Phone: 785-271-3100 Fax: 785-271-3354

http://kcc.ks.gov/



1500 SW Arrowhead Road Topeka, KS 66604-4027

Pat Apple, Chairman Shari Feist Albrecht, Commissioner Jay Scott Emler, Commissioner Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

May 18, 2017

17-TRAM-494-PEN

Chamil Warusawithana Wichita Auto Transport, LLC 12117 E Mainsgate St Wichita, Kansas 67226 Certified Mail No. 70161970000105740761

This is a notice of a penalty assessment against Wichita Auto Transport, LLC for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on March 31, 2017, by Kansas Corporation Commission Special Investigator(s) Gary Goeller. Penalty amounts are assessed in accordance with the FY 2017 Uniform Penalty Assessment Matrix, approved by the Commission on August 18, 2016. For a full description of the penalty(s) and terms and obligations please refer to the Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY: Wichita Auto Transport has been assessed a \$100 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine amount. Payment of \$100 must be made through your personal account with the Kansas Corporation Commission's KTRAN application 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.

You must attend a Commission-sponsored safety seminar within ninety (90) days from the date of the attached Order 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 18 months from the date of the attached Order. Transportation Staff will contact you 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. Wichita Auto Transport 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 must 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 (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 of service of this Penalty Order and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2015 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$100 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the attached Penalty Order, or in the alternative, failure to provide a written request for a hearing within fifteen (15) days from the date of service of this Penalty Order, will result in the attached Order becoming a Final Order and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Litigation Chinse (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 Wichita)
Auto Transport, LLC, of Wichita, Kansas,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 17-TRAM-494-PEN
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. Wichita Auto Transport, LLC (Wichita Auto Transport) obtained private and common operating authority from the Commission on August 29, 2016, and operates under KSMCID number 171437 and USDOT number 2357139.
- 5. Chamil Warusawithana attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on August 15, 2016, on behalf of Wichita Auto Transport.
- 6. Wichita Auto Transport is a private and common motor carrier which primarily hauls motor vehicles.

III. STATEMENT OF FACTS

- 7. Pursuant to the jurisdiction and authority cited above, on March 31, 2017, Commission Staff (Staff) Special Investigator(s) Gary Goeller conducted a compliance review of the operations of Wichita Auto Transport. 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. Goeller identified one (1) violation(s) of the Motor Carrier Safety Regulations.
 - a. On February 28, 2017, Wichita Auto Transport required or permitted its driver, Chamil Warusawithana, to operate a CDL-required commercial motor vehicle, a 2013 Dodge truck, VIN ending in 568426, GVWR 14,000 lbs., pulling a 2013 Kaufman trailer, VIN ending in 001030, GVWR

25,900 lbs., in interstate commerce from Wichita, Kansas to Kansas City, Missouri. This trip is evidenced by Driver's Daily Log, dated February 28, 2017, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Wichita Auto Transport failed to maintain the motor vehicle record (MVR) in the driver's driver qualification file. The carrier's failure to maintain a copy of the motor vehicle record received from each State in the driver qualification file is a violation of 49 C.F.R. 391.51(b)(2), adopted by K.A.R. 82-4-3, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$100.

IV. STAFF'S RECOMMENDATIONS

- 8. Based upon the available facts, Staff recommends the Commission finds Wichita Auto Transport committed one (1) 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 \$100 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.
- 10. Staff further recommends that Wichita Auto Transport be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Transportation 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 Wichita Auto Transport 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 Wichita Auto Transport because it is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.
- 13. The Commission finds Wichita Auto Transport committed one (1) 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. Wichita Auto Transport, LLC, of Wichita, Kansas is hereby assessed a \$100 civil penalty for one (1) 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. Wichita Auto Transport is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Transportation Staff with written proof of attendance.
- C. Wichita Auto Transport 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.

- Pursuant to K.S.A. 2015 Supp. 77-537 and K.S.A. 77-542, any party may D. 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 (7) 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, within fifteen (15) days from the date of service of this Order. On May 18, 2017, this Penalty Order was mailed to Wichita Auto Transport via Certified Mail, Return Receipt Requested, No. 70161970000105740761. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Wichita Auto Transport's right to a hearing, and this Penalty Order will become a Final Order assessing a \$100 civil penalty against Wichita Auto Transport, and ordering Wichita Auto Transport to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and provide Transportation Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of this Order.
- E. 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.

F. If you do not request a hearing, the payment of the civil penalty of \$100 is due in

thirty (30) days from the date of service of this Order. Payment of \$100, must be made through

your personal account with the Kansas Corporation Commission's KTRAN application 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.

G. Failure to pay the \$100 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 Wichita Auto Transport'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.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated:

18 Rich

Lýnn M. Retz

Secretary to the Commission

Order Mailed Date

MAY 1 9 2017

AAL



	US DOT	# Lega	I: WICHIT	A AUTO TRANSPORT LLC		
	2357139	Ope	rating (DB	A): WICHITA AUTO TRANSP	ORT	
MC/MX#	807487	State #	:	Federal Tax ID:	(EIN)	
Review T	ype: Com	pliance Re	view (CR)			
Scope:	Princ	ipal Office		Location of Review/Audit:	Company facility in the U. S.	Territory: F
Operation	1 Types	nterstate	Intrastate			
	Carrier:	НМ	НМ	Business: Corporation		
S	hipper:	N/A	N/A	Gross Revenue:	for year ending:	12/31/2016
Carg	o Tank:	N/A				
Company	/ Physical	Address:				
Contact Phone n E-Mail A	umbers:		Warusawit	thana	Fax	
Company	Mailing	Address:				
1	MAINSGA A, KS 6722					
	lassificati orized for		(Alfan, III)			
	assificatio r Vehicles	on .	ett ogsøgte.			
Hazardou	ıs Materia	ils				
9 Mi	scellaneou	us HM	Carried	Non-Bulk		
Equipme	nt					
		Ov		n Leased Trip Leased		erm Leased Trip Leased
f	its used in	the U.S.: 2 used in the		1 0	Trailer 1	1 0
		· · · · · · · · · · · · · · · · · · ·		antities of HM? No		
1	M Permit r	•	•	N/A		
Driver in	formation	1 4 6535				i validatele.
		Inter	Intra	Average trip leased driv	ers/month: 0	

Total Drivers: 2

CDL Drivers: 2

< 100 Miles:

2

>= 100 Miles:



U.S. DOT#: 2357139

State #:

Review Date: 03/31/2017

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:

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

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Chamil Warusawithana

Title: Owner

Name:

Title:





U.S. DOT #: 2357139

State #:

Review Date: 03/31/2017

Part B Violations

1 FEDERAL	Primary: 391.23(b)	Discovered	Checked 1	Drivers/Vo In Violation 1	
(a)(1) of this se	ne motor vehicle record(s) obtained in response to ection must be placed in the driver qualification for compliance with § 391.51	to the inquiry or inquiries le within 30 days of the d	to each State ate the driver's	required by par s employment t	agraph pegins and
Hire date, 11.0 Trip date 02.28	1.2016 3.2017 o obtain a MVR on new hire within 30 days of en	nolovment.			
2 FEDERAL	Primary: 391.51(b)(2)	Discovered 1	Checked 1	Drivers/V In Violation	
Description Failing to main Example	ntain inquiries into driver's driving record in driver	's qualification file.		•	
Trip date 02.2	3.2017				
KS tag	113 Dodge Truck KS Tag KS VIN# KS VIN# 001030/ gvwr 25,900. copy of the inquiries into driver's driving record in	on a trip from Wichita, K	S to Kansas C	i 2013 Kaufmar City, MO without	
3 FEDERAL	Primary: 391.51(b)(5)	Discovered 1	Checked 1	Drivers/V In Violation 1	
Description Failing to mail Example Chamil Warus Trip date 02.2		river's driving record as r	equired by 39	1.25(c)(2).	
4 FEDERAL	Primary: 391.51(b)(6)	Discovered 1	Checked 1	Drivers/V In Violation	
Description Failing to main	ntain a list or certificate relating to violations of m				
Example Chamil Warus Trip date 02.2					



U.S. DOT #: 2357139

State #:

Review Date: 03/31/2017

Part B Violations

Your proposed safety rating is :	Rating Factors		Acute	Critical
The proposed surrey running to t	Factor 1:	S	0	0
	Factor 2:	S	0	0
SATISFACTORY	Factor 3:	S	0	0
OATIOI ACTORT	Factor 4:	S	0	0
	Factor 5:	S	0	0
	Factor 6:	S	-	-

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





U.S. DOT #: 2357139

State #:

Review Date: 03/31/2017

Part B Requirements and/or Recommendations

- 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
- 2. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (https://portal.fmcsa.dot.gov/login).
- 3. Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.
- 4. Obtain a copy of each driver's driving record and review it annually.
- 5. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Qualification and Hiring

DESCRIPTION OF PROCESS BREAKDOWN: Wichita Auto Transport LLC had thought that the insurance company was completing his mvr's for his drivers and keeping them on file. Wichita Auto Transport LLC had failed to understand that he needed to keep copies on file in the driver's qualification files.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Qualification and Hiring.

- Ensure that Motor Vehicle Records (MVRs) from States issuing Commercial Driver's Licenses (CDLs) are reviewed for driver-fitness-related violations of all prospective drivers for the last three years.
- Ensure that drivers are qualified by querying applicants, checking with previous employers and references, and obtaining necessary documents regarding driver fitness, such as those pertaining to previous violations, Commercial Driver's License (CDL), medical qualifications, operational qualifications from training, and relevant experience.
- Review and evaluate gaps in employment, frequent job changes, incomplete applications, within-company applications and reassignments, operational limitations such as those pertaining to long-combination vehicles (LCVs) and HAZMAT, physical impairments, and controlled-substance and alcohol involvement.
- Require that drivers fill out the long form for the medical card and be examined by the carrier's preferred doctor to ensure that their medical qualifications are accurate
- Ensure that the employment application captures all information required by the Federal Motor Carrier Safety Regulations (FMCSRs), such as whether the driver can handle the physical requirements of the job.
- Enhance the recruitment process to identify and attract qualified applicants for the positions of safety director, dispatcher, and driver by using outside resources such as industry affiliations, recruiters, and consultants for employee searches and referrals.

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.

6. 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 improvemen: 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





U.S. DOT #: 2357139

State #:

Review Date 03/31/2017

Part B Requirements and/or Recommendations

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 could result in a Penalty Order:

 PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. 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 Penalty Order. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.

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

7.	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 Wichita Auto
	Transport LLC's vehicles operating authority and/or the impoundment of Wichita Auto Transport LLC's vehicles.

Signed

Date

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3/31/2017 1:10:45 PM



U.S. DOT #: 2357139

State #:

Review Date: 03/31/2017

Part B Requirements and/or Recommendations

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3/31/2017 1:10:45 PM

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DELIVER'S DALLY LAGE	Total Miles Driving Today Total Mileage Today	Truck/Tractor and Trailer Numbers or License Platels / State (show each unit) Antilia 1752 Rec. 2 in 72	2. SIEEPER	SHIPPING SHIPPING DOCUMENTS.	7/73 – 20%) B/L or Manifest No. or Shipper & Commodity Enter name of place y From: Brom: USE TIME

CERTIFICATE OF SERVICE

17-TRAM-494-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 onMAY 1 8 2017	·
AHSAN LATIF, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 Fax: 785-271-3354 a.latif@kcc.ks.gov	CHAMIL WARUSAWITHANA, MANAGING MEMBER WICHITA AUTO TRANSPORT LLC 12117 E MAINSGATE ST WICHITA, KS 67226-4529 wichitaautotransport@gmail.com
	/S/ DeeAnn Shupe DeeAnn Shupe
	Order Mailed Date

Order Mailed Date
MAY 1 9 2017