

1500 SW Arrowhead Road
Topeka, KS 66604-4027



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

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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

April 2, 2015

15-TRAM-418-PEN

Sharon Beyer, President
Beyer Motor Co., Inc.
510 Main
Gridley, Kansas 66852

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on February 4, 2015, by Kansas Corporation Commission Special Investigator Wade Patterson. For a full description of the penalty and process please refer to the Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

You have been assessed a \$1,250 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Transportation Division of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by faxing your credit card information to the Transportation Office at 785-271-3124, using the KCC's credit card payment form found at <http://kcc.ks.gov/trans/creditcard.pdf>.

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

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

IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Respondent must submit an original and seven (7) copies of the request to the Commission's Acting Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date stamped on the last page of the Penalty Order. K.A.R. 82-1-215; K.S.A. 2014 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

Michael J. Duenes
Litigation Counsel
(785) 271-3181

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Investigation of **Beyer**)
Motor Co., Inc., of Gridley, Kansas, Regarding)
the Violation of the Motor Carrier Safety)
Statutes, Rules and Regulations and the) Docket No. 15-TRAM-418-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. 2014 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. 2014 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. 2014 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. Beyer Motor Co., Inc. (Beyer Motor Co.) obtained private and common operating authority from the Commission on March 5, 2014, and operates under KSMCID number 115282 and USDOT number 1066815.

5. Sharon Beyer attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on August 3, 2004, on behalf of Beyer Motor Co..

6. Beyer Motor Co. is a private and common motor carrier which primarily hauls passengers.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on February 4, 2015, Commission Staff (Staff) Special Investigator Wade Patterson conducted a compliance review of the operations of Beyer Motor Co.. 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. Patterson identified two (2) violations of the Motor Carrier Safety Regulations.

- a. On January 22, 2015, Beyer Motor Co. required or permitted its driver, Kim Beyer, to operate a commercial motor vehicle, a 2000 General Motors bus, VIN ending in 1149756, in intrastate commerce from Gridley, Kansas to Waverly, Kansas. This trip is evidenced by a Pre-Trip

Inspection Log, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Beyer Motor Co. failed to provide educational materials to its driver explaining the requirements for a controlled substance and alcohol testing program and obtain a receipt showing the driver received the educational materials. Beyer Motor Co.'s failure to provide controlled substance use educational materials that complies with 49 C.F.R. 382.601(b) to each of its drivers subsequent to hiring or testing is a violation of 49 C.F.R. 382.601(a)(1), as adopted by K.A.R. 82-4-3c, as authorized by K.S.A. 2014 Supp. 66-1,129. Staff recommends a fine of \$500.

- b. During the transportation described in paragraph a., above, Beyer Motor Co. failed to require its driver to make a record of duty status showing the date, start time, end time and the number of hours worked in a 24-hour period. The special investigator found 21 violations of this type. Beyer Motor Co.'s failure to require its drivers to keep records of duty status for each 24-hour period 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 in violation of 49 C.F.R. 395.8(a), as adopted by K.A.R. 82-4-3a and authorized by K.S.A. 2014 Supp. 66-1,129. Staff recommends a fine in the amount of \$750.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find Beyer Motor Co. committed two (2) violations 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 \$1,250 for two (2) violations of the Motor Carrier Safety Statutes, Rules and Regulations.

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

11. Finally, Staff recommends that Beyer Motor Co. submit to one follow-up safety compliance review within the next eighteen (18) months. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

V. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Beyer Motor Co. because it is a motor carrier as defined in K.S.A. 2014 Supp. 66-1,108.

13. The Commission finds Beyer Motor Co. committed two (2) violations 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. Beyer Motor Co., Inc., of Gridley, Kansas is hereby assessed a \$1,250 civil penalty for two (2) violations 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. Beyer Motor Co. is hereby ordered to attend a Commission-sponsored safety seminar within the next ninety (90) days and is to provide Staff with written proof of attendance. Further, Beyer Motor Co. is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2014 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Acting Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Beyer Motor Co.'s right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,250 civil penalty against Beyer Motor Co., and ordering Beyer Motor Co. to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of service of this Order.

D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. 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).

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

F. Failure to pay the \$1,250 civil penalty within thirty (30) days of the service of this Penalty Order, and/or failure to comply with the provisions of this Order, may result in revocation of Beyer Motor Co.'s motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: APR 02 2015



ORDER MAILED APR 03 2015

Neysa Thomas
Acting Secretary

MJD

ATTACHMENT "A"



BEYER MOTOR CO INC
U.S. DOT #: 1066815

State #:

Review Date:
02/05/2015

Part A

QUESTIONS regarding this report may be addressed to the Kansas Corporation Commission at:

1500 SW Arrowhead Road
Topeka, Kansas 66604
Telephone (785)640-9132

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Sharon Beyer

Title: Owner/Office Manager

Name:

Title:





BEYER MOTOR CO INC
U.S. DOT #: 1066815

State #:

Review Date:
02/05/2015

Part B Violations

| 1 FEDERAL | Primary: 382.601(a) | Discovered 4 | Checked 4 | Drivers/Vehicles In Violation 4 | Checked 4 |
|---|-----------------------|-----------------|--------------|---------------------------------------|--------------|
| Description Failing to provide educational materials explaining requirements of part 382 and employer's drug and alcohol program policies. Example 01/22/2015, drove passengers from Gridley Kansas to Lawrence Kansas in commerce. CMV unit #10 VIN# 1149756 is a CDL required bus. | | | | | |
| 2 FEDERAL | Primary: 391.51(b)(1) | Discovered 2 | Checked 4 | Drivers/Vehicles In Violation 2 | Checked 4 |
| Description Failing to maintain driver's employment application in driver's qualification file. Example 01/21/2015, drove passengers from Gridley Kansas to Waverly Kansas in commerce. CMV unit #10 VIN# 1149756 is a CDL required bus. | | | | | |
| 3 FEDERAL | Primary: 391.51(b)(5) | Discovered 4 | Checked 4 | Drivers/Vehicles In Violation 4 | Checked 4 |
| Description Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). Example 01/22/2015, drove passengers from Gridley Kansas to Lawrence Kansas in commerce. CMV unit #10 VIN# 1149756 is a CDL required bus. | | | | | |
| 4 FEDERAL | Primary: 391.51(b)(6) | Discovered 4 | Checked 4 | Drivers/Vehicles In Violation 4 | Checked 4 |
| Description Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. Example 01/22/2015, drove passengers from Gridley Kansas to Lawrence Kansas in commerce. CMV unit #10 VIN# 1149756 is a CDL required bus. | | | | | |





BEYER MOTOR CO INC
U.S. DOT #: 1066815

State #:

Review Date:
02/05/2015

Part B Violations

| | | | | | |
|--------------|-------------------|------------------|----------------|----------------------------------|--------------|
| 5 FEDERAL | Primary: 395.8(a) | Discovered 21 | Checked 120 | Drivers/Vehicles In Violation | Checked 4 |
|--------------|-------------------|------------------|----------------|----------------------------------|--------------|

Description

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

01/22/2015,

drove passengers from Gridley Kansas to Lawrence Kansas in commerce. CMV unit #10

VIN# _____ 1149756 is a CDL required bus.

Safety Fitness Rating Information:

Total Miles Operated 32,681
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.





BEYER MOTOR CO INC
U.S. DOT #: 1066815

State #:

Review Date:
02/05/2015

Part B Requirements and/or Recommendations

1. • **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 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:

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 15 days and any additional evidence necessary to prove the corrective action has been taken to:

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

2. Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months. HOS need to





BEYER MOTOR CO INC

U.S. DOT #: 1066815

State #:

Review Date:

02/05/2015

Part B Requirements and/or Recommendations

be recored in accordance with the FMCSR's when drivers are making extracurricular trips.

3. 391.51 states that each motor carrier shall maintain a driver qualification file for each driver it employs. A driver's qualification file may be combined with his/her personnel file. The qualification file for a driver must include a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). Going forward, ensure this is completed for every driver annually as directed by the FMCSR's.
4. 391.51 states that each motor carrier shall maintain a driver qualification file for each driver it employs. A driver's qualification file may be combined with his/her personnel file. The qualification file for a driver must include a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. Going forward, ensure this is completed for every driver annually as directed by the FMCSR's.
5. Ensure that you give drivers a written drug policy and educational materials. They should sign a document stating that they are aware of the company policy and have been given the educational materials.
6. **DRIVER FITNESS BASIC PROCESS BREAKDOWN: Qualification and Hiring**
DESCRIPTION OF PROCESS BREAKDOWN
 Failure to have drivers submit a completed application
BASIC SPECIFIC RECOMMENDED REMEDIES
 Ensure that all CMV drivers submit concise and complete applications
 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.

HAZMAT Carrier Only:

 - Ensure that drivers can meet physical requirements and are able to handle the additional stress associated with multiple HAZMAT-transportation responsibilities.

Passenger Carriers Only:

 - Check the Motor Vehicle Record (MVR) to ensure that drivers have the proper class of license and "P" or "S" endorsement, and to see if the applicable endorsement on the license has a specific restriction, such as an air-brake restriction.

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.

7. I acknowledge that these requirements and/or recommendations have been discussed with me and my questions





BEYER MOTOR CO INC
U.S. DOT #: 1066815

State #:

Review Date:
02/05/2015

Part B Requirements and/or Recommendations

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 Byer Motor Co Inc's operating authority and/or the impoundment of Beyer Motor Co Inc's vehicles.

X _____
Sharon Beyer



ATTACHMENT "B"

2014-2015

PRE-TRIP INSPECTION LOG

School Year

DATE GAL MILEAGE
 1-21-15 24 94553
 " " 10 94638
 1-22-15 15.5 Lawrence
 94653

As you enter the bus - check hand rails & emergency
 Sit down and adjust seat if needed, check steering
 Check Mirrors - make sure they are adjusted correctly
 Start Engine
 Turn on light system and check heaters, fans and wipers
 Walk to the back - checking seats on the way - Open Emergency
 Go outside around bus checking lights, signals, tires
 check the general condition of your bus.
 Go back on bus, fasten seat belt

QUIKTRIP #00167
 1020 East 23rd Street
 Lawrence, KS

Invoice # 0000000
 Date 01/22/15
 Time 12:25PM
 Auth # 02273R

Acct #
 XXXXXXXXXXXXXXX
 Pump 89 Gallons 15.553 Price \$1.839

ENDED MILEAGE 94924

For the Month of JAN 2015

Initial In triangle
 Date

| Monday | Tuesday | Wednesday | Thursday |
|--------|---------|-------------|---------------------|
| 5 | 6 | 7 | 8 HAPPY NEW YEAR |
| 12 | 13 | 14 CB PB | 15 CB PB |
| 19 | 20 | 21 | 22 |
| 26 | 27 | 28 | 29 CB PB |

UNLEADED
 \$20.00
 \$20.00

Total Sale \$28.69
 Thank You for Shopping QuikTrip!
 Please Come Back Again!!

Drivers must do a walk through upon return from each trip. Check for sleeping passengers. Report all needed repairs -

to Service Department.

BUS # 10 PRINT NAME _____

ACTIVITY TRIPS

| Driver | Date | Group/Destination | Mileage |
|--------|---------|-------------------|---------|
| Jim | 1-21-15 | W.S. ... | 94553 |
| SB | 1-22-15 | Lawrence/FEA | 94653 |
| | | | |
| | | | |

* By initialing - you acknowledge you have completed the activity trip inspection

3.00
 2.20
 6.00

274

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

| NAME AND ADDRESS | NO. CERT. COPIES | NO. PLAIN COPIES |
|--|------------------------|------------------------|
| SHARON BEYER, PRESIDENT BEYER MOTOR CO., INC. 510 MAIN GRIDLEY, KS 66852 | | |
| MICHAEL DUENES, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered*** | | |

ORDER MAILED APR 03 2015

The Docket Room hereby certified that on this _____ day of _____, 20____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.