

HB 2368 -- Transportation of Railroad Employees by Contract Carriers

Sponsor: Schad

This bill establishes regulations for contract carriers that transport railroad employees for compensation. In its main provisions, the bill:

(1) Requires a contract carrier to maintain a driver qualification file for each driver it employs. The file may be combined with a driver's personnel file and must contain:

(a) A biennial certification of the physical ability of the driver to operate a motor vehicle;

(b) Documentation establishing that the driver's driving record has been reviewed at least once per year, documentation related to any violation of motor vehicle laws or ordinances if applicable, and other documentation related to the driver's qualification or ability to drive a motor vehicle;

(c) The driver's application for employment and responses from previous employers, if required by the current employer; and

(d) A copy of the driver's current driver's license showing the class E qualification or its equivalent;

(2) Disqualifies a driver from driving for a contract carrier if he or she has committed two or more serious traffic violations in a three-year period. A serious traffic violation includes any violation in which the person's driver's license has been suspended or revoked or any violation in which the person has been found guilty of certain specified driving offenses;

(3) Prohibits a contract carrier from requiring or allowing a driver to drive or remain on duty for more than:

(a) 10 hours after eight consecutive hours off-duty;

(b) 15 hours of combined on-duty time and drive time since last having eight consecutive hours of off-duty; or

(c) 72 hours of on-duty and drive time in any period of eight consecutive days;

(4) Specifies that after 24 hours off-duty, a driver begins a new seven consecutive day period and on-duty time is reset to zero. Any driver who encounters an emergency and cannot safely complete a transportation assignment within the 10-hour driving

maximum may be allowed to drive no more than two additional hours in order to complete the assignment or reach a safe place for the passengers;

(5) Requires a contract carrier to maintain and retain accurate time records for six months that show specified information regarding each driver's work hours;

(6) Requires a driver to undergo testing for controlled substances and alcohol before performing any duties for a contract carrier. A driver will be qualified to drive for a carrier if the alcohol test results indicate a concentration of zero and the controlled substance test result from the medical review officer indicates a verified negative test result. A driver will be disqualified if he or she fails either test; refuses to submit a specimen for either test; or submits an adulterated, diluted, or substitute specimen for either test;

(7) Requires a surviving driver after an accident in a vehicle owned or operated by a contract carrier to be tested for controlled substances and alcohol if the accident involved the loss of human life or the driver received a citation for a moving traffic violation and the accident involved bodily injury to a person who immediately received medical attention or disabling damage occurred to one or more motor vehicles. The alcohol and controlled substances testing must be completed immediately after the accident. If testing cannot be conducted immediately, the alcohol test must be conducted within eight hours and the controlled substances test within 32 hours of the accident. The results must be submitted to the Department of Transportation. A carrier or the driver's employer must maintain records of alcohol and controlled substances testing of drivers in a secure location for five years;

(8) Requires a contract carrier to inspect its motor vehicles. If the carrier uses a commercial motor vehicle for passenger transportation, the carrier must have the vehicle inspected by a federally qualified person at least once every 12 months. A driver must complete a written motor vehicle report at the end of each day's work;

(9) Requires a contract carrier to establish a maintenance and repair program including at least weekly inspections of the parts and accessories for safety and proper operation and for the overall cleanliness of the vehicle and to maintain for one year records for each motor vehicle that include specific identifying information, owner information, history of inspections, and repairs and maintenance activities and the date the activity was performed. If a motor vehicle leaves the carrier's fleet, the vehicle's records must be maintained for six months;

(10) Requires all vehicles in a contract carrier's fleet to be equipped with an operable amber or strobe light mounted on the rear third of the vehicle's roof in order to warn other motorists whenever the vehicle has slowed or stopped on or near the roadway and specifies additional equipment a carrier's vehicle must have;

(11) Requires a contract carrier to allow an employee of the Department of Transportation or its designee access to a facility to determine compliance with the provisions of the bill and to records and information related to an accident investigation;

(12) Requires a contract carrier to obtain and maintain an insurance policy of \$5 million for each motor vehicle that transports railroad employees;

(13) Specifies that any person, corporation, or entity who violates the provisions of the bill will be subject to a civil penalty of up to \$2,000 for each offense. Each violation constitutes a separate and distinct offense; and in the case of a continuing violation, each day's continuance is considered a separate and distinct offense. The department may recover the penalties for violations; and

(14) Specifies that the provisions of the bill are not intended to limit the right of a railroad to contract with a carrier that certifies to the railroad that it is in compliance with state and federal requirements. These provisions are considered minimum standards and do not supersede or abrogate any law, rule, or regulation that imposes stricter standards or regulation upon these carriers.

The bill contains an emergency clause.