

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

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

Sam Brownback, Governor

**NOTICE OF PENALTY ASSESSMENT**  
**18-TRAM-208-PEN**

November 30, 2017

Ben Castleberry, Co-Owner  
d/b/a B C Motors  
902 E Trapp  
Herington, Kansas 67449

**Certified Mail No. 70161970000105742765**

This is a notice of a penalty assessment against Ben Castleberry, d/b/a B C Motors (B C Motors) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on October 10, 2017, by Kansas Corporation Commission Special Investigator Gregory Askren. Penalties are assessed in accordance with the FY 2018 Uniform Penalty Assessment Matrix, approved by the Commission on June 27, 2017. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

**IF YOU ACCEPT THE PENALTY:** B C Motors has been assessed a \$1,300 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$1,300, through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of B C Motors to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website [http://www.kcc.state.ks.us/trans/safety\\_meetings.htm](http://www.kcc.state.ks.us/trans/safety_meetings.htm). The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

**IF YOU CONTEST THE PENALTY ORDER:** You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. B C Motors must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Commission's Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$1,300 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

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

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

Before Commissioners:      Pat Apple, Chairman  
                                     Shari Feist Albrecht  
                                     Jay Scott Emler

In the Matter of the Investigation of **Ben**      )  
**Castleberry, d/b/a B C Motors, of Herington,**      )  
**Kansas,** Regarding the Violation of the Motor      )  
Carrier Safety Statutes, Rules and Regulations      ) Docket No. 18-TRAM-208-PEN  
and the Commission's Authority to Impose      )  
Penalties, Sanctions and/or the Revocation of      )  
Motor Carrier Authority.      )

**PENALTY ORDER**

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

**I.      JURISDICTION**

1.      Pursuant to K.S.A. 2016 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2016 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2.      Pursuant to K.S.A. 2016 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

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

## **II. BACKGROUND**

4. Ben Castleberry, d/b/a B C Motors (B C Motors) has common operating authority with the Commission and further operates USDOT number 1834601.

5. Ben Castleberry attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on January 11, 2016, on behalf of B C Motors.

6. B C Motors is a common motor carrier which primarily hauls motor vehicles.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on October 10, 2017, Commission Staff (Staff) Special Investigator Gregory Askren conducted a compliance review of the operations of B C Motors. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified three (3) violation(s) of the Motor Carrier Safety Regulations.

- a. On September 16, 2017, B C Motors required or permitted its driver, Ben Castleberry, to operate a commercial motor vehicle, a 2006 Ford, VIN ending in 60814, GVWR 19,000 lbs., in intrastate commerce in and around the area of Herington, Kansas. This trip is evidenced by Invoice No. 180337, dated September 16, 2017, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of

this transportation, B C Motors did not have a driver qualification file on each driver employed. *See*, KCC Written Statement, dated October 10, 2017, a copy of which is attached hereto as Attachment “C” and is hereby incorporated by reference. The special investigator found two (2) violations of this type. B C Motor’s failure to maintain a driver qualification file is a violation of 49 C.F.R. 391.51(a), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$750.

- b. During the transportation described in paragraph a., above, driver Ben Castleberry failed to complete and prepare a Driver Vehicle Inspection Report (DVIR) on the commercial motor vehicle operated. The special investigator found four (4) violations of this type. B C Motors’ failure to require its driver to prepare a DVIR in writing, at the completion of each day’s work, on each vehicle operated and to submit copies of the reports to the motor carrier for action and record retention is a violation of 49 C.F.R. 396.11(a)(1), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$399,
- c. During the transportation described in paragraph a., above, B C Motors failed to retain a copy of documentation of the periodic (annual) inspection of the 2006 Ford. The special investigator found three (3) violations of this type. The carrier’s failure to retain a copy of documentation of a periodic (annual) inspection on the commercial motor vehicle operated is in violation of 49 C.F.R. 396.21(b)(1), as adopted by K.A.R. 82-4-3j, and

authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.

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

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

9. Additionally, Staff recommends a civil penalty of \$1,300 for three (3) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

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

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

#### **V. CONCLUSIONS OF LAW**

12. The Commission finds it has jurisdiction over B C Motors because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

13. The Commission finds B C Motors committed three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety

Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

**THE COMMISSION THEREFORE ORDERS THAT:**

A. Ben Castleberry, d/b/a B C Motors, of Herington, Kansas is hereby assessed a \$1,300 civil penalty for three (3) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

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

C. B C Motors is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the carrier to set up the appointment.

D. On November 30, 2017, this Penalty Order was mailed to B C Motors via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105742765. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt.

E. Pursuant to K.S.A. 2016 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail

a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of B C Motors's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,300 civil penalty against B C Motors, and ordering a representative from B C Motors to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and provide Litigation Counsel with written proof of attendance, and to submit to a safety compliance review within 18 months from the date of this Order.

F. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$1,300 is due in thirty (30) days from the date of service of this Order. Payment of \$1,300 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

H. Failure to pay the \$1,300 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of B C Motors's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not

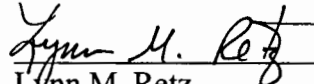
limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

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

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

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: NOV 30 2017

  
\_\_\_\_\_  
Lynn M. Retz  
Secretary to the Commission


AAL

Order Mailed Date

DEC 01 2017



## **ATTACHMENT “A”**

	US DOT # 1834601	Legal: BEN CASTLEBERRY Operating (DBA): B C MOTORS	
MC/MX #:		Federal Tax ID: [REDACTED] (EIN)	
Review Type: Compliance Review (CR)			
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S. Territory: E	
Operation Types		Business: Corporation	
Carrier: N/A	HM	Gross Revenue: [REDACTED] for year ending: 12/31/2016	
Shipper: N/A	N/A		
Cargo Tank: N/A			
Company Physical Address:			
[REDACTED]			
Contact Name: Kathy Castleberry			
Phone numbers: (1) [REDACTED]		Fax	
E-Mail Address: [REDACTED]			
Company Mailing Address:			
902 E TRAPP HERINGTON, KS 67449			
Carrier Classification			
Authorized for Hire		Private Property	
Cargo Classification			
Motor Vehicles			
Hazardous Materials			
9 Miscellaneous HM		Carried Non-Bulk	
Equipment			
	Owned	Term Leased	Trip Leased
Truck	1	0	0
Trailer			
	Owned	Term Leased	Trip Leased
	1	0	0
Power units used in the U S 1			
Percentage of time used in the U.S :100			
Does carrier transport placardable quantities of HM? No			
Is an HM Permit required? N/A			
Driver Information			
	Inter	Intra	Average trip leased drivers/month: 0
< 100 Miles:		2	Total Drivers: 2
>= 100 Miles:		0	CDL Drivers: 0

	<b>B C MOTORS (BEN CASTLEBERRY dba)</b> U S. DOT # 1834601	Review Date 
---	---	--

**Part A**

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

**This report will be used to assess your safety compliance.**


**Person(s) Interviewed**

Name:

Name: Ben Castleberry

Title: Co-Owner



	<b>B C MOTORS (BEN CASTLEBERRY dba)</b>	<b>Review Date</b>
	<b>U.S DOT # 1834601</b>	<b>10/31/2017</b>

### Part B Violations

<b>1</b> <b>STATE</b>	<b>Primary 391.51(a)</b> <b>CFR Equivalent: 391.51(a)</b>	<b>Discovered</b> <b>2</b>	<b>Checked</b> <b>2</b>	<b>Drivers/Vehicles</b> <b>In Violation</b> <b>2</b>	<b>Checked</b> <b>2</b>
--------------------------	--	-------------------------------	----------------------------	--	----------------------------

#### Description

Failing to maintain driver qualification file on each driver employed.

#### Example

Driver Benny F. Castleberry

DOB - [REDACTED] Ks. OLN [REDACTED]

Trip Date 9-16-17 on an intrastate trip 3 miles north of Herington to Herington

Driving a 2006 Ford, VIN # [REDACTED] 60814 GVWR 19000 LBS.

BC Motors failed to maintain a driver qualification file on each driver employed.

<b>2</b> <b>STATE</b>	<b>Primary. 396.3(a)</b> <b>CFR Equivalent: 396.3(a)</b>	<b>Discovered</b> <b>3</b>	<b>Checked</b> <b>3</b>	<b>Drivers/Vehicles</b> <b>In Violation</b> <b>3</b>	<b>Checked</b> <b>3</b>
--------------------------	---	-------------------------------	----------------------------	--	----------------------------

#### Description

Failing to systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicles and intermodal equipment subject to your control

#### Example

Driver Benny F. Castleberry

DOB - [REDACTED] Ks. OLN [REDACTED]

Trip Date 9-16-17 on an intrastate trip 3 miles north of Herington to Herington.

Driving a 2006 Ford, VIN # [REDACTED] 60814 GVWR 19000 LBS.

BC Motors failed to maintain a maintenance file on each vehicle.

<b>3</b> <b>STATE</b>	<b>Primary. 396.11(a)</b> <b>CFR Equivalent: 396.11(a)</b>	<b>Discovered</b> <b>4</b>	<b>Checked</b> <b>4</b>	<b>Drivers/Vehicles</b> <b>In Violation</b> <b>1</b>	<b>Checked</b> <b>1</b>
--------------------------	---	-------------------------------	----------------------------	--	----------------------------

#### Description

Failing to require driver to prepare driver vehicle inspection report.

#### Example

Driver Benny F. Castleberry

DOB - [REDACTED] Ks. OLN [REDACTED]

Trip Date 9-16-17 on an intrastate trip 3 miles north of Herington to Herington

Driving a 2006 Ford, VIN # [REDACTED] 60814 GVWR 19000 LBS.

BC Motors failed to require driver to prepare a driver vehicle inspection report.

<b>4</b> <b>STATE</b>	<b>Primary 396.17(a)</b> <b>CFR Equivalent: 396.17(a)</b>	<b>Discovered</b> <b>3</b>	<b>Checked</b> <b>3</b>	<b>Drivers/Vehicles</b> <b>In Violation</b> <b>3</b>	<b>Checked</b> <b>3</b>
--------------------------	--	-------------------------------	----------------------------	--	----------------------------

#### Description

Using a commercial motor vehicle not periodically inspected.

#### Example

Driver Benny F. Castleberry

DOB - [REDACTED]

Trip Date 9-16-17 on an intrastate trip 3 miles north of Herington to Herington

Driving a 2006 Ford, VIN # [REDACTED] 60814 GVWR 19000 LBS

BC Motors failed to have commercial motor vehicles periodically inspected

<b>Safety Fitness Rating Information:</b>		<b>OOS Vehicle (CR): 0</b>	
<b>Total Miles Operated</b>	<b>7,000</b>	<b>Number of Vehicle Inspected (CR): 0</b>	
<b>Recordable Accidents</b>	<b>0</b>	<b>OOS Vehicle (MCMIS): 0</b>	
		<b>Number of Vehicles Inspected (MCMIS): 0</b>	



B C MOTORS (BEN CASTLEBERRY dba)  
U S. DOT #: 1834601


Review Date  
10/31/2017

**Part B Violations**

Your proposed safety rating is :

**This Review is not Rated.**



	<b>B C MOTORS (BEN CASTLEBERRY dba)</b>	Review Date:
	U.S. DOT # 1834601	10/10/2017
<b>Part B Requirements and/or Recommendations</b>		

**1. For all Investigations**

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

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

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

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

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

- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information  
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>

FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carrier's currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases, (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site. The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.


For all Investigations that could result in a Notice of Claim

- **PLEASE NOTE** The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Notice of Claim. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Notice of Claim. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the FMCSA during this review may be used to calculate any civil penalty proposed as a result of this review.

Attached to this report is Table 1, which identifies all the documented violations which were discovered during the course of this review.

For all Investigations that did not result in a Cooperative Safety Plan



	<b>B C MOTORS (BEN CASTLEBERRY dba)</b> U.S DOT # 1834601	Review Date 10/10/2017
<b>Part B Requirements and/or Recommendations</b>		

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

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

2. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).
3. Obtain a copy of each driver's driving record and review it annually
4. Keep all driver vehicle inspection reports, signed, certified, and reviewed as required on file for at least 90 days.
5. Require all drivers to prepare a written inspection report for each day a vehicle is operated. Ensure that each report is signed by the driver, certified, and reviewed if defects are reported.
6. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: BC Motors failed to have a drivers qualification file on each driver.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

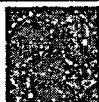
Implement Safety Improvement Practices The following are recommended practices related to Policies and Procedures.

- Develop a policy for the periodic review (at least twice per year) of driver qualification files. The motor carrier should not rely on third-party sources, such as insurance agencies. The procedure should include controls to ensure that documents requiring renewals are in place, to remind drivers of expiration dates on medical certificates, so they can schedule another physical examination in advance, and to prevent falsification of documents related to driver qualification.
- Establish a policy requiring drivers to submit copies of all vehicle and roadside inspections and moving violations to carrier management within 24 hours, and to notify management of suspended or revoked Commercial Driver's Licenses (CDLs) immediately following notification of suspension/revocation.
- Establish a policy requiring all new (since 2003) Commercial Driver's License (CDL) drivers to submit documentation of entry-level driver training in - for example, driver qualification requirements, Hours of Service (HOS), driver wellness, and whistleblower protection - or to take entry-level training provided by the carrier
- Develop a policy for document retention and recordkeeping, including documents that are to be in the possession of the driver as proof of credentials.
- Develop a process to ensure that operations will always have the proper amount of fit drivers. This process would address how to deal with issues such as sick leave, vacation, training, suspension, and termination.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Driver Fitness Violations.

#### Seek Out Resources

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.



	<b>B C MOTORS (BEN CASTLEBERRY dba)</b>	<b>Review Date</b>
	<b>U.S. DOT # 1834601</b>	<b>10/10/2017</b>
<b>Part B Requirements and/or Recommendations</b>		

## 7. DRIVER FITNESS BASIC PROCESS BREAKDOWN Roles and Responsibilities

**DESCRIPTION OF PROCESS BREAKDOWN.** BC Motors needs to define rolls and responsibilities for maintaining records to ensure compliance.

### BASIC SPECIFIC RECOMMENDED REMEDIES

**Implement Safety Improvement Practices** The following are recommended practices related to Roles and Responsibilities.

- Define and document the role of managers and supervisors for implementing driver-fitness policies and for monitoring compliance with them. This should include regular evaluation of the carrier's driver-wellness program.
- Define and document roles and responsibilities of managers and supervisors in providing training and maintaining qualifications for all employees according to driver-fitness regulations and company policies and procedures.
- Ensure that operations managers and dispatchers are responsible for having the proper amount of fit drivers by considering short-term changes, for example, with regard to vacations, variations in sales, and additional driver duties, and long-term changes, for example, with regard to permanent reassignment and termination of employees.
- Ensure that dispatchers and operation managers are responsible for ascertaining that drivers are qualified before authorizing runs.
- Define and document roles and responsibilities of drivers, dispatchers, and other personnel according to driver fitness regulations and company policies and procedures.

### Seek Out Resources

- You are encouraged to review your company's record at the following website <http://ai.fmcsa.dot.gov/SMS> You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

## 8. VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN Policies and Procedures

**DESCRIPTION OF PROCESS BREAKDOWN** BC Motors failed to maintain a file for each vehicle in use.


### BASIC SPECIFIC RECOMMENDED REMEDIES.

**Implement Safety Improvement Practices.** The following are recommended practices related to Policies and Procedures

- Develop a system of preventive maintenance for compliant, safe, and efficient fleet operations, including a schedule for periodic maintenance, inspection, and recordkeeping. This system should be attuned to manufacturer recommendations, the carrier's own experience, and regulatory requirements.
- Develop a procedure ensuring that vehicle defects that impact safety and/or safety compliance are reported, repaired, and certified before the vehicle is operated.
- Develop procedures to ensure that management is notified of vehicle defects through the use of Driver Vehicle Inspection Records (DVIRs) and other communication channels, such as driver call-in and e-mail from mechanics.
- Develop a policy ensuring that drivers are qualified to complete thorough and timely Driver Vehicle Inspection Records (DVIRs) by the end of the day of the trip and prior to a subsequent assignment.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
- Develop policies and procedures requiring drivers to immediately notify appropriate management of any roadside vehicle Out-of-Service (OOS) order.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows vehicle maintenance violations.



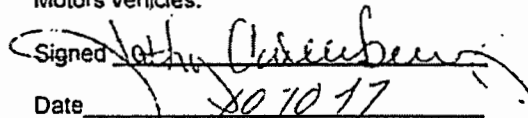


	<b>B C MOTORS (BEN CASTLEBERRY dba)</b> U.S DOT #. 1834601	Review Date 10/10/2017
<b>Part B Requirements and/or Recommendations</b>		

**Seek Out Resources**

- You are encouraged to review your company's record at the following website <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry

9. Stay in contact with your KCC Investigator for any questions or issues with continued safety compliance. You may contact me KCC Special Investigator Greg Askren at 785-483-0212 or email at [g.askren@kcc.ks.gov](mailto:g.askren@kcc.ks.gov)
10. I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Ben Castleberry DBA BC Motors vehicles operating authority and/or the impoundment of Ben Castleberry DBA BC Motors vehicles.

Signed   
Date 10/10/17



## **ATTACHMENT “B”**



902 E. Trapp, Herington, KS 67449  
Tel: 785-258-2818 • Fax: 785-258-5928

NAME		[REDACTED]		Heronemus	
ADDRESS		father is Rustin			
PH. NO.		DATE 9-16-17			
SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT	MOSE. PETD
QTY.	DESCRIPTION			PRICE	AMOUNT
	Tow out of			150	00
	1:44				
	Tow to 1st			150	00
	Daily fee			35	00
	Merry in back				
	white				
RECEIVED BY				TAX	
TOTAL					

No. 180337

ALL CLAIMS AND RETURNED GOODS  
MUST BE ACCOMPANIED BY THIS BILL.

GP 1552  
PRINTED IN U.S.A.

Thank You

## **ATTACHMENT "C"**

# KCC WRITTEN STATEMENT

Signed Statement of <u>Benny F. Castleberry</u>	
Representative of Motor Carrier _____	
USDOT# <u>1834601</u>	
I, <u>Benny Castleberry</u> , voluntarily give the following statement to <u>Gregory P. Askren</u> , who has identified himself/herself as a Special Investigator for the State Of Kansas, Kansas Corporation Commission. No threats or promises have been made to me in exchange for this statement.	
NARRATIVE:	
<p>I make Run To Wichita + Soline</p> <p>with out a medical card. NO DQ File</p> <p>I Also Have NO maintenance File For my Truck.</p> <p>I still own &amp; use a 2007 Trailer (Bumper Hitch)</p> <p>use it every once in a while CAR Trailer</p> <p>7-16-16 2009 Trailer was stolen</p>	
I have read the foregoing statement consisting of <u>1</u> page(s). It is true, accurate and complete to The best of my knowledge. I reviewed any changes and they bear my initials.	
I sign this statement under the penalty of perjury in the presence of <u>ST Gregory P. Askren</u>	
Witness'/Interviewee's signature	Date
<u>Benny Castleberry</u>	<u>10-10-17</u>
I certify that I prepared and took the above statement and that it is a complete and accurate summary of my interview with the witness.	
Safety Investigator's Signature	Date
<u>Gregory P. Askren</u>	<u>10-10-17</u>

**CERTIFICATE OF SERVICE**

18-TRAM-208-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

first class mail/hand delivered on NOV 30 2017.

BEN CASTLEBERRY, OWNER  
BEN CASTLEBERRY  
902 E TRAPP  
HERINGTON, KS 67449  
bc\_motors@yahoo.com

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

/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

DEC 01 2017