

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT
16-TRAM-253-PEN

December 1, 2015

Jacob P. Friessen, Owner
d/b/a J-R Trucking
PO Box 324
Sublette, Kansas 67877

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on November 16, 2015, by Kansas Corporation Commission Special Investigator M.P. McAvoy. For a full description of the penalty and process please refer to the Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

You have been assessed a \$250 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Transportation Division of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by faxing your credit card information to the Transportation Office at 785-271-3124, using the KCC's credit card payment form found at <http://kcc.ks.gov/trans/creditcard.pdf>.

You must attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of dates and locations for the safety seminar can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

You must submit to one follow-up safety compliance review within the next 18 months. Staff will contact you at a later date to determine an appropriate time for this review.

IF YOU CONTEST THE PENALTY:

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. Respondent must submit an original and seven (7) copies of the request to the Commission's Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date stamped on the last page of the Penalty Order. K.A.R. 82-1-215; K.S.A. 2015 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction 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: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Investigation of **Jacob P.)
Friessen, d/b/a J-R Trucking, of Sublette,)
Kansas,** Regarding the Violation of the Motor)
Carrier Safety Statutes, Rules and Regulations) Docket No. 16-TRAM-253-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). The Commission, having been briefed on the issue by the Director of the Commission's Transportation Division, finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.S.A. 2015 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. 2015 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. 2015 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 order a hearing 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. Jacob P. Friessen, d/b/a J-R Trucking (J-R Trucking) obtained common and private operating authority from the Commission on May 7, 2012, and October 21, 2009, respectively, and operates under KSMCID number 260230 and USDOT number 1130083.

5. Matt Friessen attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on December 12, 2011, on behalf of J-R Trucking.

6. J-R Trucking is a private and common motor carrier which primarily hauls machinery, large objects, grain, feed and hay.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on November 16, 2015, Commission Staff (Staff) Special Investigator M.P. McAvoy conducted a compliance review of the operations of J-R Trucking. 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, Mr. McAvoy identified one (1) violation of the Motor Carrier Safety Regulations.

- a. On August 22, 2015, J-R Trucking required or permitted its driver, Jacob P. Friessen, to operate a commercial motor vehicle, a 2005 Kenworth, VIN ending in 102065, in interstate commerce from Sublette, Kansas to North Platte, Nebraska. This trip is evidenced by Driver's Daily Log, dated August 22, 2015, a copy of which is attached hereto as Attachment "B"

and is hereby incorporated by reference. At the time of this transportation, driver Jacob P. Friessen drove 30 minutes after the end of the 14th hour after coming on duty. *See* Attachment “B”. J-R Trucking’s failure to require driver to cease his driving at the 14th hour is in violation of 49 C.F.R. 395.3(a)(2) as adopted by K.A.R. 82-4-3 and authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF’S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find J-R Trucking committed one (1) violation 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 \$250 for one (1) violation of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that J-R Trucking be required to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar can be found on the Commission’s website at http://kcc.ks.gov/trans/safety_meetings.htm.

11. Finally, Staff recommends that J-R Trucking submit to one follow-up safety compliance review within the next eighteen (18) months. 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 J-R Trucking because it is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.

13. The Commission finds J-R Trucking committed one (1) violation 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. Jacob P. Friessen, d/b/a J-R Trucking, of Sublette, Kansas is hereby assessed a \$250 civil penalty for one (1) violation 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. J-R Trucking is hereby ordered to attend a Commission-sponsored safety seminar within the next ninety (90) days and is to provide Staff with written proof of attendance. Further, J-R Trucking is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2015 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of J-R Trucking's right to a hearing, and this

Penalty Order will become a Final Order assessing a \$250 civil penalty against J-R Trucking, and ordering J-R Trucking to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of service of this Order.

D. 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 of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2015 Supp. 66-1,142b(e) and amendments thereto.

E. If you do not request a hearing, the payment of the civil penalty is due in thirty (30) days from date of service of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payments shall be mailed to the Transportation Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. *The payment shall include a reference to the docket number of this proceeding.*

F. Failure to pay the \$250 civil penalty within thirty (30) days of the 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 J-R Trucking'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 out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. 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.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: DEC 01 2015



Amy L. Green
Secretary to the Commission

AAL

ORDER MAILED DEC 02 2015

ATTACHMENT “A”



US DOT #
1130083

Legal: JACOB P FRIESSEN
Operating (DBA): J-R TRUCKING

MC/MX #: 460168 State #: [REDACTED] Federal Tax ID: [REDACTED] (EIN)

Review Type: Compliance Review (CR)

Scope: Principal Office Location of Review/Audit: Company facility in the U. S. Territory: F

Operation Types Interstate Intrastate

Carrier: Non-HM N/A
Shipper: N/A N/A
Cargo Tank: N/A

Business: Individual
Gross Revenue: [REDACTED] for year ending: 12/31/2014

Company Physical Address:



Contact Name: Terry Shelton

Phone numbers: (1) [REDACTED] Fax

E-Mail Address:

Company Mailing Address:

P O Box 324
Sublette, KS 67877

Carrier Classification

Authorized for Hire Private Property

Cargo Classification

Machinery, Large Objects Grain, Feed, Hay

Equipment

	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased
Truck Tractor	3	0	0	Trailer	2	0	0

Power units used in the U.S.: 3

Percentage of time used in the U.S.: 100

Does carrier transport placardable quantities of HM? No

Is an HM Permit required? N/A

Driver Information

	Inter	Intra
< 100 Miles:		
>= 100 Miles:	4	

Average trip leased drivers/month: 0
Total Drivers: 4
CDL Drivers: 4





J-R TRUCKING (JACOB P FRIESSEN dba)
U.S. DOT # 1130083

State #: [REDACTED]

Review Date
11/16/2015

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: [REDACTED]

Name: [REDACTED]





J-R TRUCKING (JACOB P FRIESSEN dba)
U.S. DOT #: 1130083

State #: [REDACTED]

Review Date:
11/16/2015

Part B Violations

1 FEDERAL	Primary: 395.3(a)(2)	Discovered 1	Checked 120	Drivers/Vehicles In Violation 1	Checked 4
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Description

Requiring or permitting a property-carrying commercial motor vehicle driver to drive after the end of the 14th hour after coming on duty.

Example

Trip date 8/22/2015

Driver [REDACTED] drove 30 minutes after the 14th hour of being on duty. Driver had off duty however not 10 hours consecutive..

2 FEDERAL	Primary: 395.8(f)	Discovered 5	Checked 120	Drivers/Vehicles In Violation 3	Checked 4
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Description

Failing to require driver to prepare record of duty status in form and manner prescribed.

Example

Driver [REDACTED]

Trip Date 8/22/2015 Driver listed commodity hauled but neglected to identify shipper.

Safety Fitness Rating Information:

Total Miles Operated 105,000
Recordable Accidents 0
Recordable Accidents/Million Miles 0.00

OOS Vehicle (CR): 0

Number of Vehicle Inspected (CR): 0

OOS Vehicle (MCMIS): 1

Number of Vehicles Inspected (MCMIS): 3

Your proposed safety rating is :

SATISFACTORY

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	S	0	0
Factor 3:	S	0	0
Factor 4:	S	0	0
Factor 5:	N	0	0
Factor 6:	S	-	-

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





J-R TRUCKING (JACOB P FRIESSEN dba)
U.S. DOT #: 1130083

State #

Review Date
11/16/2015

Part B Requirements and/or Recommendations

1. Within 15 days send a letter to our office explaining your actions taken to remedy a non-compliance status

Mail to: Kansas Corporation Commission, 1500 SW Arrowhead Rd., Topeka, Ks 66604-4027

2. Ensure that all drivers' records of duty status (logs) are accurate. Check them against "supporting documents" to verify accuracy. Prohibit falsification of logs by any driver. Review the rules on supporting documents. Take appropriate action against drivers who falsify logs.
3. This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers.
- 4.

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>





J-R TRUCKING (JACOB P FRIESSEN dba)
U.S. DOT # 1130033

State # [REDACTED]

Review Date
11/16/2015

Part B Requirements and/or Recommendations

• 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.

5. 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 J-R Trucking, Edwin Friessen, Supervisor, Edwin Friessen, operating authority and or the impoundment of J-R Trucking, Edwin Friessen, Supervisor, Edwin Friessen vehicles.



ATTACHMENT “B”



8, 22, 2015
(Month) (Day) (Year)
552 552
Total Miles Driven Today Total Mileage Today

DRIVER'S DAILY LOG
(24 HOURS)

S. R. Trucking
Name of Driver or Carrier
S04666125
Main Office Address

RECAP
Complete at
end of each day.
On-duty hours
today (Hr) (Min)
Buses 3 X 4
70 Hr/24 Day
Drivers

01 T02
Truck/Tractor and Trailer Numbers or
License Plate(s) / State (show each unit)

Home Terminal Address
S04666125
Co-Driver's Name
S04666125

A. Total hours on
duty last 7 days,
including today.
B. Total hours
available
tonorrow
for today A.

	TOTAL HOURS																							
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
1. OFF DUTY																								
2. SLEEPER BERTH																								
3. DRIVING																								
4. ON DUTY (NOT DRIVING)																								
REMARKS																								

SHIPPING
DOCUMENTS:

Tractor 4660
B/L or Manifest No.
or

Shipper & Commodity

From:

To: S04666125

USE TIME STANDARD AT HOME TERMINAL

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4014990

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

CERTIFICATE OF SERVICE

16-TRAM-253-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 **DEC 01 2015**.

JACOB P. FRIESSEN, OWNER
JACOB P. FRIESSEN
D/B/A J-R TRUCKING
PO BOX 324
SUBLETTE, KS 67877

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 DEC 02 2015