

STATE OF KANSAS



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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-087-PEN

September 6, 2018

Will E. Wilson, Owner
d/b/a BKW Enterprises
5740 SE 44th Street
Tecumseh, KS 66542

This is a notice of a penalty assessment against Will E. Willson, d/b/a BKW Enterprises (BKW Enterprises) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 11, 2018, by Kansas Corporation Commission Special Investigator Jared Smith. 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: BKW Enterprises has been assessed a \$1,950 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$1,950, 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 BKW Enterprises 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. BKW Enterprises 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 \$1,950 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 **Will E.)**
Willson, d/b/a BKW Enterprises, of)
Tecumseh, KS, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and) Docket No. 19-TRAM-087-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. Will E. Willson, d/b/a BKW Enterprises (BKW Enterprises) has private operating authority with the Commission and further operates USDOT number 1871816.

5. BKW Enterprises owns one truck tractor and one trailer that requires a CDL. It employs two (2) CDL drivers.

6. BKW Enterprises is a private motor carrier which primarily hauls machinery and large objects.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on July 11, 2018, Commission Staff (Staff) Special Investigator Jared Smith conducted a compliance review of the operations of BKW Enterprises. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified four (4) violation(s) of the Motor Carrier Safety Regulations.

- a. On May 1, 2018, BKW Enterprises required or permitted its driver, Garold Hill, to operate a CDL-required commercial motor vehicle, a 1989 International, VIN ending in 219593, GVWR 33,000 lbs., pulling a 1991

Trail King trailer, VIN ending in 059230, GVWR 60,380 lbs., in intrastate commerce in and around the area of Topeka, Kansas. This trip is evidenced by Driver/Vehicle Examination Report Number KSHP92221628, dated May 1, 2018, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, BKW Enterprises did not have implemented an alcohol and controlled substance abuse testing program for its CDL drivers. The carrier's failure to establish an alcohol and controlled substances testing program for its CDL drivers that complies with the procedures established in 49 C.F.R. 382.105 as adopted by K.A.R. 82-4-3c is a violation of 49 C.F.R. 382.115(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$350.

- b. During the transportation described in paragraph a., above, BKW Enterprises was in violation of failing to maintain a driver qualification file on its drivers. The carrier'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. 2017 Supp. 66-1,129. Staff recommends a fine of \$350.
- c. During the transportation described in paragraph a., above, BKW Enterprises failed to require its driver to make a record of duty status. The special investigator discovered 38 violations of this type. The carrier's failure to require its drivers to keep records of duty status for each 24-hour period, or in the alternative to maintain and retain time records described

in 49 C.F.R. 395.1(e) under the short haul exemption, using the method described in 49 C.F.R. 395.8(a), and to submit the original record to the motor carrier within 13 days of creation is a violation of 49 C.F.R. 395.8(a), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$1,000.

- d. During the transportation described in paragraph a., above, BKW Enterprises had not obtained and documented a successful periodic (annual) inspection on the commercial motor vehicle during the preceding 12-month period. The carrier's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2017 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 BKW Enterprises committed four (4) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$1,950 for four (4) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from BKW Enterprises 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 BKW Enterprises 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 BKW Enterprises because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

13. The Commission finds BKW Enterprises committed four (4) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Will E. Willson, d/b/a BKW Enterprises, of Tecumseh, KS is hereby assessed a \$1,950 civil penalty for four (4) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. BKW Enterprises 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. BKW Enterprises 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 September 6, 2018, this Penalty Order was mailed to BKW Enterprises via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105745445. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt.

E. 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 BKW Enterprises's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,950 civil penalty against BKW Enterprises, and ordering a representative from BKW Enterprises 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. 2017 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$1,950 is due in thirty (30) days from the date of service of this Order. Payment of \$1,950 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 \$1,950 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 BKW Enterprises'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.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner


Dated: 09/06/2018




Lynn M. Retz
Secretary to the Commission

AAL

ATTACHMENT “A”

	US DOT # 1871816	Legal: WILL E WILSON Operating (DBA): BKW ENTERPRISES			
MC/MX #:		Federal Tax ID: XXXXXXXXXX (EIN)			
Review Type: Non-ratable Review - CSA					
Scope: Principal Office		Location of Review/Audit: Company facility in the U S.			Territory:
Operation Types		Interstate	Intrastate	Business: Corporation	
Carrier: N/A		HM	Gross Revenue: XXXXXXXXXX		
Shipper: N/A		N/A	for year ending: 12/31/2017		
Cargo Tank: N/A					
Company Physical Address:					
XXXXXXXXXX TECUMSEH, KS 66542-9745					
Contact Name: Will Wilson					
Phone numbers: (1) XXXXXXXXXX Fax					
E-Mail Address:					
Company Mailing Address:					
XXXXXXXXXX TECUMSEH, KS 66542-9745					
Carrier Classification					
Private Property					
Cargo Classification					
Machinery, Large Objects					
Hazardous Materials					
9 Miscellaneous HM : Carried : Non-Bulk					
Equipment					
	Owned	Term Leased	Trip Leased		Owned Term Leased Trip Leased
Truck	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:		2	Total Drivers: 2		
>= 100 Miles:			CDL Drivers: 2		



	BKW ENTERPRISES (WILL E WILSON dba) U S DOT #. 1871816	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: Will Wilson

Title: Owner

Name:

Title:



	BKW ENTERPRISES (WILL E WILSON dba)	Review Date
	U.S. DOT # 1871816	07/24/2018

Part B Violations

1 STATE	Primary 382.115(a) CFR Equivalent 382.115(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 2	Checked 2
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Description

Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.

Example

On May 1, 2018 Will E Wilson dba BKW Enterprises had driver Garold Hill (KS CDL # [REDACTED]) operate a 1989 International (Unit # 8, VIN # [REDACTED] 219593) in combination with a 1991 Trail King (VIN # [REDACTED] 059230). These vehicles have a gross vehicle weight rating of 33,000 lbs. and 60,380. Driver Garold Hill operated in commerce on an intrastate trip from Topeka, Ks to Topeka, Ks. This trip is evidenced by a Level II roadside inspection performed by Trooper M D Marnach (KS9222) with the Kansas Highway Patrol. At the time of this trip and time of this review carrier was found to be in violation of failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations

2 STATE	Primary. 391 51(a)	Discovered 2	Checked 2	Drivers/Vehicles In Violation 2	Checked 2
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Description

Failing to maintain driver qualification file on each driver employed.

Example

On May 1, 2018 Will E Wilson dba BKW Enterprises had driver Garold Hill (KS CDL # [REDACTED]) operate a 1989 International (Unit # 8, VIN # [REDACTED] 219593) in combination with a 1991 Trail King (VIN # [REDACTED] 059230). These vehicles have a gross vehicle weight rating of 33,000 lbs. and 60,380. Driver Garold Hill operated in commerce on an intrastate trip from Topeka, Ks to Topeka, Ks. This trip is evidenced by a Level II roadside inspection performed by Trooper M.D Marnach (KS9222) with the Kansas Highway Patrol. At the time of this trip and time of this review carrier was found to be in violation of failing to maintain driver qualification file on each driver employed.

3 STATE	Primary 395.8(a)	Discovered 38	Checked 38	Drivers/Vehicles In Violation 2	Checked 2
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Description

Failing to require driver to make a record of duty status.

Example

On May 1, 2018 Will E Wilson dba BKW Enterprises had driver Garold Hill (KS CDL # [REDACTED]) operate a 1989 International (Unit # 8, VIN # [REDACTED] 219593) in combination with a 1991 Trail King (VIN # [REDACTED] 059230). These vehicles have a gross vehicle weight rating of 33,000 lbs. and 60,380. Driver Garold Hill operated in commerce on an intrastate trip from Topeka, Ks to Topeka, Ks. This trip is evidenced by a Level II roadside inspection performed by Trooper M D Marnach (KS9222) with the Kansas Highway Patrol. At the time of this trip carrier was found to be in violation of failing to require driver to make a record of duty status.

4 STATE	Primary 396.17(a)	Discovered 1	Checked 2	Drivers/Vehicles In Violation 1	Checked 2
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Description

Using a commercial motor vehicle not periodically inspected.

Example

On May 1, 2018 Will E Wilson dba BKW Enterprises had driver Garold Hill (KS CDL # [REDACTED]) operate a 1989 International (Unit # 8, VIN # [REDACTED] 219593) in combination with a 1991 Trail King (VIN # [REDACTED] 059230). These vehicles have a gross vehicle weight rating of 33,000 lbs. and 60,380. Driver Garold Hill operated in commerce on an intrastate trip from Topeka, Ks to Topeka, Ks. This trip is evidenced by a Level II roadside inspection performed by Trooper M.D Marnach (KS9222) with the Kansas Highway Patrol. At the time of this trip carrier was found to be in violation of using a commercial motor vehicle not periodically inspected.



	BKW ENTERPRISES (WILL E WILSON dba) U.S. DOT #: 1871816	Review Date 07/24/2018
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Part B Violations

Safety Fitness Rating Information:


Total Miles Operated	3,000
Recordable Accidents	0

OOS Vehicle (CR): 0
Number of Vehicle Inspected (CR): 0
OOS Vehicle (MCMIS): 0
Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

This Review is not Rated.



	BKW ENTERPRISES (WILL E WILSON dba) U.S. DOT # 1871816	Review Date 07/24/2018
Safety Management Process Breakdowns and Remedies		

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.

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
 1500 SW Arrowhead Rd
 Topeka, KS 66604-4027

2. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN. Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN Will E Wilson dba BKW Enterprises violations occurred due to a breakdown regarding the policies and procedures elements within this section of the regulations. Carrier failed to have a drug and alcohol-testing program in place at the time of this review

BASIC SPECIFIC RECOMMENDED REMEDIES: All drivers must have a negative substance abuse test on file prior to operating a commercial motor vehicle Utilize the materials provide to you at the time of this review to enroll in a program with a drug and alcohol -testing consortium or formulate your own testing program. Make sure that all drivers receive a copy of your alcohol and substance abuse policy and retain a signed receipt indicating that all



	BKW ENTERPRISES (WILL E WILSON dba) U.S. DOT # 1871816	Review Date 07/24/2018
Safety Management Process Breakdowns and Remedies		

drivers received a copy.

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

- Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
- Develop a policy requiring drivers to submit copies of all citations for moving violations to carrier management within 24 hours.
- Establish a process to ensure that drivers who are randomly tested can be immediately removed if they are found to be positive and that they do not return to safety-sensitive duties until they have complied with the "return-to-duty" process.
- Establish written policies and procedures that promote, verify, and enforce adherence to all controlled-substance and alcohol rules and regulations. Procedures should be tailored to company operations and should provide specific checks and guidelines for interacting with a consortium, if applicable.
- Establish a process to ensure that test results are properly safeguarded from unauthorized disclosure to prospective employers without specific written consent and from disclosure under any circumstances to insurance companies and other nonqualified parties, in accordance with regulations
- Develop a policy to ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function. Drivers can be tested on their day off only for controlled substances. Once notified of their selection, drivers must proceed immediately to the testing facility. If a driver refuses to go, this should be considered as equivalent to a positive result.
- Consider developing a driver selection protocol that uses valid random-number-generator software on a monthly basis to select, by driver identification number, 5 to 8 percent of drivers for controlled-substance testing and 2 to 5 percent for alcohol testing. This will ensure selection of 50 percent of drivers for controlled-substances testing and 10 percent for alcohol testing per year, given fluctuations in the driver workforce over the course of the year.
- 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 controlled-substance and alcohol 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.

3. DRIVER FITNESS BASIC PROCESS BREAKDOWN. Monitoring and Tracking

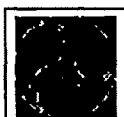
DESCRIPTION OF PROCESS BREAKDOWN. Will E Wilson dba BKW Enterprises violations occurred due to a breakdown in the policies and procedures elements within this section. Carrier failed to have a driver qualification file. It is the carrier's responsibility to ensure that all drivers have the requisite paperwork in their files. These duties and the documents verifying their compliance require continued monitoring to compliance. Utilize the documents provided to you at the time of this review to start a driver qualification file.

BASIC SPECIFIC RECOMMENDED REMEDIES. Utilize the forms provided to you during our meeting. These documents need to be completed and placed into checklist provided to you to make sure that all necessary paperwork is in the file. Once the file has been completed, ensure that it is maintained. Additionally you must receive a valid medical card prior to operating your commercial motor vehicle in commerce. Maintain a copy of this medical card in your driver qualification file.

Implement Safety Improvement Practices The following are recommended practices related to Monitoring and Tracking Processes.

- Implement an effective process for monitoring and documenting all drivers' job functions, training, qualifications, renewal dates, disclosed medical conditions, and operational restrictions, including those of drivers on a waiver program or with impairments that may be satisfied by a Skill Performance Evaluation certificate, to ensure that assignments are covered by qualified drivers



	BKW ENTERPRISES (WILL E WILSON dba) U.S. DOT #: 1871816	Review Date: 07/24/2018
Safety Management Process Breakdowns and Remedies		

- Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.
- Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures.
- Implement a system for keeping accurate records of employee driver fitness training needs, such as entry-level and HAZMAT training, and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files, applying the performance standards fairly, consistently, and equitably, and documenting the evaluations
- Regularly evaluate the company's driver fitness-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with driver-fitness regulations and company policies.
- When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

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.

4. VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN Monitoring and Tracking


DESCRIPTION OF PROCESS BREAKDOWN Will E Wilson dba BKW Enterprises violations occurred due to a breakdown regarding the monitoring and tracking elements of compliance within this section. Carrier neglected to have an annual inspection completed on one of units.

BASIC SPECIFIC RECOMMENDED REMEDIES Obtain an annual inspection on your commercial motor vehicle and maintain the original copy in the driver qualification file. Utilize the checklist we provided to you during the review. If you have any questions or needs, please don't hesitate to contact me.

Implement Safety Improvement Practices The following are recommended practices related to Monitoring and Tracking Processes.

- Check all inspections and relevant records, such as Driver Vehicle Inspection Records (DVIRs), pre-trip and annual inspections, and maintenance and repair records, to ensure that company inspection, repairing, and maintenance policies and procedures are adhered to and properly documented.
- Ensure that Driver Vehicle Inspection Records (DVIRs) are effectively coordinated with maintenance and operations, result in timely corrective measures, and are verified during pre-trip inspections as applicable.
- Require mechanics to note whether parts came from inventory or were ordered, to ensure accuracy of maintenance records
- Monitor and track roadside inspection results to ensure that vehicle defects are repaired and documented promptly and to prevent Out-of-Service (OOS) vehicles from operating prior to being repaired.
- Monitor manufacturer recalls through <http://www.nhtsa.dot.gov> and consult with manufacturer service representatives to keep current with service bulletins for proactive maintenance.
- Implement a system for keeping accurate records of employee inspection, repair, and maintenance training needs, including updates on a carrier's fleet or equipment and completed training, via software, a checklist in the driver's file, and/or another appropriate method.



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- Regularly evaluate the company's vehicle-maintenance-related inspection results via the Federal Motor Carrier Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them
- Maintain inspection, repair, maintenance, vehicle identification, and communication records to help evaluate the performance of all staff (drivers, dispatchers, mechanics, and managers) involved in fleet maintenance and the effectiveness of compliance with vehicle maintenance policies, procedures, and regulations.
- Evaluate personnel who are monitoring vehicle maintenance performance by making sure they are using Driver Vehicle Inspection Records (DVIRS), roadside inspections, and other data; applying performance standards fairly, consistently, and equitably, and documenting evaluations
- When monitoring and tracking vehicle maintenance issues, always assess whether an issue is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

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

5. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN. Will E Wilson dba BKW Enterprises failed to have any means of tracking hours of service. Carrier occurred violations the policies and procedures elements of compliance within this section. It is the carrier's responsibility to make sure that drivers are documenting their hours of service and to verify the accuracy of the documents. Ensure that these steps are being followed daily to ensure compliance with the regulations. Utilize the documents and instruction provided to you during this review assist you in correcting this.

BASIC SPECIFIC RECOMMENDED REMEDIES. Utilize the time sheet provided during the course of our review. This sheet will prompt you to complete the required sections in order to remain compliant with the regulations. Remember to utilize a log book when operating outside the 100 air mile radius. Feel free to contact me with any questions or concerns.


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

- Develop a policy and procedure describing how management will monitor and track logs for falsification.
- Establish a policy that prohibits dispatchers from assigning a load to drivers without hours available to complete the load on time.
- Develop a policy stating that drivers should not violate their Hours-of-Service (HOS) Out-of-Service (OOS) order under any circumstances, and immediately contact the carrier when a driver is placed OOS.
- Develop a policy requiring drivers to report their available hours to dispatch during "check-in" calls.
- Develop policies and procedures for ensuring proper retention of Record of Duty Status (RODS) according to regulations.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours
- Develop a policy stating that drivers are required to submit all Records of Duty Status (RODS) and supporting documentation, such as expense receipts, within 13 days of the end of the trip.
- Establish a policy stating that drivers are required to check with their supervisor, manager, or dispatcher to review their "fit-for-duty" status before starting a job, and that drivers who are ill to the extent that their ability and/or alertness is impaired are prohibited from working on safety-sensitive assignments.
- 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 Hours-of-Service (HOS) violations.

Seek Out Resources:

- You are encouraged to review your company's record at the following website <http://ai.fmcsa.dot.gov/SMS>. You



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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.

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 Will E Wilson dba BKW Enterprises operating authority and/or the impoundment of Will E Wilson dba BKW Enterprises commercial motor vehicles

Carrier Representative _____

Date _____



ATTACHMENT “B”

DRIVER/VEHICLE EXAMINATION REPORT

Kansas Highway Patrol
MOTOR CARRIER SAFETY ASSISTANCE
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KSHP92221628
Inspection Date: 05/01/2018
Start: 10:54 AM CT End: 11 42 AM CT
Inspection Level: II - Walk-Around
HM Inspection Type: None

WILL E WILSON

Driver: HILL, GAROLD D

State: KS

TECUMSEH, KS, 66542-9745

License#:

Date of Birth:

USDOT: 1871816

Phone:

CoDriver:

MC/MX#:

Fax#:

License#:

State:

State#:

Date of Birth:

Location: SHAWNEE COUNTY - 177

Milepost: EB

Shipper: CARRIER

Highway: 4TH @ JEFFERSON

Origin: TOPEKA,KS

Bill of Lading: N/A

County:

Destination: TOPEKA,KS

Cargo: TAKEUCHI TB 1140
SERIES 2

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	OOS Sticker
1	TR	INTL	1989	KS		8	219593	33000			144637
2	ST	TRLK	1991	KS	NONE		059230	60380			

BRAKE ADJUSTMENTS No brake measurements required for level II or level III

VIOLATIONS

Section	Type	Unit	OOS	Citation #	VerifyCrash	Violations Discovered
393.9	F	1	N		N	Inoperable Required Lamp
392.2RG	F	2	N		N	State vehicle registration or License Plate violation
393.47E	F	1	N		N	Clamp or Roto type brake out-of-adjustment
393.9T	F	2	N		N	Inoperable tail lamp
393.130	F	2	Y		U	No/improper heavy vehicle/machine securement
393.51	F	1	Y		U	No or defective brake warning device

HazMat: No HM transported

Placard:

Cargo Tank:

Special Checks: No data for special checks

Notes: *****NDormer - 6/6/2018Internal Challenge: Carrier challenged the OOS violations and fines for brake warning device and load securement I spoke with LT Marnach. He stated in person the same as he recorded on the violation description on the brake warning device. that there was none. On the load securement, the excavator weighs more than 10K pounds, thus it is subject to the additional requirements of 393.130. At the time of inspection, the equipment was secured with two chains, one across the boom and one on the rear blade. Per the commodity specific requirements outlined in 393.130, the excavator would have required a total of six restraints for proper securement. Challenge denied. Violations and fines are valid I will release the hold on the fines and mail a denial letter to the carrier.

* Pursuant to the authority contained in Title 49, CFR, K S A. 66-1,129, K C C Reg. 82-4-3, I hereby declare the above marked unit(s) as "OUT OF SERVICE". No person and/or carrier shall permit and/or require the removal of the "OUT OF SERVICE" stickers or the operation of this motor vehicle until ALL out of service defects have been corrected. This Out of Service condition may result in the assessment of a Civil Penalty being issued against the Carrier indicated on this report. Driver Initials _____

* NOTE TO MECHANIC The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature
Signature Of Repairer X _____ Facility _____ Date _____

*** DRIVER: THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. *** **CARRIER CERTIFICATION All defects on this sheet must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form.

Signature Of Motor Carrier X _____ Title _____ Date _____



DRIVER/VEHICLE EXAMINATION REPORT

Kansas Highway Patrol
MOTOR CARRIER SAFETY ASSISTANCE
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KSHP92221628
Inspection Date: 05/01/2018
Start: 10.54 AM CT End: 11.42 AM CT
Inspection Level: II - Walk-Around
HM Inspection Type: None

Report Prepared By. Badge #.
M. Marnach 9222

Copy Received By.
GAROLD HILL

X

X



CERTIFICATE OF SERVICE

19-TRAM-087-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 09/07/2018.

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

WILL WILSON, OWNER
WILL WILSON
D/B/A BKW ENTERPRISES
5740 SE 44TH STREET
TECUMSEH, KS 66542-9745

/S/ DeeAnn Shupe

DeeAnn Shupe