration fees. Private motor carriers who operate in
7 interstate commerce are required to pay Unified Carrier Registration fees.

8 **Q. Can you explain the fees charged to motor carriers based in states who have**
9 **adopted the Unified Carrier Registration Agreement in further detail please?**

10 A. Each registrant is required to register with its base state before it begins to operate
11 a commercial motor vehicle in interstate commerce. Unified Carrier Registration
12 fees are not prorated for a partial year operation.

13 **Q. Can you briefly describe what the Unified Carrier Registration fees are**
14 **based on?**

15 A. For motor carriers, the Unified Carrier Registration fees are based only on the
16 total number of commercial motor vehicles operated. For example a company
17 operating 0-2 commercial motor vehicles will pay \$76.00. The fees for brokers,
18 freight forwarders (those, that is, that do not operate motor vehicles – the fees of
19 those that do are based on fleet size), and leasing companies are levied at the same
20 rate as that which applies to the smallest motor carriers. Unified Carrier
21 Registration fees are not based on the extent of a carrier’s operations, only on: (1)
22 whether the carrier designates themselves an interstate carrier or is engaged in
23 interstate commerce, and if so, (2) fleet size. For example, a carrier may have

1 operations in just a few states where the Unified Carrier Registration Agreement
2 has been adopted. That carrier's fees will be the same as a carrier that operates
3 the same number of commercial motor vehicles in all Unified Carrier Registration
4 Agreement participating states. Neither will it matter under this agreement which
5 state is acting as a carrier's base state – the level of fees for a fleet of a given size
6 will remain the same.

7 **Q. Specifically, to which motor carriers do the Unified Carrier Registration**
8 **Agreement and accompanying fees apply?**

9 A. Private, for-hire, and exempt carriers, as well as brokers, freight forwarders, and
10 leasing companies, so long as they operate in interstate commerce.

11 **Q. Is Benfer Enterprises II LLC one of those carriers?**

12 A. Yes. Benfer Enterprises II LLC satisfies the statutory and regulatory
13 requirements necessary to be classified as a public motor carrier of property.

14 **Q. Mr. Hoeme, just to clarify, you are a Board member of the organization that**
15 **drafted the Unified Carrier Registration Agreement which Kansas has**
16 **adopted?**

17 A. Yes.

18 **Q. Based on your experience with the Commission policies and practices as it**
19 **applies to the issuance of civil penalties, do you believe the assessment of the**
20 **recommended penalty is fair and consistent with Kansas law and**
21 **Commission practices?**

22 A. Yes.

23 **Q. Does this conclude your testimony?**

1 A. Yes

Hoeme Attachment “A”



Jay Scott Emler, Chair
Shari Feist Albrecht, Commissioner
Pat Apple, Commissioner

Sam Brownback, Governor

NOTICE OF VIOLATION

September 30, 2016

BENFER ENTERPRISES II LLC

██████████
INDEPENDENCE, MO 64053

Re: Roadside Driver/Vehicle Examination Report No. KSHP01000842

This is a Notice of Probable Violation(s) of Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a roadside inspection conducted by the Kansas Highway Patrol.

Kansas Highway Patrol Officer N.B. WRIGHT inspected vehicle ██████████ 230790 on September 27, 2016 and violation(s) of Federal Motor Carrier Safety Regulations, as adopted by K.S.A. 66-1,129 and K.A.R. 82-4-3 et seq. were discovered. After a thorough review of your inspection, violation(s), along with associated penalties, have been assessed.

You have thirty (30) days, from the date of this letter, to pay the fine amount, as indicated in the enclosed invoice. Failure to address this matter may negatively impact your KCC operating authority or result in the issuance of an Out-of-Service order in the State of Kansas. You have the following options:

1. **Direct any disputed questions regarding violations and /or hearing requests to:**

**Kansas Highway Patrol
Motor Carrier Safety Assistance
700 SW Jackson, Suite 704
Topeka, Kansas 66603
(785) 296-8157**

2. Pay the fine amount as indicated in the enclosed invoice: **H000564756**
3. You have the right to an administrative hearing with the Kansas Corporation Commission by contacting the Kansas Highway Patrol.
4. Failure to pay the fine amount or request a hearing within thirty (30) days will result in carrier being in default. Carrier will not be able to make changes to KCC authority, including but not limited to adding vehicles, name changes or renewal of authority, until the fine has been paid or the matter is resolved.

###



INVOICE

BENFER ENTERPRISES II LLC
 [REDACTED]
 INDEPENDENCE, MO 64053

Invoice Date: September 30, 2016
 Invoice Number: H000564756
 Due Date: October 30, 2016

Power Unit Identification at Time of Inspection:

Unit #	Unit Make	Unit License	VIN	License Number	Company ID
1	KWDT	[REDACTED]	[REDACTED] 230790	4 [REDACTED]	

Unit	Violation	Violation Description	Penalty
1	392.2UCR	Failure to register and pay UCR Fees	300.00
Total Due:			\$300.00

***Please return the enclosed invoice with your payment,
 payable to the Kansas Corporation Commission.***

Failure to pay the fine amount or request a hearing within thirty (30) days will result in carrier being in default. Carrier will not be able to make changes to authority, including but not limited to adding vehicles, name changes or renewal of authority, until the fine has been paid or the matter is resolved.

Carriers registered under the Unified Carrier Registration Act (UCRA) program that maintains intrastate authority will be reviewed annually for compliance.

Payment options: check, money order or credit card.
 Circle the type of credit card (Visa, MasterCard, Discover, or American Express)

Credit card number _____ and Expiration Date ____ / ____

Please direct any questions regarding the violations and/or fine amounts to the
 Kansas Highway Patrol, Motor Carrier Safety Assistance at (785) 296-8157.

Hoeme Attachment “B”



Jay Scott Emter, Chair
Shari Feist Albrecht, Commissioner
Pat Apple, Commissioner

Sam Brownback, Governor

NOTICE OF VIOLATION

September 30, 2016

BENFER ENTERPRISES II LLC

██████████
INDEPENDENCE, MO 64053

Re: Roadside Driver/Vehicle Examination Report No. KSHP00531285

This is a Notice of Probable Violation(s) of Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a roadside inspection conducted by the Kansas Highway Patrol.

Kansas Highway Patrol Officer R.C. BEABOUT inspected vehicle ██████████ 132239 on September 27, 2016 and violation(s) of Federal Motor Carrier Safety Regulations, as adopted by K.S.A. 66-1,129 and K.A.R. 82-4-3 et seq. were discovered. After a thorough review of your inspection, violation(s), along with associated penalties, have been assessed.

You have thirty (30) days, from the date of this letter, to pay the fine amount, as indicated in the enclosed invoice. Failure to address this matter may negatively impact your KCC operating authority or result in the issuance of an Out-of-Service order in the State of Kansas. You have the following options:

1. **Direct any disputed questions regarding violations and /or hearing requests to:**

**Kansas Highway Patrol
Motor Carrier Safety Assistance
700 SW Jackson, Suite 704
Topeka, Kansas 66603
(785) 296-8157**

2. Pay the fine amount as indicated in the enclosed invoice: **H000564753**
3. You have the right to an administrative hearing with the Kansas Corporation Commission by contacting the Kansas Highway Patrol.
4. Failure to pay the fine amount or request a hearing within thirty (30) days will result in carrier being in default. Carrier will not be able to make changes to KCC authority, including but not limited to adding vehicles, name changes or renewal of authority, until the fine has been paid or the matter is resolved.

###



INVOICE

BENFER ENTERPRISES II LLC
 [REDACTED]
 INDEPENDENCE, MO 64053

Invoice Date: September 30, 2016
 Invoice Number: H000564753
 Due Date: October 30, 2016

Power Unit Identification at Time of Inspection:

Unit #	Unit Make	Unit License	VIN	License Number	Company ID
1	CHEV	[REDACTED]	[REDACTED] E132239	[REDACTED]	

Unit	Violation	Violation Description	Penalty
1	392.2UCR	Failure to register and pay UCR Fees	0.00
1	393.41	No parking brake	150.00
Total Due:			\$150.00

***Please return the enclosed invoice with your payment,
 payable to the Kansas Corporation Commission.***

Failure to pay the fine amount or request a hearing within thirty (30) days will result in carrier being in default. Carrier will not be able to make changes to authority, including but not limited to adding vehicles, name changes or renewal of authority, until the fine has been paid or the matter is resolved.

Carriers registered under the Unified Carrier Registration Act (UCRA) program that maintains intrastate authority will be reviewed annually for compliance.

Payment options: check, money order or credit card.

Circle the type of credit card (Visa, MasterCard, Discover, or American Express)

Credit card number _____ and Expiration Date ____ / ____

Please direct any questions regarding the violations and/or fine amounts to the Kansas Highway Patrol, Motor Carrier Safety Assistance at (785) 296-8157.

Hoeme Attachment “C”



Jay Scott Emler, Chair
Shari Feist Albrecht, Commissioner
Pat Apple, Commissioner

Sam Brownback, Governor

NOTICE OF VIOLATION

October 6, 2016

BENFER ENTERPRISES II LLC

████████████████████
ORRICK, MO 64077

Re: Roadside Driver/Vehicle Examination Report No. KSHP02520638

This is a Notice of Probable Violation(s) of Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a roadside inspection conducted by the Kansas Highway Patrol.

Kansas Highway Patrol Officer J.L. MILLS inspected vehicle ██████████ 525105 on September 27, 2016 and violation(s) of Federal Motor Carrier Safety Regulations, as adopted by K.S.A. 66-1,129 and K.A.R. 82-4-3 et seq. were discovered. After a thorough review of your inspection, violation(s), along with associated penalties, have been assessed.

You have thirty (30) days, from the date of this letter, to pay the fine amount, as indicated in the enclosed invoice. Failure to addresss this matter may negatively impact your KCC operating authority or result in the issuance of an Out-of-Service order in the State of Kansas. You have the following options:

1. **Direct any disputed questions regarding violations and /or hearing requests to:**

**Kansas Highway Patrol
Motor Carrier Safety Assistance
700 SW Jackson, Suite 704
Topeka, Kansas 66603
(785) 296-8157**

2. Pay the fine amount as indicated in the enclosed invoice: **H000564878**
3. You have the right to an administrative hearing with the Kansas Corporation Commission by contacting the Kansas Highway Patrol.
4. Failure to pay the fine amount or request a hearing within thirty (30) days will result in carrier being in default. Carrier will not be able to make changes to KCC authority, including but not limited to adding vehicles, name changes or renewal of authority, until the fine has been paid or the matter is resolved.

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INVOICE

BENFER ENTERPRISES II LLC

ORRICK, MO 64077

Invoice Date: October 6, 2016

Invoice Number: H000564878

Due Date: November 5, 2016

Power Unit Identification at Time of Inspection:

Unit #	Unit Make	Unit License	VIN	License Number	Company ID
1	CHEV		1 525105		

Unit	Violation	Violation Description	Penalty
1	392.2UCR	Failure to register and pay UCR Fees	0.00
1	393.75C	Tire-other tread depth less than 2/32 of inch	150.00
Total Due:			\$150.00

***Please return the enclosed invoice with your payment,
payable to the Kansas Corporation Commission.***

Failure to pay the fine amount or request a hearing within thirty (30) days will result in carrier being in default. Carrier will not be able to make changes to authority, including but not limited to adding vehicles, name changes or renewal of authority, until the fine has been paid or the matter is resolved.

Carriers registered under the Unified Carrier Registration Act (UCRA) program that maintains intrastate authority will be reviewed annually for compliance.

Payment options: check, money order or credit card.

Circle the type of credit card (Visa, MasterCard, Discover, or American Express)

Credit card number _____ and Expiration Date ____ / ____

Please direct any questions regarding the violations and/or fine amounts to the Kansas Highway Patrol, Motor Carrier Safety Assistance at (785) 296-8157.

Hoeme Attachment “D”

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 901.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11504 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

[§ 14504. Repealed. Pub. L. 109-59, title IV, § 4305(a), Aug. 10, 2005, 119 Stat. 1764; Pub. L. 110-53, title XV, § 1537(a), Aug. 3, 2007, 121 Stat. 467]

Section, added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 902; amended Pub. L. 110-53, title XV, § 1537(a), Aug. 3, 2007, 121 Stat. 467, related to registration of motor carriers by a State.

Provisions similar to those in this section were contained in section 11506 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

EFFECTIVE DATE OF REPEAL

Pub. L. 109-59, title IV, § 4305(a), Aug. 10, 2005, 119 Stat. 1764, as amended by Pub. L. 110-53, title XV, § 1537(c), Aug. 3, 2007, 121 Stat. 467, provided that this section and the item relating to this section in the analysis for this chapter are repealed effective Jan. 1, 2008.

TEMPORARY REENACTMENT OF SECTION

Pub. L. 110-53, title XV, § 1537(a), Aug. 3, 2007, 121 Stat. 467, provided that section 14504 of this title, as in effect on Dec. 31, 2006, was to be in effect for the period beginning on Jan. 1, 2007, and ending on the earlier of Jan. 1, 2008, or the effective date of final regulations issued (none issued as of Jan. 1, 2008) pursuant to section 1537(b) of Pub. L. 110-53, set out as a note under section 13908 of this title.

§ 14504a. Unified Carrier Registration System plan and agreement

(a) DEFINITIONS.—In this section and section 14506 (except as provided in paragraph (5)), the following definitions apply:

(1) COMMERCIAL MOTOR VEHICLE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “commercial motor vehicle”—

(i) for calendar years 2008 and 2009, has the meaning given the term in section 31101; and

(ii) for years beginning after December 31, 2009, means a self-propelled vehicle described in section 31101.

(B) EXCEPTION.—With respect to determining the size of a motor carrier or motor private carrier’s fleet in calculating the fee to be paid by a motor carrier or motor private carrier pursuant to subsection (d)(1), the motor carrier or motor private carrier shall have the option to include, in addition to commercial motor vehicles as defined in subparagraph (A), any self-propelled vehicle used on the highway in commerce to transport passengers or property for compensation regardless of the gross vehicle weight rating of the vehicle or the number of passengers transported by such vehicle.

(2) BASE-STATE.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “base-State” means, with respect to a unified carrier registration agreement, a State—

(i) that is in compliance with the requirements of subsection (e); and

(ii) in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company to which the agreement applies maintains its principal place of business.

(B) DESIGNATION OF BASE-STATE.—A motor carrier, motor private carrier, broker, freight forwarder, or leasing company may designate another State in which it maintains an office or operating facility to be its base-State in the event that—

(i) the State in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company maintains its principal place of business is not in compliance with the requirements of subsection (e); or

(ii) the motor carrier, motor private carrier, broker, freight forwarder, or leasing company does not have a principal place of business in the United States.

(3) INTRASTATE FEE.—The term “intrastate fee” means any fee, tax, or other type of assessment, including per vehicle fees and gross receipts taxes, imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.

(4) LEASING COMPANY.—The term “leasing company” means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.

(5) MOTOR CARRIER.—

(A) THIS SECTION.—In this section:

(i) IN GENERAL.—The term “motor carrier” includes all carriers that are otherwise exempt from this part—

(I) under subchapter I of chapter 135; or

(II) through exemption actions by the former Interstate Commerce Commission under this title.

(ii) EXCLUSIONS.—In this section, the term “motor carrier” does not include—

(I) any carrier subject to section 13504; or

(II) any other carrier that the board of directors of the unified carrier registration plan determines to be appropriate pursuant to subsection (d)(4)(C).

(B) SECTION 14506.—In section 14506, the term “motor carrier” includes all carriers that are otherwise exempt from this part—

(i) under subchapter I of chapter 135; or

(ii) through exemption actions by the former Interstate Commerce Commission under this title.

(6) PARTICIPATING STATE.—The term “participating State” means a State that has complied with the requirements of subsection (e).

(7) SSRS.—The term “SSRS” means the single state registration system in effect on the date of enactment of this section.

(8) UNIFIED CARRIER REGISTRATION AGREEMENT.—The terms “unified carrier registration agreement” and “UCR agreement” mean the

interstate agreement developed under the unified carrier registration plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to this section.

(9) UNIFIED CARRIER REGISTRATION PLAN.—The terms “unified carrier registration plan” and “UCR plan” mean the organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement.

(10) VEHICLE REGISTRATION.—The term “vehicle registration” means the registration of any commercial motor vehicle under the International Registration Plan (as defined in section 31701) or any other registration law or regulation of a jurisdiction.

(b) APPLICABILITY OF PROVISIONS TO FREIGHT FORWARDERS.—A freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) shall be subject to the provisions of this section as if the freight forwarder is a motor carrier.

(c) UNREASONABLE BURDEN.—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of two or more States—

(1) to enact, impose, or enforce any requirement or standards with respect to, or levy any fee or charge on, any motor carrier or motor private carrier providing transportation or service subject to jurisdiction under subchapter I of chapter 135 (in this section referred to as an “interstate motor carrier” and an “interstate motor private carrier”, respectively) in connection with—

(A) the registration with the State of the interstate operations of the motor carrier or motor private carrier;

(B) the filing with the State of information relating to the financial responsibility of a motor carrier or motor private carrier pursuant to sections 31138 or 31139;

(C) the filing with the State of the name of the local agent for service of process of the motor carrier or motor private carrier pursuant to sections¹ 503 or 13304; or

(D) the annual renewal of the intrastate authority, or the insurance filings, of the motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State if the motor carrier or motor private carrier is—

(i) registered under section 13902 or section 13905(b); and

(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State in accordance with section 14501(c)(2)(A); except with respect to—

(1) intrastate service provided by motor carriers of passengers that is not subject to the preemption provisions of section 14501(a);

(II) motor carriers of property, motor private carriers, brokers, or freight forwarders, or their services or operations, that are described in subparagraphs (B) and (C) of section 14501(c)(2).²

(III) the intrastate transportation of waste or recyclable materials by any carrier; or

(2) to require any interstate motor carrier or motor private carrier that also performs intrastate operations to pay any fee or tax which³ a carrier engaged exclusively in intrastate operations is exempt.

(d) UNIFIED CARRIER REGISTRATION PLAN.—

(1) BOARD OF DIRECTORS.—

(A) GOVERNANCE OF PLAN; ESTABLISHMENT.—The unified carrier registration plan shall have a board of directors consisting of representatives of the Department of Transportation, participating States, and the motor carrier industry. The Secretary shall establish the board.

(B) COMPOSITION.—The board shall consist of 15 directors appointed by the Secretary as follows:

(1) FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.—One director from each of the Federal Motor Carrier Safety Administration's 4 service areas (as those areas were defined by the Federal Motor Carrier Safety Administration on January 1, 2005) from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR agreement.

(ii) STATE AGENCIES.—Five directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR agreement in their respective States. Nominees for these 5 directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing the administration of the UCR agreement in their respective States.

(iii) MOTOR CARRIER INDUSTRY.—Five directors from the motor carrier industry. At least 1 of the appointees under this clause shall be a representative of a national trade association representing the general motor carrier of property industry. At least 1 of the appointees under this clause shall represent a motor carrier that falls within the smallest fleet fee bracket.

(iv) DEPARTMENT OF TRANSPORTATION.—The Deputy Administrator of the Federal Motor Carrier Safety Administration, or such other presidential appointee from the Department, as the Secretary may appoint.

(C) CHAIRPERSON AND VICE-CHAIRPERSON.—The Secretary shall designate 1 director as chairperson and 1 director as vice-chairperson of the board. The chairperson and vice-chairperson shall serve in such capacity for the term of their appointment as directors.

¹ So in original. Probably should be “section”.

² So in original. The period probably should be a semicolon.

³ So in original.

(D) TERMS.—

(i) **INITIAL TERMS.**—In appointing the initial board, the Secretary shall designate 5 of the appointed directors for initial terms of 3 years, 5 of the appointed directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year.

(ii) **THEREAFTER.**—After the initial term, all directors shall be appointed for terms of 3 years; except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (B)(iv) shall be at the discretion of the Secretary.

(iii) **SUCCESSION.**—A director may be appointed to succeed himself or herself.

(iv) **END OF SERVICE.**—A director may continue to serve on the board until his or her successor is appointed.

(2) RULES AND REGULATIONS GOVERNING THE UCR AGREEMENT.—The board of directors shall issue rules and regulations to govern the UCR agreement. The rules and regulations shall—

(A) prescribe uniform forms and formats, for—

(i) the annual submission of the information required by a base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;

(ii) the transmission of information by a participating State to the Unified Carrier Registration System;

(iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and

(iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the board of the intent of such entity to change its base-State, and the procedures for a State to object to such a change under subparagraph (C);

(B) provide for the administration of the unified carrier registration agreement, including procedures for amending the agreement and obtaining clarification of any provision of the Agreement;

(C) provide procedures for dispute resolution under the agreement that provide due process for all involved parties; and

(D) designate a depository.

(3) COMPENSATION AND EXPENSES.—

(A) **IN GENERAL.**—Except for the representative of the Department appointed under paragraph (1)(B)(iv), no director shall receive any compensation or other benefits from the Federal Government for serving on the board or be considered a Federal employee as a result of such service.

(B) **EXPENSES.**—All directors shall be reimbursed for expenses they incur attending meetings of the board. In addition, the board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed under paragraph (5) for carrying out the duties of the subcommittee or task force. The reimbursement of expenses to directors and subcommittee

and task force members shall be under subchapter II of chapter 57 of title 5, United States Code, governing reimbursement of expenses for travel by Federal employees.

(4) MEETINGS.—

(A) **IN GENERAL.**—The board shall meet at least once per year. Additional meetings may be called, as needed, by the chairperson of the board, a majority of the directors, or the Secretary.

(B) **QUORUM.**—A majority of directors shall constitute a quorum.

(C) **VOTING.**—Approval of any matter before the board shall require the approval of a majority of all directors present at the meeting, except that a decision to approve the exclusion of carriers from the definition of the term “motor carrier” under subsection (a)(5) shall require an affirmative vote of $\frac{3}{4}$ of all such directors.³

(D) **OPEN MEETINGS.**—Meetings of the board and any subcommittees or task forces appointed under paragraph (5) shall be subject to the provisions of section 552b of title 5.

(5) SUBCOMMITTEES.—

(A) **INDUSTRY ADVISORY SUBCOMMITTEE.**—The chairperson shall appoint an industry advisory subcommittee. The industry advisory subcommittee shall consider any matter before the board and make recommendations to the board.

(B) **OTHER SUBCOMMITTEES.**—The chairperson shall appoint an audit subcommittee, a dispute resolution subcommittee, and any additional subcommittees and task forces that the board determines to be necessary.

(C) **MEMBERSHIP.**—The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or nondirectors.

(D) **REPRESENTATION ON SUBCOMMITTEES.**—Except for the industry advisory subcommittee (the membership of which shall consist solely of representatives of entities subject to the fee requirements of subsection (f)), each subcommittee and task force shall include representatives of the participating States and the motor carrier industry.

(6) **DELEGATION OF AUTHORITY.**—The board may contract with any person or any agency of a State to perform administrative functions required under the unified carrier registration agreement, but may not delegate its decision or policy-making responsibilities.

(7) DETERMINATION OF FEES.—

(A) **RECOMMENDATION BY BOARD.**—The board shall recommend to the Secretary the initial annual fees to be assessed carriers, leasing companies, brokers, and freight forwarders under the unified carrier registration agreement. In making its recommendation to the Secretary for the level of fees to be assessed in any agreement year, and in setting the fee level, the board and the Secretary shall consider—

(i) the administrative costs associated with the unified carrier registration plan and the agreement;

(ii) whether the revenues generated in the previous year and any surplus or short-

age from that or prior years enable the participating States to achieve the revenue levels set by the board; and

(iii) the provisions governing fees under subsection (f)(1).

(B) **SETTING FEES.**—The Secretary shall set the initial annual fees for the next agreement year and any subsequent adjustment of those fees—

(i) within 90 days after receiving the board's recommendation under subparagraph (A); and

(ii) after notice and opportunity for public comment.

(8) **LIABILITY PROTECTIONS FOR DIRECTORS.**—No individual appointed to serve on the board shall be liable to any other director or to any other party for harm, either economic or non-economic, caused by an act or omission of the individual arising from the individual's service on the board if—

(A) the individual was acting within the scope of his or her responsibilities as a director; and

(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.

(9) **INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the unified carrier registration plan, the board, or its committees.

(10) **CERTAIN FEES NOT AFFECTED.**—This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement (as defined in section 31701).

(e) **STATE PARTICIPATION.**—

(1) **STATE PLAN.**—No State shall be eligible to participate in the unified carrier registration plan or to receive any revenues derived under the UCR agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2005, a plan—

(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the agreement in accordance with the rules and regulations promulgated by the board of directors; and

(B) demonstrating that an amount at least equal to the revenue derived by the State from the unified carrier registration agreement shall be used for motor carrier safety programs, enforcement, or the administration of the UCR plan and UCR agreement.

(2) **AMENDED PLANS.**—A State that submits a plan under this subsection may change the agency designated in the plan by filing an amended plan with the Secretary and the chairperson of the board of directors.

(3) **WITHDRAWAL OF PLAN.**—If a State withdraws, or notifies the Secretary that it is withdrawing, the plan it submitted under this subsection, the State may no longer partici-

pate in the unified carrier registration agreement or receive any portion of the revenues derived under the agreement. The Secretary shall notify the chairperson upon receiving notice from a State that it is withdrawing its plan or withdrawing from the agreement, or both.

(4) **TERMINATION OF ELIGIBILITY.**—If a State fails to submit a plan to the Secretary in accordance with paragraph (1) or withdraws its plan under paragraph (3), the State may not submit or resubmit a plan or participate in the agreement.

(5) **PROVISION OF PLAN TO CHAIRPERSON.**—The Secretary shall provide a copy of each plan submitted under this subsection to the chairperson of the board of directors not later than 10 days after date of submission of the plan.

(f) **CONTENTS OF UNIFIED CARRIER REGISTRATION AGREEMENT.**—The unified carrier registration agreement shall provide the following:

(1) **FEES.**—(A) Fees charged—

(i) to a motor carrier, motor private carrier, or freight forwarder under the UCR agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder; and

(ii) to a broker or leasing company under the UCR agreement shall be equal to the smallest fee charged to a motor carrier, motor private carrier, and freight forwarder under this paragraph.

(B) The fees shall be determined by the Secretary based upon the recommendation of the board under subsection (d)(7).

(C) The board shall develop for purposes of charging fees no more than 6 and no less than 4 brackets of carriers (including motor private carriers) based on the size of fleet.

(D) The fee scale shall be progressive in the amount of the fee.

(E) The board may ask the Secretary to adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees—

(i) are insufficient to provide the revenues to which the States are entitled under this section; or

(ii) exceed those revenues.

(2) **DETERMINATION OF OWNERSHIP OR OPERATION.**—For purposes of this subsection, a commercial motor vehicle is owned or operated by a motor carrier, motor private carrier, or freight forwarder if the vehicle is registered under Federal law or State law, or both, in the name of the motor carrier, motor private carrier, or freight forwarder or is controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.

(3) **CALCULATION OF NUMBER OF COMMERCIAL MOTOR VEHICLES OWNED OR OPERATED.**—The number of commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder for purposes of paragraph (1) shall be based either on the number of commercial motor vehicles the motor carrier, motor private carrier, or freight forwarder has indicated it operates on

its most recently filed MCS-150 or the total number of such vehicles it owned or operated for the 12-month period ending on June 30 of the year immediately prior to the registration year of the Unified Carrier Registration System. A motor carrier may include in the calculation of its fleet size for purposes of paragraph (1) any commercial motor vehicle. Motor carriers and motor private carriers in the calculation of their fleet size for purposes of paragraph (1) may elect not to include commercial motor vehicles used exclusively in the intrastate transportation of property, waste, or recyclable material.

(4) PAYMENT OF FEES.—Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their base-State pursuant to the UCR Agreement.

(g) PAYMENT OF FEES.—Revenues derived under the UCR Agreement shall be allocated to participating States as follows:

(1) A State that participated in the SSRS in the last registration year under the SSRS ending before the date of enactment of the Unified Carrier Registration Act of 2005 and complies with subsection (e) is entitled to receive under this section a portion of the revenues generated under the UCR agreement equivalent to the revenues it received under the SSRS in such last registration year, as long as the State continues to comply with subsection (e).

(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with subsection (e) is entitled to receive under this section an additional portion of the revenues generated under the UCR agreement equivalent to the revenues it received from such carriers in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2005, as long as the State continues to comply with subsection (e).

(3) States that comply with subsection (e) but did not participate in SSRS during such last registration year shall be entitled under this section to an annual allotment not to exceed \$500,000 from the revenues generated under the UCR agreement, as long as the State continues to comply with the provisions of subsection (e).

(4) The amount of revenues generated under the UCR agreement to which a State is entitled under this section shall be calculated by the board and approved by the Secretary.

(h) DISTRIBUTION OF UCR AGREEMENT REVENUES.—

(1) ELIGIBILITY.—Each State that is in compliance with subsection (c) shall be entitled under this section to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

(2) ENTITLEMENT TO REVENUES.—A State that is in compliance with subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR agreement equivalent to the portion of revenues to which the

State is entitled under subsection (g). All revenues a participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the board under subsection (d)(2)(D).

(3) DISTRIBUTION OF FUNDS FROM DEPOSITORY.—The excess funds deposited in the depository shall be distributed by the board of directors as follows:

(A) On a pro rata basis to each participating State that did not collect revenues under the UCR agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross revenues collected under the UCR agreement by a participating State and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled under subsection (g).

(B) After all distributions under subparagraph (A) have been made, to pay the administrative costs of the UCR plan and the UCR agreement.

(4) RETENTION OF CERTAIN EXCESS FUNDS.—Any excess funds held by the depository after distributions and payments under paragraphs (3)(A) and (3)(B) shall be retained in the depository, and the fees charged under the UCR agreement to motor carriers, motor private carriers, leasing companies, freight forwarders, and brokers for the next fee year shall be reduced by the Secretary accordingly.

(i) ENFORCEMENT.—

(1) CIVIL ACTIONS.—Upon request by the Secretary, the Attorney General may bring a civil action in the United States district court described in paragraph (2) to enforce an order issued to require compliance with this section and with the terms of the UCR agreement.

(2) VENUE.—An action under this section may be brought only in a United States district court in the State in which compliance with the order is required.

(3) RELIEF.—Subject to section 1341 of title 28, the court, on a proper showing shall issue a temporary restraining order or a preliminary or permanent injunction requiring that the State or any person comply with this section.

(4) ENFORCEMENT BY STATES.—Nothing in this section—

(A) prohibits a participating State from issuing citations and imposing reasonable fines and penalties pursuant to the applicable laws and regulations of the State on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—

(i) submit information documents as required under subsection (d)(2); or

(ii) pay the fees required under subsection (f); or

(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under section 14506 on or in a commercial motor vehicle.

(j) APPLICATION TO INTRASTATE CARRIERS.—Notwithstanding any other provision of this sec-

tion, a State may elect to apply the provisions of the UCR agreement to motor carriers and motor private carriers and freight forwarders subject to its jurisdiction that operate solely in intrastate commerce within the borders of the State.

(Added Pub. L. 109-59, title IV, §4305(b), Aug. 10, 2005, 119 Stat. 1764; amended Pub. L. 110-244, title III, §301(m)-(p), June 6, 2008, 122 Stat. 1617; Pub. L. 110-432, div. A, title VII, §701(d), Oct. 16, 2008, 122 Stat. 4906.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a)(7), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

The Federal Advisory Committee Act, referred to in subsec. (d)(9), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of enactment of the Unified Carrier Registration Act of 2005, referred to in subssecs. (e)(1) and (g)(1), (2), is the date of enactment of subtitle C of title IV of Pub. L. 109-59, which was approved Aug. 10, 2005.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-432, §701(d)(1)(A), inserted “(except as provided in paragraph (5))” after “14506” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 110-432, §701(d)(1)(B), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: “Except as provided in subparagraph (B), the term ‘commercial motor vehicle’ has the meaning such term has under section 31101.”

Subsec. (a)(1)(B). Pub. L. 110-244, §301(m), substituted “determining the size of a motor carrier or motor private carrier’s fleet in calculating the fee to be paid by a motor carrier or motor private carrier pursuant to subsection (f)(1), the motor carrier or motor private carrier” for “a motor carrier required to make any filing or pay any fee to a State with respect to the motor carrier’s authority or insurance related to operation within such State, the motor carrier”.

Subsec. (a)(5). Pub. L. 110-432, §701(d)(1)(C), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: “The term ‘motor carrier’ includes all carriers that are otherwise exempt from this part under subchapter I of chapter 135 or exemption actions by the former Interstate Commerce Commission under this title.”

Subsec. (c)(1)(B). Pub. L. 110-244, §301(p)(1), substituted “a” for “the a”.

Subsec. (c)(2). Pub. L. 110-244, §301(n), substituted “exclusively in intrastate operations” for “exclusively in interstate operations”.

Subsec. (d)(4)(C). Pub. L. 110-432, §701(d)(2), inserted before period “, except that a decision to approve the exclusion of carriers from the definition of the term ‘motor carrier’ under subsection (a)(5) shall require an affirmative vote of ¾ of all such directors.”

Subsec. (f)(1)(A)(i). Pub. L. 110-244, §301(p)(2), struck out “in connection with the filing of proof of financial responsibility” before “under the UCR agreement”.

Subsec. (f)(1)(A)(ii). Pub. L. 110-244, §301(o), (p)(3), substituted “under the UCR agreement” for “in connection with such a filing” and struck out “or” before “under this paragraph.”

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

§ 14505. State tax

A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

- (1) a passenger traveling in interstate commerce by motor carrier;
- (2) the transportation of a passenger traveling in interstate commerce by motor carrier;
- (3) the sale of passenger transportation in interstate commerce by motor carrier; or
- (4) the gross receipts derived from such transportation.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 904.)

§ 14506. Identification of vehicles

(a) RESTRICTION ON REQUIREMENTS.—No State, political subdivision of a State, interstate agency, or other political agency of two or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle (as defined in section 14504a), other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.

(b) EXCEPTION.—Notwithstanding subsection (a), a State may continue to require display of credentials that are required—

- (1) under the International Registration Plan under section 31704;
- (2) under the International Fuel Tax Agreement under section 31705 or under an applicable State law if, on October 1, 2006, the State has a form of highway use taxation not subject to collection through the International Fuel Tax Agreement;
- (3) under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate;
- (4) in connection with Federal requirements for hazardous materials transportation under section 5103; or
- (5) in connection with the Federal vehicle inspection standards under section 31136.

(Added Pub. L. 109-59, title IV, §4306(a), Aug. 10, 2005, 119 Stat. 1773; amended Pub. L. 110-244, title III, §301(q), June 6, 2008, 122 Stat. 1617.)

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110-244 inserted “or under an applicable State law if, on October 1, 2006, the State has a form of highway use taxation not subject to collection through the International Fuel Tax Agreement” before semicolon at end.

CHAPTER 147—ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

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14701.	General authority.
14702.	Enforcement by the regulatory authority.
14703.	Enforcement by the Attorney General.
14704.	Rights and remedies of persons injured by carriers or brokers.
14705.	Limitation on actions by and against carriers.
14706.	Liability of carriers under receipts and bills of lading.

Unified Carrier Registration Agreement



Updated: July 14, 2016

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ATTACHMENT A - STATE PLAN

ATTACHMENT B – REGISTRATION FORM

1. DEFINITIONS

- (a) "Administrator" means the Administrator of the FMCSA.
- (b) "Base State" See Section 8.
- (c) "Board" means the Board of Directors of the UCR Plan.
- (d) "Broker" means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.
- (e) "Commercial motor vehicle" (as defined under 49 U.S.C. Section 31101) means a self-propelled vehicle used on the highways in commerce principally to transport passengers or cargo, if the vehicle:
 - (1) Has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;
 - (2) Is designed to transport more than 10 passengers including the driver; or
 - (3) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. Section 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary.
- (f) "FMCSA" means the Federal Motor Carrier Safety Administration, an agency within the USDOT, and includes predecessor or successor agencies performing similar duties.
- (g) "Freight forwarder" means a person holding itself out to the general public (other than as a pipeline, rail, motor or water carrier) to provide transportation of property for compensation and in the ordinary course of its business:
 - (1) Assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;
 - (2) Assumes responsibility for the transportation from the place of receipt to the place of destination; and
 - (3) Uses for any part of the transportation a carrier subject to 49 U.S.C. Subtitle IV.
- (h) "Hazardous material" means a substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.
- (i) "Hazardous waste" means a material that is subject to the hazardous waste manifest requirements of the EPA specified in 40 CFR Part 262 or would be subject to these requirements absent an interim authorization to a State under 40 CFR Part 123, Subpart F.
- (j) "Interstate commerce" means trade, traffic, or transportation in the United States between:

- (1) A place in a State and a place outside of such State (including a place outside of the United States);
 - (2) Two places in a State through another State or a place outside of the United States; or
 - (3) Two places in a State as part of trade, traffic, or transportation originating or terminating outside the State or the United States.
- (k) "Intrastate commerce" means any trade, traffic, or transportation in any State that is not described in the term "interstate commerce" and is conducted wholly within a State.
- (l) "Intrastate renewal" means any type of requirement on an annual basis for intrastate authority, insurance filings or other authority related filing requirements necessary to operate within a State.
- (m) "Intrastate renewal fee" means any fee imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.
- (n) "Leasing company" means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.
- (o) "Motor carrier" means a person providing motor vehicle transportation for compensation.
- (p) "Motor private carrier" means a person, other than a motor carrier, transporting property by motor vehicle when:
- (1) The transportation is as provided in 49 U.S.C. Section 13501;
 - (2) The person is the owner, lessee, or bailee of the property being transported; and
 - (3) The property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.
- (q) "Motor vehicle" means any vehicle, machine, tractor, trailer, or semi-trailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the FMCSA, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.
- (r) "Participating State" means a State that has complied with the requirements of Subsection (e) of 49 U.S.C. Section 14504a and that has not withdrawn from the UCR Plan.
- (s) "Principal place of business" means a single office or terminal designated by the company to serve as the a motor carrier's, motor private carrier's, broker's, leasing company's or freight forwarder's principal place of business. The principal place of business must be a location where the company is engaged in business operations and

where it maintains or can make available its business and safety records. A company may not designate as its principal place of business any location where the company is not engaged in business operations related to the transportation of persons or property. Post office box centers or commercial courier service establishments that receive and hold mail or packages for third party pickup may not be designated a principal place of business (other than by the courier service provider itself). A company may not designate the office of a consultant, service agent, or attorney as the motor carrier's principal place of business if the company is not engaged in operations related to the transportation of persons or property at that location. A company with a single place of business may designate only its actual place of business as the principal place of business.

- (t) "Registrant" under the provisions of this agreement means a motor carrier, motor private carrier, broker, leasing company or freight forwarder.
- (u) "Registration year" means a calendar year.
- (v) "Renewal period" means, with respect to a registration year, the period of October 1 through December 31 of the immediately preceding year.
- (w) "Secretary" means the Secretary of the USDOT.
- (x) "SSRS" means the Single State Registration System in effect on the date of enactment of the UCR Act of 2005.
- (y) "State" means a State of the United States or the District of Columbia.
- (z) "State Plan" means a document that:
 - (1) Identifies the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the UCR Agreement in accordance with the rules and regulations promulgated by the Board; and
 - (2) Demonstrates that an amount at least equal to the revenue derived by the State from the UCR Agreement shall be used for motor carrier safety programs, enforcement, or the administration of the UCR Plan and UCR Agreement.
 - (3) The Board believes that the document included with these procedures as Attachment A is, when properly executed by a state, adequate to serve as the state's plan for purposes of the UCR agreement.
- (aa) "Unified Carrier Registration Agreement" or "UCR Agreement" or "UCRA" means the interstate agreement developed under the UCR Plan governing the collection and distribution of registration information and UCR fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to 49 U.S.C. Section 14504a.
- (bb) "Unified Carrier Registration fees" or "UCR fees" means the fees determined by the Secretary based upon recommendation by the Board.

- (cc) "Unified Carrier Registration Plan" or "UCR Plan" means the organization of State, Federal, and Industry representatives responsible for developing, implementing, and administering the UCR Agreement.
- (dd) "Unified Carrier Registration System" or "URS" means the federal registration system established by 49 U.S.C. Section 13908.
- (ee) "U.S.C." means the United States Code.
- (ff) "USDOT" means the United States Department of Transportation.
- (gg) "Vehicle Registration" means the registration of any commercial motor vehicle under the International Registration Plan (IRP) as defined in 49 U.S.C. Section 31701 or any other registration law or regulation of a State or foreign country.

2. APPLICABILITY OF THE PROVISIONS OF THE UCR AGREEMENT

The UCR Agreement will apply to the following types of operations of passenger and property transportation in interstate commerce:

- (1) Motor carrier;
- (2) Motor private carrier of property;
- (3) Freight forwarder;
- (4) Broker; and
- (5) Leasing company.

3. STATE OPTION TO INCLUDE INTRASTATE CARRIERS IN THE UCR AGREEMENT

A State may elect to apply the provisions of the UCR Agreement to motor carrier and motor private carriers and freight forwarders subject to its jurisdiction that operate solely in intrastate commerce within the border of the State.

4. REGISTRANT OPTION TO INCLUDE INTRASTATE MOTOR VEHICLES

- (a) An interstate motor carrier or motor private carrier may opt to include motor vehicles under 10,001 gross vehicle weight and motor vehicles used in purely intrastate operations.
- (b) If motor vehicle(s) used purely in intrastate operations are not included in the vehicle fleet count under the UCR annual submission, it may subject those motor vehicles to be included in an annual renewal with the State(s).

5. STATE ELIGIBILITY TO PARTICIPATE IN THE UCR AGREEMENT

- (a) Forty-one states are eligible to participate in the UCR agreement because each state submitted to the Secretary a state plan prior to the August 10, 2008, deadline. Any state that failed to submit a state plan by that date, may not thereafter participate in the UCR agreement. A state may also require the enactment of its own enabling legislation to participate in the program.

6. STATE AMENDMENT TO THE STATE PLAN

If a participating state changes the agency that administers the UCRA, it shall file with the Secretary and the chair of the Board an amended state plan that reflects the change

7. STATE WITHDRAWAL OF THE STATE PLAN

A state that desires to withdraw from participation in the UCRA shall file a notice by the end of the current registration year of its intent to withdraw with both the Secretary and the chair of the Board. On the effective date of the notice, the State may no longer participate in the agreement or receive any portion of the revenues derived under the agreement. The Secretary shall immediately notify the chairperson of the Board of the impending withdrawal.

8. BASE STATE DESIGNATION

- (a) A motor carrier, motor private carrier, broker, freight forwarder, or leasing company subject to the UCRA shall choose a single base state, with which it shall register and pay its UCR agreement fees. The base state selection is made according to the following guidelines.
 - (1) If the principal place of business of an entity subject to the UCR agreement is a participating state, that state shall serve as the entity's base state.
 - (2) If the principal place of business of an entity subject to the UCR agreement is not located in a participating state, the entity shall choose for its base state any participating state in which the entity maintains an office or operating facility.
 - (3) If an entity does not have a principal place of business, office or operating facility in any participating state, the entity shall choose for its base state the participating state that is nearest to the location of the entity's principal place of business or select any participating state within their FMCSA region.
- (b) If an entity subject to the UCR agreement chooses a base state that does not meet the criteria established in this section, and that state accepts the entity's UCR agreement registration, any other participating state may object to the entity's base state designation.
- (c) Once an entity subject to the UCRA has chosen a base state under the provisions of this section, the entity may only change its base state under the provisions of Section 9.

9. CHANGE IN BASE STATE

(a) Once an entity subject to the UCR agreement has chosen a base state under the provisions of Section 8, the entity may only designate another base state under one of the following circumstances:

- (1) If the entity changes its principal place of business, and the new principal place of business is located in a participating state, the entity shall, effective with the next registration year following the change, choose that participating state as its base state. If the entity's new principal place of business is not in a participating state, the entity's base state shall not change.
- (2) If the state in which the principal place of business of the entity is located becomes a participating state, the entity shall, effective with the first registration year in which the state is a participating state, choose that state as its base state.
- (3) If the entity has chosen its base state under the provisions of subsection (a)(2) of Section 8, and the entity establishes a new office or operating facility in a participating state other than the participating state it has chosen as its base state, the entity may, effective with the next registration year, choose as its base state the state where the new office or operating facility is located.
- (4) If the entity has chosen its base state under the provisions of Subsection (a)(3) of Section 8, and the entity establishes a principal place of business, office or operating facility in a participating state, the entity shall, effective with the next registration year, choose that participating state as its base state.

(b) When an entity subject to the UCRA changes its base state under any of the provisions of this section, it shall, before the effective date of the change, notify the participating state that has been acting as its base state.

10. FORMS AND REGISTRATION

(a) Annual Filing

- (1) All registrants shall submit an annual filing of information required within the UCR Agreement.
- (2) The registration period for a registration year shall begin on October 1.

- (3) Each registrant will be required to register with its base state before it begins to operate a commercial motor vehicle in interstate commerce. UCR fees shall not be prorated for partial year operation.
- (4) Only one annual submission is required of the registrant.
- (5) Each corporation, limited liability company, or similar legal entity is a separate legal entity and is treated as a separate registrant. Subsidiary or affiliate companies shall be required to file separately. Divisions within the company shall file as the single registrant.
- (6) The registrant who has registered under UCR Agreement shall not be required to make any additional filings during the registration year for addition or deletion of any commercial motor vehicles to the registrant's fleet.
- (7) A completed Unified Carrier Registration Form ("UCR form") (Appendix B) and payment of UCR fees shall be considered timely filed if both are submitted to the base state before December 31 of each calendar year. The annual submission will be considered timely filed if the registration is made through a national or regional electronic system.
- (8) For the purpose of submitting a registration no state shall require a registrant to submit, any information other than that required by the UCR form.
- (9) The registrant is required to maintain records adequate to substantiate the information reported by the registrant on its application. A registrant must maintain a list of all its vehicles and those subtracted from its UCR count as set forth on UCR forms 1 and 2 or in some other form. The appropriate state agency may request this information while conducting a compliance audit.
- (10) The Base State shall review the information contained on the UCR form to verify compliance with the UCR Agreement and notify the registrant of noncompliance.
- (11) If the registrant complies with the requirements as prescribed within the UCR Agreement, the Base State shall consider the annual submission complete.
- (12) Registrants are not required under this UCR Agreement to submit the name of a local agent for service of process, information relating to financial responsibility or information pertaining to interstate operations pursuant to 49 USC Sections 31138 or 31139.

(b) Payment of UCR Fees

- (1) The registrant shall pay UCR fees to its Base State. No UCR fees can be collected by another State or a State in noncompliance with the UCR Agreement.
- (2) Timely payment of UCR fees by the registrant through a national or regional electronic system shall be treated as compliant filing with the Base State.

- (3) Leasing companies (not a motor carrier), brokers and freight forwarders (who do not operate any commercial motor vehicles) shall be charged a UCR fee at the lowest bracket level for the registration year.
- (4) If the registrant is a motor carrier or a motor private carrier and a broker, leasing company or freight forwarder, the registrant shall be charged a UCR fee that is appropriate to the number of commercial motor vehicles operated by the entity.
- (5) Freight forwarders who operate a fleet of motor vehicles shall be treated as a motor carrier or a motor private carrier.

(c) Change in Status

- (1) If the registrant changes its principal place of business following the beginning of the registration year, notice must be provided to the current Base State. Such notification shall be considered to fulfill the requirement for notice to the Board for such change.
- (2) The Base State shall be notified of any name or address change of the registrant. This notice provision shall not require a supplemental UCR Agreement filing. The Base state may notify the registrant of any associated federal requirements.
- (3) The registrant shall notify the base state of a change of ownership that requires a new USDOT number to be issued. The new entity will promptly register and pay appropriate UCR fees as a new operation. If the change in ownership requires a new USDOT number to be issued, the new registrant will file the UCR form to its Base State and pay appropriate UCR fees as a new operation.

(d) Refunds

- (1) The base state shall not issue a refund of UCR fees to a registrant that changes or ceases its business operation after the beginning of the registration year.
- (2) The base state may issue a refund of UCR fees to a registrant that ceases its operations before the beginning of the registration year for which fees were paid. A written request shall be required before the refund can be issued. Any refunds issued by the Base State shall be deducted from the amount of UCR fees that the State shall be credited with collection for the registration year.

(e) Calculation of the Number of Commercial Motor Vehicles Owned or Operated For Determination of UCR Fees

- (1) The number of commercial motor vehicles owned or operated subject to the UCR fees are either 1) as reported on the most recently filed MCS-150 with the USDOT, or 2) the total number of commercial motor vehicles owned or operated for the twelve-month period ending on June 30 immediately prior to the beginning of the registration year.
- (2) The number of commercial motor vehicles owned or operated by a registrant or is controlled by the registrant under a long term lease (lease over 30 day

duration) shall be included in the registrants calculation of the fleet size. A vehicle that is operated by the registrant under a lease of 30 days or less shall not be included in this count.

- (3) Before issuing any documentation of UCRA compliance, the Base State may require the registrant to reconcile any discrepancy between the number of motor vehicles owned and leased as reported on the MCS-150 form most recently filed with the USDOT.
- (4) The registrant has the option to include self-propelled owned or leased commercial motor vehicles operated in intrastate or interstate commerce for compensation regardless of the weight of the vehicle or the passenger capacity.
- (5) Registrant may elect to exclude the number of commercial motor vehicles owned or leased that was operated exclusively in the intrastate transportation of property, waste or recyclable material.
 - (i) Commercial motor vehicles registered with IRP plates cannot be excluded from the vehicle count.
- (6) The registrant has the option to include the number of motor vehicles owned or leased used only in intrastate commerce regardless of the state in which vehicles might have been operated.

(f) Notification of UCRA Compliance

- (1) The participating State shall provide each registrant documentation of compliance of the UCRA. That documentation may be in the form of a paid invoice, letter, or other document supplied by the Base State or on behalf of the Base State by a national or regional electronic system. This document may not be required by a State to be displayed in or on any commercial motor vehicle.
- (2) No State shall require any registrant to display any documentation of UCRA compliance in or on any motor vehicle.
- (3) No State shall consider the failure of the registrant to display any documentation of UCRA compliance in or on the motor vehicle as an indication of noncompliance with UCRA.
- (4) A participating state shall promptly provide information concerning a registrant's compliance status with the UCR Agreement to the USDOT. This obligation is considered fulfilled if the information is made on behalf of the state by a regional or national system.

11. REGISTRATION UNDER THE UCR AGREEMENT AFTER RECEIVING INTRASTATE AUTHORITY FROM A STATE

If a motor carrier or motor private carrier has complied with State requirements to operate within the borders of a State including the payment of fees to that State and later in the

same registration year decides to operate in interstate commerce, the motor carrier or motor private carrier must comply with all the requirements of the UCR Plan.

12. INTRASTATE REGISTRATION FOR AN INTERSTATE OPERATION IN COMPLIANCE WITH THE UCR AGREEMENT

- (a) Once the registrant has complied with the filing requirements and payment of the UCR fees, the State may not require any additional payment of motor vehicle fees or issue any credentials for operations within or through the State for an annual intrastate renewal. Exception. This paragraph does not apply to intrastate transportation of waste and recyclable materials by any carrier; intrastate transportation by motor carriers of household goods, non-consensual tows; or passengers by non-charter bus.
- (b) The registrant must comply with any initial application filing, filing proof of insurance, tariff or reporting filing in effect by State law or agency rule. Any fee associated with these processes may also be charged.
- (c) No annual renewal of intrastate authority or other annual filing (including proof of insurance) may be required of a compliant UCR registrant.

13. FINANCIAL RESPONSIBILITY

The filing of evidence of financial responsibility of the motor carrier or motor private carrier operating in interstate commerce shall be established by the Secretary. Any State or any political subdivision of a State may not require the filing with the State of information pertaining to the financial responsibility of the motor carrier or motor private carrier for the transportation of property or passengers in interstate commerce.

14. ADMINISTRATION OF UCR FEES

The Board shall designate a depository for the collection of funds under the UCR Agreement.

- (a) Each participating State shall be entitled to a portion of the revenues derived from the UCR Agreement in accordance with the UCR Agreement.
- (b) A participating State may retain an amount of the gross revenues it collects from the registrants under the UCR Agreement equivalent to the portion of revenues to which the State is entitled.
- (c) Participating states shall submit a monthly financial report and shall submit any funds that were in excess of the annual registration revenue in accordance with P.L. 109-59 to the depository as identified by the UCR Board by the end of the following month.
- (d) All revenues a participating State collects in excess of the amount to which the State is entitled shall be forwarded to the depository.
- (e) The excess funds deposited in the depository shall be distributed by the Board as follows:
 - (1) On a pro rata basis to each participating State that did not collect revenues under the UCR Agreement equivalent to the amount the State is entitled, except the sum of the gross revenues collected under the UCR Agreement by

a participating State and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled.

- (2) To pay the administrative costs of the UCR Plan and UCR Agreement after all distributions under subparagraph (1) of this paragraph have been made.

(f) Any excess funds held by the depository after distributions and payments shall be retained in the depository, and the UCR fees charged under the UCR Agreement to the registrants for the next UCR fee year shall be considered by the board in its recommendation of the fees for the next registration period.

15. ADMINISTRATION OF THE UCR AGREEMENT

(a) The UCR Plan shall have a Board of Directors consisting of members of representatives of the U.S. Department of Transportation, participating States, and the Motor Carrier Industry. The Secretary shall establish the Board.

(b) Composition of the Board.

The Board shall consist of fifteen (15) members appointed by the Secretary as follows:

- (1) **FMCSA:** One director from each of the FMCSA's four service areas (as those areas were defined by FMCSA on January 1, 2005) from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR Agreement.
- (2) **State Agencies:** Five directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR Agreement in their respective States. Nominees for these five directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing the administration of the UCR Agreement in their respective States.
- (3) **Motor Carrier Industry:** Five directors from the Motor Carrier Industry. At least one of the appointees under this clause shall be a representative of a national trade association representing the general motor carrier of property industry. At least one of the appointees under this clause shall represent a motor carrier that falls within the smallest fleet UCR fee bracket.
- (4) **Department of Transportation:** The Deputy Administrator of FMCSA, or such other Presidential appointee from the Department as the Secretary may appoint.

(c) Officers.

The Board elects and recommends to the Secretary, for approval, a director as chairperson and one director as vice-chairperson of the Board. The chairperson and vice-chairperson shall serve in such capacity for the term of their appointments as directors.

(d) Terms of Directors.

The terms of the Board shall be as follows:

- (1) Initial Terms: In appointing the initial Board, the Secretary shall designate five of the appointed directors for initial terms of 3 years, five of the appointed directors for initial terms of 2 years, and five of the appointed directors for initial terms of 1 year.
- (2) Subsequent Appointments to the Board: After the initial term, all directors shall be appointed for terms of 3 years; except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (b) (4) of this section shall be at the discretion of the Secretary.

(e) Succession and Vacancies.

A director may be appointed to succeed him or herself. A director not so reappointed may continue to serve on the Board until his or her successor is appointed. A vacancy on the Board shall be filled by the Secretary from the departing director's same group as those described in subparagraphs (b) (1), (2) and (3) of this section.

(f) Board Responsibilities.

The Board shall issue rules and regulations to govern the UCR Agreement. The rules and regulations shall:

- (1) Prescribe uniform forms and formats for:
 - (A) The annual submission of the information required by a Base State of a registrant;
 - (B) The transmission of information by a participating State to the URS;
 - (C) The payment of excess UCR fees by a State to the designated depository and the distribution of UCR fees by the depository to those States so entitled; and
 - (D) The providing of notice by a registrant to the Board of the intent of such entity to change its Base State, and the procedures for a State to object to such change under dispute resolution.
- (2) Provide for the administration of the UCR Agreement, including procedures for amending the agreement and obtaining clarification of any provision of the UCR Agreement;
- (3) Provide procedures for dispute resolution under the UCR Agreement that provide due process for all involved parties; and
- (4) Designate a depository.

(g) Duties of the Chairperson.

The chairperson shall appoint an industry advisory subcommittee, audit subcommittee and a dispute resolution subcommittee. The chairperson may appoint any other subcommittee and task forces that the Board determined to be necessary.

(h) Compensation and Expenses.

- (1) Except for the representative of the USDOT appointed under paragraph (d)(1)(B)(iv) of § 14504a, no director shall receive any compensation or other benefits from the Federal Government for serving on the Board or be considered a federal employee as a result of such service.
- (2) All directors shall be reimbursed for expenses they incur attending meetings of the Board. In addition, the Board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed under Subsection (j) of this section for carrying out the duties of the subcommittee or task force. The reimbursement of expenses to directors and subcommittee and task force members shall be under subchapter II of chapter 57 of title 5, U.S.C., governing reimbursement of expenses for travel by federal employees.
- (3) The chair of the Board shall prepare an agenda for each meeting of the Board, and shall distribute it to the members of the Board prior to the meeting.

(i) Meetings.

- (1) In general. The Board shall meet at least once per year. Additional meetings may be called, as needed, by the chairperson of the Board, a majority of the directors, or the Secretary.
- (2) Quorum. A majority of directors shall constitute a quorum.
- (3) Voting. Approval of any matter before the Board shall require the approval of a majority of all directors present at the meeting, except that a decision to approve the exclusion of carriers from the definition of the term 'motor carrier' under 49 USC Section 14504a(a)(5) shall require an affirmative vote of $\frac{3}{4}$ of all such directors.
- (4) A member of the Board shall not be represented by another and shall not vote by proxy.
- (5) Open meetings. Meetings of the Board and any subcommittees or task forces appointed shall be open to the public and subject to the provisions of Section 552b of title 5, U.S.C.
- (6) When it is not convenient for the members of the Board to meet in person, the chair may arrange for a Board meeting by teleconference. If it is not feasible for an individual member of the Board to attend a meeting of the Board, the member or the chair may arrange for the attendance of that member by telephone.
- (7) When a member of the Board shall have failed to attend three successive Board meetings, the chair may, with the concurrence of the Board, notify the Secretary of the fact, and request that the Secretary remove the member from the Board.

(j) Subcommittees.

- (1) The chairperson shall appoint an industry advisory subcommittee. The industry advisory subcommittee shall consider any matter before the Board and make recommendations to the Board.
- (2) Other subcommittees. The chairperson shall appoint an audit subcommittee, a dispute resolution subcommittee, and any additional subcommittees and task forces that the Board determines to be necessary.
- (3) Membership. The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or non-directors.
- (4) Representation on subcommittees. Except for the industry advisory subcommittee (the membership of which shall consist solely of representatives of entities subject to the UCR fee requirements of Section 16 of this UCR Agreement, each subcommittee and task force shall include representatives of the participating States and the motor carrier industry.
- (5) Members of subcommittees shall serve at the pleasure of the chairperson of the Board.
- (6) A majority of subcommittee members present constitute a quorum.
- (7) Approval of any matter before the subcommittee shall require the approval of a majority of all members present at the meeting.

(k) Delegation of Authority.

The Board may contract with any person or any agency of a State to perform administrative functions required under the UCR Agreement, but may not delegate its decision or policy-making responsibilities.

(l) Liability Protections for Directors.

No individual appointed to serve on the Board shall be liable to any other director or to any other party for harm, either economic or non-economic caused by an act or omission of the individual arising from the individual's service on the Board or to any other party for harm, either economic or non-economic, if—

- (1) The individual was acting within the scope of his or her responsibilities as a director; and
- (2) The harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.

16. UCR FEES AND REVENUE DISTRIBUTION

(a) Determination of UCR Fees.

- (1) The UCR fees shall be determined by the Secretary based upon the recommendation of the Board.

- (2) UCR fees charged to a registrant under the UCR Agreement shall be based on the number of commercial motor vehicles owned or operated by the registrant.
 - (3) UCR fees charged to a broker or leasing company in connection with such a filing shall be equal to the smallest UCR fee charged to a motor carrier, motor private carrier, or freight forwarder.
 - (4) The Board shall develop no more than 6 and no less than 4 brackets of carriers based on the size of fleet.
 - (5) The UCR fee scale shall be progressive in the amount of the UCR fee.
 - (6) The Board may ask the Secretary to adjust the UCR fees within a reasonable range on an annual basis if the revenues derived from the UCR fees are insufficient to provide the revenues to which the States are entitled or exceed those revenues.
 - (7) The Secretary shall set the annual UCR fees and any adjustment of those UCR fees within 90 days after receiving the Board's recommendation and after notice and opportunity for public comment.
- (b) Payment of UCR Fees to the Base State.
- (1) The registrant shall pay UCR fees to its Base State only. No other State shall collect UCR fees from a registrant who does not properly select its Base State as required by law and this UCR Agreement.
 - (2) Payment by the registrant to an online system that indicates the Base State of the registrant shall be considered as payment to the Base State. UCR fees collected from that site shall be sent to the Base State, Except as follows:
 - (i) Once a Base State has reached its revenue cap for a registration year, any further funds collected from the online registration system for that registration year shall be forwarded to the Depository.
 - (ii) If a Base State is more than 30 days past due in payments owed to the UCR Depository, the online registration system shall not distribute said funds until such time as notified by the Chair of the Depository Subcommittee that such state is current in its obligations to the Depository. If a Base State is more than 60 days past due in payments owed to the UCR Depository, the online registration system shall forward any funds held on behalf of said Base State to the Depository.
- (c) Payment from the Base State to the depository.
- (1) The Base State may retain an amount of the gross revenues it collects under the UCR Agreement equivalent to the portion of revenues to which the State is entitled.
 - (2) All revenues a Base State collects in excess of the amount to which the State is entitled shall be forwarded to the Depository. Any funds forwarded to the Depository by a Base State shall be applied to any outstanding obligations of

said Base State in order of age of said obligations, oldest first, unless written instructions directing otherwise are provided by the Base State to the Chair of the Depository Subcommittee 5 days or more prior to the payment.

- (3) If a Base State is more than 90 days past due in payments owed to the UCR Depository, any funds held by the Depository on behalf of said Base State pursuant to Section 16(b)(2)(ii) above shall be used to pay down any past due balance owed to the Depository.
- (4) Excess UCR fees in the depository shall be distributed by the Board on a pro rata basis to each participating State that did not collect all of its entitled revenue.
- (5) No State shall receive more than the State is entitled under the law.

17. BASE STATE RECORD KEEPING

- (a) The Base State shall maintain copies of paper records of registrants based in that participating State, as submitted by the registrant. The records shall contain, but not be limited to, UCR forms, correspondence and payments.
- (b) Preservation of records maintained by the Base State.
 - (1) Required records shall be maintained by the Base State on paper, microfilm, microfiche or any other computerized or condensed record storage system, which meets the legal requirements of the Base State and shall be made available to any participating State upon request.
 - (2) Required records shall be maintained by the Base State for a minimum of three years.

18. MOTOR CARRIER RECORD KEEPING

- (a) A registrant is required to preserve the UCR records upon which the annual applications and renewals are based for three (3) years from the due date or filing date, whichever is later, plus any time period included as a result of State decisions or inquiries. The three (3) year period is the current calendar year and the prior two (2) calendar years.

Note: Beginning with the registration year 2017 (January 1, 2017), a registrant will only have to preserve two (2) years of UCR records, the current calendar year and the prior year.

- (b) Records may be kept on paper, microfilm, microfiche, or other computerized or condensed record storage system as required by the Base State.

19. AUDIT REQUIREMENTS

Beginning with the 2012 UCR Registration year states are required to perform audits on carriers who retreat from one payment bracket to a lower payment bracket, to verify that the company has properly deducted vehicles from its UCR payment.

- (1) States may audit any carrier that is subject to UCR registration requirements.

- (2) States will audit 100% of the carriers based within their state that have “retreated” from fee brackets B5 and B6 90 days after the end of the year of the registration (March 31st) for the UCR registration year.
- (3) States will audit 3% of the carriers based within their state that have “retreated” from Fee Brackets B2,B3, and B4 90 days after the end of the year of registration (March 31st) for the UCR registration year. The 3% requirement pertains to the total number of the “retreating” carriers in Fee Brackets B2-B4, and not to each individual Fee Bracket.
- (4) Registrants underpaying UCR fees for one or more registration years (as required by the Motor Carrier Record Keeping requirement) shall pay the difference. This section does not prohibit states from assessing fines or penalties in addition to the UCR fees.
- (5) States shall send a report to the Chairman of the Audit Subcommittee by June 1st each year to indicate the number of audits and the findings in each bracket.
- (6) Beginning with the 2017 registration year states will be required to use the approved Audit Matrix form.

20. ENFORCEMENT

- (a) Civil Actions. Upon request by the Secretary, the Attorney General may bring a civil action in the United States district court described in paragraph (b) to enforce an order issued to require compliance with this section and with the terms of the UCR Agreement.
- (b) Venue. An action under this section may be brought only in a United States district court in the State in which compliance with the order is required.
- (c) Relief. Subject to 28 U.S.C. Section 1341, the court, on a proper showing shall issue a temporary restraining order or a preliminary or permanent injunction requiring that the State or any person comply with this section.
- (d) Enforcement by States. Nothing in this section shall:
 - (1) Prohibit a participating State from issuing citations and imposing reasonable fines and penalties pursuant to the applicable laws and regulations of the State on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to:
 - (A) Submit accurate documentation and information as required under the UCR Agreement;
 - (B) Pay the UCR fees required; or

- (C) Operate as an interstate motor carrier without being compliant with UCRA.
- (2) Authorize a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under 49 CFR Section 14506 on or in a commercial motor vehicle.

21. CHANGES TO THE UCR AGREEMENT

Any recommendation for changes to the UCR Agreement shall be made in writing to the chairman of the Board. Upon receipt of the request, copies may be provided to each Board member and may be placed on the next Board agenda. Changes to the UCR Agreement can only be made with a majority vote from the Board.

**UNIFIED CARRIER REGISTRATION AGREEMENT
STATE PLAN**

I, _____ [insert name and title of authorized person] _____ of the
_____ [insert name of State agency, department, or bureau] _____, on behalf of the
State of _____ [insert name of State] _____, (State) pursuant to Section 14504a of
49 U. S. Code (established by Section 4305 of the Unified Carrier Registration Act of 2005,
Public Law 109-59), do hereby certify as follows:

1. The _____ [insert name of State agency, department, or bureau] _____ has or will
have the legal authority, resources, and qualified personnel necessary to administer
the agreement in accordance with the rules and regulations promulgated by the
Board of Directors of the Unified Carrier Registration Plan pursuant to Section
14504a of 49 U. S. Code;
2. The State shall demonstrate that an amount at least equal to the revenue derived by
the State from the Unified Carrier Registration Agreement shall be used for motor
carrier safety programs, enforcement, or administration of the Unified Carrier
Registration Plan and Unified Carrier Registration Agreement; and
3. The State intends to participate in the Unified Carrier Registration Agreement.

Signature: _____

Date: _____

UNIFIED CARRIER REGISTRATION FORM -Year

To register online go to WWW.UCR.IN.GOV

SECTION 1. GENERAL INFORMATION

DOT Number	MC or MX Number	FF Number	Telephone Number	Fax Number
Legal Name			E-Mail Address	
Doing Business Under The Following Name (DBA)				
Principal Place Of Business Street Address (See Instructions)				
Principal Business City		Principal Business State		Zip Code
Billing Street Address				
Billing City		Billing State		Billing Zip Code

SECTION 2. CLASSIFICATION – Check All That Apply

Motor Carrier
 Motor Private Carrier
 Broker
 Leasing Company
 Freight Forwarder

SECTION 3. FEES DUE-BROKERS, FREIGHT FORWARDERS AND LEASING COMPANIES ONLY

Note: If your company is also a motor carrier or motor private carrier, skip this section and go to section 4.

Brokers, freight forwarders and leasing companies (not combined with a motor carrier entity), please submit the amount due of \$_____ in the form of payment acceptable by your base state and go to Section 7.

SECTION 4. NO. OF MOTOR VEHICLES– MOTOR CARRIER & MOTOR PRIVATE CARRIER

Check only one box:

- The number of vehicles shown below has been taken from section 26 of your last reported MCS-150 form.
 The number of vehicles shown below is the total number owned and operated for the 12-month period ending June 30, _____.

LINE NO.	NUMBER OF STRAIGHT TRUCKS AND TRACTORS (COLUMN A)	(COLUMN B)	NUMBER OF MOTOR COACHES, SCHOOL BUSES, MINI-BUSES, VANS AND LIMOUSINES (COLUMN C)	TOTAL (COLUMN D)
1.				
2.	Subtract: <ul style="list-style-type: none"> The number of vehicles on Line 1 in Column C above that has a vehicle capacity of 10 or less passengers, including the driver. (Optional) The number of vehicles on Line 1 in Column A above that is used only in intrastate commerce. 			()
3.	(Optional) Add a number of vehicles not shown on Line 1 above that are: <ul style="list-style-type: none"> Commercial motor vehicles operating solely in intrastate commerce. <i>(See instructions for definition of commercial motor vehicle.)</i> Used in commerce to transport passengers or property for compensation and have a GVWR or GVW of 10,000 lbs or less, or a passenger capacity of 10 or less, including the driver. 			
4.	Total Number of Vehicles <i>(Line 1 minus Line 2 plus Line 3)</i>			

SECTION 5. FEE TABLE

Number of Vehicles	Amount Due	Number of Vehicles	Amount Due	Number of Vehicles	Amount Due
0-2		6-20		101-1000	
3-5		21-100		1001 or more	

SECTION 6. FEES DUE – MOTOR CARRIER & MOTOR PRIVATE CARRIER

Using the number of vehicles in Section 4, Line 4 above, enter the Amount Due from the table above. \$ _____

SECTION 7. CERTIFICATION

I, the undersigned, under penalty for false statement, certify that the above information is true and correct and that I am authorized to execute and file this document on behalf of the applicant. (Penalty provisions subject to the laws of the registration state.)

Signature Of Owner Or Authorized Representative (Printed)	Date
Signature	Title

**UNIFIED CARRIER REGISTRATION FORM - UCR-1
VEHICLES REMOVED IN INTRASTATE TRANSPORTATION
UCR REGISTRATION YEAR _____**

(NOTE: This form is provided to assist you in maintaining required information. Carriers may also submit the requested data in electronic format or in a printout attached to this form. Contact your state agency for acceptable data formats.)

SECTION 1. GENERAL INFORMATION				
USDOT Number	MC or MX Number	FF Number	Telephone Number	Fax Number
Legal Name			E-Mail Address	
Doing Business Under The Following Name (DBA)				
Principal Place Of Business Street Address (See Instructions)				
Principal Business City		Principal Business State	Zip Code	
Mailing Street Address				
Mailing City		Mailing State	Mailing Zip Code	

SECTION 2. CLASSIFICATION - Check All That Apply

Motor Carrier Motor Private Carrier

SECTION 3. VEHICLES USED EXCLUSIVELY IN INTRASTATE TRANSPORTATION

The above described carrier hereby declares that the following vehicles are used exclusively for intrastate transportation of property, waste, or recyclable material:

MAKE	MODEL/GVWR/ Number of Passengers	LICENSE PLATE NUMBER/STATE	VIN NUMBER

Use reverse side if needed.

SECTION 4. CERTIFICATION

I, the undersigned, under penalty for false statement, certify that the above information is true and correct and that I am authorized to execute and file this document on behalf of the applicant. (Penalty provisions subject to the laws of the registration state.)

Name Of Owner Or Authorized Representative (Printed)		Date
Signature	Title	

**UNIFIED CARRIER REGISTRATION FORM – UCR-2
VEHICLES OWNED AND OPERATED FOR
THE 12 MONTH PERIOD ENDING June 30, _____
UCR REGISTRATION YEAR _____**

(NOTE: This form is provided to assist you in maintaining required information. Carriers may also submit the requested data in electronic format or in a printout attached to this form. Contact your state agency for acceptable data formats.)

SECTION 1. GENERAL INFORMATION				
USDOT Number	MC or MX Number	FF Number	Telephone Number	Fax Number
Legal Name			E-Mail Address	
Doing Business Under The Following Name (DBA)				
Principal Place Of Business Street Address (See Instructions)				
Principal Business City		Principal Business State		Zip Code
Mailing Street Address				
Mailing City		Mailing State		Mailing Zip Code

SECTION 2. CLASSIFICATION – Check All That Apply	
<input type="checkbox"/> Motor Carrier	<input type="checkbox"/> Motor Private Carrier

SECTION 3. VEHICLE LIST

The above described carrier hereby declares that the following vehicles are the total number owned and operated for the 12 month period ending June 30, 2012 :

MAKE	MODEL/GVWR/ Number of Passengers	LICENSE PLATE NUMBER/STATE	VIN NUMBER
A: STRAIGHT TRUCKS AND TRACTORS			
B. MOTOR COACHES, SCHOOL BUSES, MINI-BUSES, VANS, AND LIMOUSINES			

Use reverse side if needed.

SECTION 4. CERTIFICATION

I, the undersigned, under penalty for false statement, certify that the above information is true and correct and that I am authorized to execute and file this document on behalf of the applicant. (Penalty provisions subject to the laws of the registration state.)

Name Of Owner Or Authorized Representative (Printed)	Date
Signature	Title

UNIFIED CARRIER REGISTRATION FORM UCR-2 Continued

USDOT Number	MC or MX Number	FF Number	Carrier Name
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VEHICLE LIST CONTINUED

MAKE	MODEL/GVWR/ Number of Passengers	LICENSE PLATE NUMBER/STATE	VIN NUMBER
A: STRAIGHT TRUCKS AND TRACTORS			
B. MOTOR COACHES, SCHOOL BUSES, MINI-BUSES, VANS, AND LIMOUSINES			

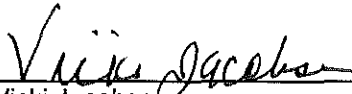
CERTIFICATE OF SERVICE

17-GIMM-269-KHP

I, the undersigned, certify that a true and correct copy of the above and foregoing Direct Testimony of Mike Hoeme on Behalf of the Kansas State Corporation Commission was placed in the United States mail, postage prepaid, or hand-delivered this 3rd day of April, 2017, to the following:

BILL BENFER, MANAGING MEMBER
BENFER ENTERPRISES II LLC
10047 E WILSON RD
INDEPENDENCE, MO 64053

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
a.latif@kcc.ks.gov


Vicki Jacobsen
