

1500 SW Arrowhead Road
Topeka, KS 66604-4027



20221129102348
Kansas Corporation
Commission
Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Dwight D. Keen, Chair
Susan K. Duffy, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
23-TRAM-429-PEN

November 29, 2022

Scott McDonald, Owner
Corner Express
100 Crow Street or PO Box 248
Satanta, KS 67870

This is a notice of a penalty assessment against Corner Express (Corner Express) for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on September 21, 2022, by Kansas Corporation Commission Special Investigator B.T. Scott. Penalties are assessed in accordance with the FY 2023 Uniform Penalty Assessment Matrix, approved by the Commission on June 28, 2022. For a full description of the penalty and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Corner Express has been assessed a \$250 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$250, through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (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 Corner Express 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.

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. Corner Express 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 Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel.¹

IF YOU FAIL TO ACT: Failure to pay the penalty of \$250 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,
/s/ Ahsan A. Latif
Ahsan A. Latif
Litigation Counsel
(785) 271-3118
a.latif@kcc.ks.gov

¹ K.A.R. 82-1-215; K.S.A. 77-542.

2. Pursuant to K.S.A. 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. Corner Express (Corner Express or Carrier) has private operating authority with the Commission and further operates under USDOT number 3284173.

5. Corner Express is a private motor carrier which primarily hauls liquid/gases - hazardous materials.

III. STATEMENT OF FACTS

6. Pursuant to the jurisdiction and authority cited above, on September 21, 2022, Commission Staff (Staff) Special Investigator B.T. Scott conducted a safety compliance review of the operations of Corner Express. 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 one (1) violation of the Motor Carrier Safety Regulations.

- a. Corner Express failed to submit a CAP as ordered by the Commission in the Penalty Order issued June 30, 2020.² The Carrier's failure to submit a CAP is a violation of K.S.A. 66-1,142b. Staff recommends a fine of \$250.

² *Id.*

III. STAFF'S RECOMMENDATIONS

7. Staff submitted a Report and Recommendation (R&R), dated October 21, 2022, attached hereto as Attachment "B" and is hereby incorporated by reference. In its R&R, Staff made recommendation regarding the above-mentioned violations.

8. Based upon the available facts, Staff recommends the Commission finds Corner Express committed one (1) violation of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$250 for one (1) violation of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Corner Express 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. Staff further recommends Corner Express submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation do not occur in the future.

12. Finally, Staff recommends that Corner Express 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

13. The Commission finds it has jurisdiction over Corner Express because it is a motor carrier as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f.

14. The Commission finds Corner Express committed one (1) violation of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Corner Express, of Satanta, KS is hereby assessed a \$250 civil penalty for one (1) violation of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Corner Express 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. Carrier is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation do not occur in the future.

D. Corner Express 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.

E. Pursuant to K.S.A. 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 Executive Director 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 Corner Express's right to a hearing, and this Penalty Order will become a Final 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 less than \$500, a corporation may appear by a duly authorized representative of the corporation.³

G. If you do not request a hearing, the payment of the civil penalty of \$250 is due in thirty (30) days from the date of service of this Order. Payment of \$250 must be made through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

³ K.S.A. 66-1,142b(e) and amendments thereto.

H. Failure to pay the \$250 civil penalty within thirty (30) days from the date of service of this Penalty Order and/or failure to comply with the provisions of this Order may result in suspension of Corner Express's motor carrier operating authority without further notice.⁴ 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.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 11/29/2022




Lynn M. Retz
Executive Director

AAL

⁴ K.S.A. 66-1,105.

ATTACHMENT “A”

UNITED STATES DEPARTMENT OF TRANSPORTATION

	U.S. DOT#: 3284173 MC/MX#: 0	Legal: MCDONALD LLC Operating (DBA): CORNER EXPRESS	Investigation Date: 10/05/2022
Investigation Type: Offsite Investigation			
Physical Address		Mailing Address	
100 CROW STREET SATANTA, KS 67870 United States		PO BOX 248 SATANTA, KS 67870 United States	
Contact Information			
Contact Name: SCOTT MCDONALD Email: Phone: (620)649-7204 Cell: ()- Fax: ()-			
Business and Financial			
Business Type: Limited Liability Corporation Name of Gross Revenue Provider: Scott McDonald Title of Gross Revenue Provider: Partner Gross Revenue: ██████████ For Year Ending: 12/31/2021 Federal Tax ID: ██████████			
Operation Classification and Type		Cargo	
Type of Operation: HM Intrastate Carrier Operation Classification Private Motor Carrier Property – Hazardous Materials		Liquids/Gases	
Hazardous Materials			
Which of the following hazardous materials requiring a Safety Permit does the company transport?		None	
Does the company have a satisfactory security program in place as required in 49 CFR Part 385, Subpart E?		Yes	
Is an HM Permit required by any State?		No	
Hazardous Materials		Class 3 Flammable and Combustible Liquid = C, B Div 2.1 LPG (Liquefied Petroleum Gas) = C, B	

Equipment				Driver Information		
	Owned	Term Leased	Trip Leased	Drivers		
Hazmat Cargo Tank Trucks	3				Intrastate	Interstate
				< 100 Miles	2	
				>= 100 Miles		
				Average trip leased driver/month: 0 Drivers with CDL: 2 Total Drivers: 2		
Power units used in the U.S.: 3 Percentage of time used in the U.S.: 100%						
Person(s) Interviewed						
Name: SCOTT MCDONALD				Title: PARTNER		
Questions						
Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:			1303 SW FIRST AMERICAN PL STE 200 TOPEKA, KS 66604-4040 Phone: (785) 271-1260 Fax: (877) 547-0378			
This report will be used to assess your safety compliance.						

Violations

1. Primary: 392.2
State Equivalent: 66-1,142(h)

Failure to submit a Corrective Action Plan (CAP) as required by KSA 66-1,142(h)

Example/Notes:

Carrier was involved in a compliance review dated 6/17/2022 where a penalty order was issued. No corrective action plan was completed and submitted per the requirements of the prior review.

Violations Discovered		
Fed	State	Total
	1	1
Checked		
Fed	State	Total
	1	1
Drivers/Vehicles in Violation		
Fed	State	Total
Checked		
Fed	State	Total

Safety Fitness Rating

This Investigation is Not Rated

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Unsafe Driving

Process Breakdown: Roles and Responsibilities

1. Carrier failed to follow up with a Corrective Action Plan following a Compliance Review resulting in a Penalty Order by the KCC.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Roles and Responsibilities:

1. Following a compliance review in which violations of compliance are found, make sure and provide the KCC a corrective action plan in accordance with the directions found in the Compliance Review documentation.

Recommendations

1. **Additional Information**

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

2. **First**

"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 carriers currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site. The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

For all Investigations that could result in a Notice of Claim:

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

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

For all Investigations resulting in serious violations:

Serious violations were recorded on this investigation report. These violations will impact your safety record. Furthermore, these violations may result in a follow-up investigation at a later date unless adequate evidence of corrective action is forwarded to our office:

US Department of Transportation
Federal Motor Carrier Safety Administration
Kansas Division
Jeff Ellett - Division Administrator
1303 First American Place, Suite 200
Topeka, KS 66604-4040

For all Investigations where the carrier has been involved in 2 or more recordable crashes:

The Division Administrator/State Director will continue to consider preventability when a motor carrier contests a proposed safety fitness rating. The motor carrier may deem that the recordable accident rate is not a fair means of evaluating its accident factor (Factor 6) on the CR report. If so, the motor carrier must submit the compelling evidence within seven calendar days if the proposed rating is Unsatisfactory and 10 calendar days if the proposed rating is Conditional to:

US Department of Transportation
Kansas Division
Jeff Ellett - Division Administrator
Federal Motor Carrier Safety Administration
1303 First American Place, Suite 200
Topeka, KS 66604-4040

Compelling evidence must be limited to official police accident reports and official insurance accident investigation reports.

For all Investigations resulting in a proposed conditional or unsatisfactory rating:

385.15

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385.15 (copy provided) outlines procedures for petitioning the Federal Motor Carrier Safety Administration for an administrative review of these findings. Your petition should be addressed to:

US Department of Transportation
Jack Van Steenburg - Chief Safety Officer
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE,
Washington, DC 20590

385.17

In addition, a request for a revised rating based on corrective actions may be made at any time. Part 385.17 (copy provided) outlines the procedures for such a request. The request must be made in writing, must describe the corrective action taken and must include other documentation that may be relied upon as a basis for the requested change. Address your written request to:

US Department of Transportation
Max Strathman - Midwestern Field Administrator
Federal Motor Carrier Safety Administration
4749 Lincoln Mall Drive, Suite 300-A
Matteson, IL 60443

Ensure that a CC copy of the letter is mailed to:

US Department of Transportation
Kansas Division
Jeff Ellett Division Administrator
Federal Motor Carrier Safety Administration
1303 First American Place, Suite 200
Topeka, KS 66604-4040

This letter should be submitted as soon as possible.

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

The KCC requires that you prepare a corrective action plan, addressing the measures taken to correct all 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. Submit the letter along with copies of your supporting evidence to:

Email: g.davenport@kcc.ks.gov
FAX: 785-271-3124

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

3. **Penalties**

"I understand that monetary penalties will be assessed as a result of violations found in this compliance investigation. The penalty schedule can be found at this web site: http://kcc.ks.gov/trans.penalty_assessment_table.htm

Carrier Name

Carrier Official"

ATTACHMENT “B”

REPORT AND RECOMMENDATION TRANSPORTATION DIVISION

TO: Dwight D. Keen, Chair
Susan K. Duffy, Commissioner
Andrew J. French, Commissioner

FROM: Mike Hoeme, Director of Transportation
Gary Davenport, Deputy Director of Transportation

DATE: October 21, 2022

SUBJECT: Docket No. 23-TRAM-429-PEN
In the Matter of the Investigation of Corner Express of Satanta, Kansas Regarding the Violation of the Motor Carrier Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority.

EXECUTIVE SUMMARY:

Corner Express (Corner Express or Carrier) is a motor carrier possessing private operating authority from the Commission, primarily hauling liquid/gases - hazardous materials. Corner Express operates under USDOT 3284173. On September 21, 2022, Commission Staff Special Investigator B.T. Scott conducted a safety compliance review of the operations of Corner Express. As a result of this investigation, the special investigator identified one (1) violation of the Motor Carrier Safety Regulations, resulting in a recommended penalty of \$250.

DISCUSSION AND ANALYSIS:

On September 21, 2022, Commission Staff Special Investigator B.T. Scott conducted a safety compliance review of the operations of Corner Express. As a result of this investigation, the special investigator identified one (1) violation of the Motor Carrier Safety Regulations.

Violation One (1 of 1)

Corner Express failed to submit a CAP as ordered by the Commission in the Penalty Order issued June 30, 2020. The Carrier's failure to submit a CAP is a violation of K.S.A. 66-1,142b. Staff recommends a fine of \$250.

RECOMMENDATION:

Transportation Staff recommends the Commission find Corner Express committed one (1) violation of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

Additionally, Staff recommends a civil penalty of \$250 for one (1) violation of the Motor Carrier Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.

Staff further recommends that a representative from Corner Express be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the 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.

Staff further recommends Corner Express submit a written, comprehensive Corrective Action Plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation described in the Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation does not occur in the future.

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

CERTIFICATE OF SERVICE

23-TRAM-429-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
first class mail and electronic service on 11/29/2022.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
a.latif@kcc.ks.gov

SCOTT MCDONALD
D/B/A CORNER EXPRESS
100 CROW STREET
SATANTA, KS 67870
scottcornerexpress@gmail.com

/S/ KCC Docket Room
KCC Docket Room