

STATE OF KANSAS



20180925134203
Kansas Corporation Commission

CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027

PHONE: 785-271-3100
FAX: 785-271-3354
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

NOTICE OF PENALTY ASSESSMENT

19-TRAM-1110-PEN

September 25, 2018

Kyle Dean Bretton, Owner
d/b/a Bretton Trucking
628 Mulberry Road
Minneapolis, KS 67467

This is a notice of a penalty assessment against Kyle Dean Bretton, d/b/a Bretton Trucking (Bretton Trucking) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 24, 2018, by Kansas Corporation Commission Special Investigator Gregory Askren. Penalties are assessed in accordance with the FY 2019 Uniform Penalty Assessment Matrix, approved by the Commission on August 7, 2018. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Bretton Trucking has been assessed a \$600 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$600, 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 Bretton Trucking to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm. The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Bretton Trucking 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 Secretary to the Commission 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. 2017 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$600 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,


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

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Investigation of **Kyle Dean**)
Bretton, d/b/a Bretton Trucking, of)
Minneapolis, KS, Regarding the Violation of)
the Motor Carrier Safety Statutes, Rules and) Docket No. 19-TRAM-110-PEN
Regulations and the Commission's Authority to)
Impose Penalties, Sanctions and/or the)
Revocation of Motor Carrier Authority.)

PENALTY ORDER

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

I. JURISDICTION

1. Pursuant to K.S.A. 2017 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. 2017 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. 2017 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. Kyle Dean Bretton, d/b/a Bretton Trucking (Bretton Trucking) has common operating authority with the Commission and further operates USDOT number 2892704.

5. Kyle Bretton attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on July 18, 2016, on behalf of Bretton Trucking.

6. Bretton Trucking is a common motor carrier which primarily hauls grain, feed, hay, farm supplies, and road materials.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on July 24, 2018, Commission Staff (Staff) Special Investigator Gregory Askren conducted a compliance review of the operations of Bretton 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, the special investigator identified two (2) violation(s) of the Motor Carrier Safety Regulations.

- a. On June 29, 2018, Bretton Trucking required or permitted its driver, Clinton Cheney, to operate a CDL-required commercial motor vehicle, a 1996 Kenworth, VIN ending in 722689, GVWR 50,000 lbs., pulling a

2017 Timppe trailer, VIN ending in 155098, GVWR 77,000 lbs., in intrastate commerce from Great Bend, Kansas to Salina, Kansas. This trip is evidenced by a gas receipt, dated June 29, 2018, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Bretton Trucking failed to designate a person to supervise staff for the purposes of making reasonable suspicion determinations regarding alcohol and drug usage. This designated person must then undergo reasonable suspicion training to include 60 minutes of alcohol training and 60 minutes of controlled substance training. The owner did not receive his training until July 23, 2018 and had hired employees on December 1, 2017. Bretton Trucking's inability to produce documentation of this training and its failure to have a designated person to attend 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use is a violation of 49 C.F.R. 382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a., above, Bretton Trucking was operating in excess of his registered gross weight of 85,500 lbs. The carrier's failure to stay within the legal gross weight limit is a violation of 49 C.F.R 392.2, adopted by K.A.R. 82-4-3, and authorized by K.S.A. 8-1909. Staff recommends a fine of \$500.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Bretton Trucking committed two (2) 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 \$600 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

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

11. Finally, Staff recommends that Bretton Trucking 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 Bretton Trucking because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

13. The Commission finds Bretton Trucking committed two (2) 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. Kyle Dean Bretton, d/b/a Bretton Trucking, of Minneapolis, KS is hereby assessed a \$600 civil penalty for two (2) 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. Bretton Trucking 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. Bretton Trucking is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the carrier to set up the appointment.

D. Pursuant to K.S.A. 2017 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 Secretary to the Commission, 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 Bretton Trucking's right to a hearing, and this Penalty Order will become a Final Order assessing a \$600 civil penalty against Bretton Trucking, and ordering a representative from Bretton Trucking to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and

provide Litigation Counsel with written proof of attendance, and to submit to a safety compliance review within 18 months from the date of this Order.

E. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2017 Supp. 66-1,142b(e) and amendments thereto.

F. If you do not request a hearing, the payment of the civil penalty of \$600 is due in thirty (30) days from the date of service of this Order. Payment of \$600 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

G. Failure to pay the \$600 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 Bretton 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 revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner


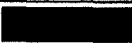





Dated: 09/25/2018

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


Lynn M. Retz
Secretary to the Commission

AAL

ATTACHMENT “A”

	US DOT # 2892704	Legal: KYLE DEAN BRETTON Operating (DBA):BRETTON TRUCKING	
MC/MX #:		Federal Tax ID:  (EIN)	
Review Type: Compliance Review (CR)			
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S. Territory: E	
Operation Types		Interstate Intrastate	
Carrier:	N/A	Non-HM	Business: Individual
Shipper:	N/A	N/A	Gross Revenue  for year ending: 12/31/2017
Cargo Tank:	N/A		
Company Physical Address:			
 MINNEAPOLIS, KS 67467-8707			
Contact Name: Kyle Dean Bretton			
Phone numbers: (1) 		Fax	
E-Mail Address: 			
Company Mailing Address:			
 MINNEAPOLIS, KS 67467-8707			
Carrier Classification			
Authorized for Hire		Exempt for Hire	
Cargo Classification			
Grain, Feed, Hay		Farm Supply	Other: Road Materials
Equipment			
	Owned	Term Leased	Trip Leased
Truck Tractor	1	0	0
Trailer	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:			Total Drivers: 2
>= 100 Miles:		2	CDL Drivers: 2




	BRETTON TRUCKING (KYLE DEAN BRETTON dba) U.S. DOT #: 2892704	Review Date: 07/24/2018
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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: Kyle Bretton	Title: Owner



	BRETTON TRUCKING (KYLE DEAN BRETTON dba)	Review Date:
	U.S. DOT #: 2892704	07/24/2018

Part B Violations

1 STATE	Primary: 382.603	Discovered 1	Checked 1	Drivers/Vehicles	
	CFR Equivalent: 382.603			In Violation 0	Checked 0

Description

Failing to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances.

Example

DOB - [REDACTED]

Ks. OL [REDACTED]

Trip Date - 6/29/2018

On an intrastate trip from Great Bend, Ks. to Salina, Ks. driving a 96 KW, Vin [REDACTED] 722689, Ks. Reg. [REDACTED] GVWR 50000 pulling a 2017 Timp, Vin [REDACTED] 155098, Ks. Reg. [REDACTED] GVWR 77000.

Bretton Trucking failed to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances. Kyle Bretton received his training on 7/23/2018 and employees hired on 12/1/2017.

2 STATE	Primary: 392.2	Discovered 3	Checked 3	Drivers/Vehicles	
	Secondary: 8-142(7)xx			In Violation 3	Checked 3

Description

To operate on the highways of this state a vehicle or combination of vehicles whose weight with cargo is in excess of the gross weight for which the truck or truck tractor propelling the same is registered,

Example

Driver - Clinton Cheney

DOB - [REDACTED]

Ks. OL [REDACTED]

Trip Date - 6/29/2018

On an intrastate trip from Great Bend, Ks. to Salina, Ks. driving a 96 KW, Vin [REDACTED] 722689, Ks. Reg. [REDACTED] GVWR 50000 pulling a 2017 Timp, Vin [REDACTED] 155098, Ks. Reg. [REDACTED] GVWR 77000.

Bretton Trucking operated in excess of his registered gross weight of 85,500 on 3 different loads.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0
Total Miles Operated	36,000	Number of Vehicle Inspected (CR): 0
Recordable Accidents	0	OOS Vehicle (MCMIS): 0
		Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

This Review is not Rated.



Part B Requirements and/or Recommendations

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 did not result in a Cooperative Safety Plan:

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





BRETTON TRUCKING (KYLE DEAN BRETTON dba)
U.S. DOT #: 2892704

Review Date:
07/24/2018

Part B Requirements and/or Recommendations

1500 SW Arrowhead Rd
Topeka, KS 66604-4027

2. Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. www.fmcsa.dot.gov/safety-security/eta/index.htm
3. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).
4. Provide new-hire and refresher training, to all managers, other designated personnel, and the designated employer representative (DER), on controlled-substance and alcohol regulations and related company policies and procedures, including those pertaining to prohibited behavior; testing protocols and monitoring, for example, on grounds of "reasonable suspicion"; the consequences of a positive test result; referral to a substance-abuse professional (SAP); and confidentiality requirements in relation to recordkeeping.
5. 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
6. 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 Kyle Dean Bretton DBA Bretton Trucking operating authority and/or the impoundment of Kyle Dean Bretton DBA Bretton Trucking vehicles.

Signed _____

Date 7/26/18



ATTACHMENT “B”

RODS TRAVEL CENTER 8
2140 W CRAWFORD
SALINA KS
10152569

06/29/2018 3:51:57 PM
Register: 1 Trans #: 6741 Op ID: 7
Your cashier: Heather

DIESEL 2 CA PUMP# 10
48.837 GAL @ \$2.969/GAL \$145.00 99

Subtotal = \$145.00
Tax = \$0.00

Total = \$145.00

Change Due = \$0.00

Credit \$145.00

XXXX XXXX XXXX 1211 DISCOVER
INVOICE: 155157
AUTH 00-02906R REF 440380629181551
Discover Credit
AID:A0000001523010
40 FFDE7C364106B562
SALE

CHIP Exp.Date:**/**
Batch: 44 Seq Num: 38
Term ID: 1

Workstation ID: 1

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Learn how to earn 50 cents/gallon in
fuel statement credits. Go to

drivesavvy.com or see details at
the pump. Restrictions apply.

Offer expires 9/30/18.

12702

CERTIFICATE OF SERVICE

19-TRAM-110-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 09/26/2018.

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

KYLE DEAN BRETTON, OWNER
KYLE DEAN BRETTON
D/B/A BRETTON TRUCKING
628 MULBERRY ROAD
MINNEAPOLIS, KS 67467
k_bret_ton@icloud.com

/S/ DeeAnn Shupe

DeeAnn Shupe