

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §18.1, purpose, §18.2, definitions, §18.10, purpose, §18.11, motor carrier registration, §18.13, application for motor carrier registration, §18.14, expiration and renewal of commercial motor vehicle registration, §18.16, insurance requirements, new §18.18, unified carrier registration system, and amendments to §18.19, short-term lease and substitute vehicles, §18.31, investigations and inspections of motor carrier records, §18.32, motor carrier records, §18.70, purpose, §18.71, administrative penalties, §18.72, suspension and revocation, and new §18.73, administrative proceedings, §18.74, settlement agreements, §18.75, implications for nonpayment of penalties, and §18.76, registration suspension ordered under family code, all relating to motor carriers, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments and new sections, attached to this minute order as Exhibits A - E, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §18.1, §18.2, §18.10, §18.11, §18.13, §18.14, §18.16, new §18.18, and amendments to §18.19, §18.31, §18.32, §18.70, §18.71, §18.72, and new §18.73, §18.74, §18.75 and §18.76 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:

Recommended by:

Director, Motor Carrier Division

Executive Director

Minute Number Date Passed

1 Proposed Preamble
2 The Texas Department of Transportation (department) proposes
3 amendments to §18.1, Purpose, §18.2, Definitions, §18.10,
4 Purpose, §18.11, Motor Carrier Registration, §18.13, Application
5 for Motor Carrier Registration, §18.14, Expiration and Renewal
6 of Commercial Motor Vehicle Registration, §18.16, Insurance
7 Requirements; new §18.18, Unified Carrier Registration System;
8 amendments to §18.19, Short-term Lease and Substitute Vehicles,
9 §18.31, Investigations and Inspections of Motor Carrier Records,
10 §18.32, Motor Carrier Records, §18.70, Purpose, §18.71,
11 Administrative Penalties, §18.72, Suspension and Revocation; new
12 §18.73, Administrative Proceedings, §18.74, Settlement
13 Agreements, §18.75, Implications for Nonpayment of Penalties,
14 and §18.76, Registration Suspension Ordered under Family Code,
15 all concerning motor carriers.

16

17 EXPLANATION OF PROPOSED AMENDMENTS AND NEW SECTIONS

18 The proposed amendments and new sections are necessary to
19 implement the provisions of House Bills 2093 and 2094, 80th
20 Legislature, Regular Session, 2007 and to clarify existing
21 information.

22

23 House Bill 2093 provides the department additional regulatory
24 authority over motor carriers and the issuance of overweight and
25 oversize permits. The bill increases the department's authority

1 to investigate, enforce, and impose administrative penalties and
2 sanctions on motor carriers for violations of any statute, rule,
3 or order.

4
5 The bill also authorizes the department to enter the federal
6 Unified Carrier Registration (UCR) system. The UCR system
7 replaced the Single State Registration System (SSRS) as of
8 January 1, 2007. As a participant in the UCR system the
9 department will facilitate the federal registration of
10 interstate motor carriers.

11
12 In addition to changes to the motor carrier registration
13 enforcement procedures, House Bill 2093 also provided for
14 administrative enforcement of commercial motor vehicle
15 overweight or oversize permit violations. The administrative
16 procedures outlined in these rules will also be used for
17 administrative actions involving violations of Transportation
18 Code, Chapter 623.

19
20 House Bill 2094 transfers the regulatory authority for tow
21 trucks and vehicle storage facilities from the department to the
22 Texas Department of Licensing and Regulation (TDLR). As of
23 January 1, 2008 TDLR will be responsible for all aspects of
24 regulating these entities. Due to the transfer of
25 responsibilities, §18.1, §18.2, §18.10, §18.11, §18.13, §18.14,

1 §18.16, §18.19, and §18.32, are amended to delete references to
2 tow trucks and vehicle storage facilities.

3
4 Amendments to §18.2, Definitions, amend the definition of
5 commercial motor vehicle to exclude tow trucks permitted to
6 operate by TDLR and certain motor vehicles registered under the
7 UCR system. Under Transportation Code, §643.002 tow trucks
8 licensed by TDLR are excluded from the motor carrier
9 registration requirements, therefore the provisions of 43 TAC
10 Chapter 18 do not apply. This section also adds the definition
11 of Unified Carrier Registration (UCR) and deletes the
12 definitions of consent and nonconsent tows.

13
14 Amendments to §18.14, Expiration and Renewal of Commercial Motor
15 Vehicle Registration, add clarification as to when a motor
16 carrier registered under the federal UCR program must also renew
17 under the state motor carrier registration system. Motor
18 carriers operating as charter buses, household goods movers, and
19 recyclable material and waste carriers are also required to
20 maintain state motor carrier registration. Other motor carriers
21 registered under UCR only have to make an initial state
22 registration if the carrier has never been registered in the
23 state or if for some reason the UCR registration is not
24 continuous. If the UCR registration lapses or is revoked or
25 suspended for any reason the motor carrier must file a new

1 registration packet with the state under the provisions of
2 §18.11.

3
4 New §18.18 provides that the state, through the department, will
5 participate in the UCR system. The department participated in
6 the SSRS prior to the implementation of the UCR program. All
7 interstate motor carriers operating in Texas are required to
8 register with the UCR system. The department will provide the
9 service necessary for the motor carriers to submit their UCR
10 registration.

11
12 Amendments to §18.31, Investigations and Inspections of Motor
13 Carrier Records, adds that the department can enter a motor
14 carrier's place of business to investigate violations under
15 Transportation Code, Chapter 645. Transportation Code, §645.003
16 provides the department with the authority to enforce Chapter
17 645 and rules adopted under that chapter. To enforce the rules
18 and statutes the department must have access to investigate the
19 violations.

20
21 Section 18.31 is further amended by adding a new provision to
22 allow investigators to set appointments for records inspections
23 by certified mail or facsimile. The current rules require the
24 two parties to agree to a location and time if the motor
25 carrier's normal business hours are not sufficient. By allowing

1 investigators to set a time for inspection of records motor
2 carriers will be unable avoid sanctions by withholding access to
3 records.

4

5 Amendments to §18.32, Motor Carrier Records, reformat the
6 language of subsection (a) by adding proof of registration fee
7 payments to the list of general records that must be maintained
8 by the motor carrier at its principal place of business. The
9 specific language referring to registration receipts under SSRS
10 in paragraph (4) is deleted. The deleted language is no longer
11 necessary since SSRS is no longer operational. However, the
12 department will still require that the motor carrier maintain
13 proof of all registration fee payments.

14

15 Amendments to §18.70, Purpose, allow for denial of registration
16 as an administrative sanction for violations of Transportation
17 Code, Chapter 643 or any rule or order adopted under
18 Transportation Code, Chapter 643, as authorized under House Bill
19 2093.

20

21 Amendments to §18.71(a), Definition, delete the definition of
22 "director" as it is no longer necessary to have a specific
23 definition for the director due to the new administrative
24 enforcement process.

25

1 Subsections 18.71(b) and (c) are redesignated as subsections (a)
2 and (b) and are amended by adding rules or orders to the list of
3 violations in which the department can seek administrative
4 penalties. House Bill 2093 increased the department's authority
5 by authorizing administrative sanctions and penalties for
6 violations of any rule adopted under Transportation Code,
7 Chapters 643 or 645 and also any order issued under those
8 chapters.

9
10 Section 18.71 is further amended by deleting language that
11 referenced the current administrative enforcement process.
12 Subsections (e) - (j) are deleted. House Bill 2093 established
13 a new administrative hearing process which is detailed in
14 §18.73.

15
16 Amendments to §18.72, Suspension and Revocation, address changes
17 to the statute regarding the types of authorized administrative
18 sanctions. In addition to suspending and revoking a motor
19 carrier's registration the department now has the authority to
20 deny registration to a motor carrier who fails to comply with
21 registration requirements. The section is also amended to
22 authorize sanctions for failing to comply with any 43 TAC
23 Chapter 18 rule or any order issued pursuant to an action taken
24 under that chapter.

25

1 Amendments to §18.72(b), Department of Public Safety, remove the
2 requirement that the request for administrative action on safety
3 violation suspension come from the executive director of the
4 Department of Public Safety. As amended the rule requires the
5 request to be in writing and to include evidence of the
6 violation. This will streamline this process and allow the
7 department to address safety violations in a timely manner.

8
9 Section 18.72(c), the subsection heading is changed from Action
10 without hearing, to Probation. The changes to the subsection
11 provide guidance on the issuance of probation as an
12 administrative sanction. The language provides additional
13 guidance the department will consider in determining whether a
14 motor carrier is eligible for probation. This section also
15 provides that the department will set the length of the
16 probation by reviewing the seriousness of the offense and
17 previous violation by the motor carrier. These guidelines will
18 help ensure that the department is consistent in administering
19 the probation program.

20
21 Subsections 18.72(d),(e), and (g), regarding the administrative
22 process, are deleted because of the new process established by
23 House Bill 2093 and set out in §18.73. The language in
24 subsection (f) regarding child support suspensions is moved to
25 §18.76. The administrative process for these types of

1 suspensions are handled by the Office of the Attorney General.
2 The department does not participate in the hearing process,
3 therefore, separating this type of suspension action in its own
4 section improves the understanding and eliminates confusion as
5 to the department's role.

6
7 New §18.73, Administrative Proceedings, is added to provide the
8 notice requirements for the new administrative hearing process.
9 The language tracks Transportation Code, §643.2525 and clarifies
10 the two types of notices mailed to the alleged violator.

11
12 New §18.74, Settlement Agreements, details the settlement
13 agreement process. The department can enter into a compromise
14 settlement agreement with an alleged violator any time before
15 the issuance of a final order. This section states that the
16 agreement shall include a clause that allows the department the
17 authority to revoke the agreement if the alleged violator fails
18 to abide by the terms of the agreement. This provision will
19 ensure that the department continues to have authority to
20 enforce future compliance.

21
22 New §18.75, Implications for Nonpayment of Penalties, is added
23 to provide the implications for nonpayment of any penalty
24 imposed against a violator. Under the current process the
25 department did not have authority to take additional

1 administrative action if the motor carrier failed to pay the
2 imposed penalties. House Bill 2093 amended Transportation Code,
3 §643.2525(k) to authorize the department to initiate a new
4 administrative action to suspend, revoke, or deny motor carrier
5 registration if the motor carrier fails to pay the penalty or
6 any assessed costs before the 61st day after the day the decision
7 becomes final. This section is amended to comply with the new
8 provisions.

9
10 New §18.76, Registration Suspension Ordered under Family Code,
11 includes the substance formerly contained in §18.73(f) regarding
12 motor carrier registration suspensions due to orders issued
13 under Family Code, Chapter 232, relating to payment of child
14 support or possession of or access to a child. The department
15 may suspend registration under this section without following
16 the administrative process under §18.73 of this chapter. The
17 Office of the Attorney General oversees the administrative
18 hearing process for these types of violation. A suspension under
19 this section may be lifted only on receipt of an order under
20 Family Code, §232.013. This section complies with the
21 requirements of Family Code, Chapter 232.

22
23 FISCAL NOTE

24 James Bass, Chief Financial Officer, has determined that for
25 each of the first five years the amendments and new sections as

1 proposed are in effect, there are no fiscal implications for
2 state or local governments as a result of enforcing or
3 administering the amendments and new sections.

4

5 Carol Davis, Director, Motor Carrier Division has certified that
6 there will be no significant impact on local economies or
7 overall employment as a result of enforcing or administering the
8 amendments and new sections.

9

10 PUBLIC BENEFIT

11 Ms. Davis has also determined that for each year of the first
12 five years the sections are in effect, the public benefit
13 anticipated as a result of enforcing or administering the
14 amendments and new sections will be the implementation of
15 current legislation, a more streamlined administrative process
16 that will allow for greater enforcement of registration
17 requirements, and increased protection to the traveling public
18 and the transportation infrastructure. There are no anticipated
19 economic costs for persons required to comply with the sections
20 as proposed. These rules provide for additional enforcement
21 authority but they do not increase the range of penalties
22 assessed to violators. If all motor carriers comply with the
23 provisions of the statute and the rules there will be no
24 penalties assessed under these rules. There will be no adverse
25 economic effect on small businesses.

1

2 SUBMITTAL OF COMMENTS

3 Written comments on the proposed amendments to §18.1, §18.2,
4 §18.10, §18.11, §18.13, §18.14, §18.16, new §18.18, amendments
5 to §18.19, §18.31, §18.32, §18.70, §18.71, §18.72, and new
6 §18.73, §18.74, §18.75, and §18.76 may be submitted to Carol
7 Davis, Director, Motor Carrier Division, Texas Department of
8 Transportation, 125 East 11th Street, Austin, Texas 78701-2483.
9 The deadline for receipt of comments is 5:00 p.m. on January 28,
10 2008.

11

12 STATUTORY AUTHORITY

13 The amendments and new sections are proposed under
14 Transportation Code, §201.101, which provides the Texas
15 Transportation Commission with the authority to establish rules
16 for the conduct of the work of the department, and more
17 specifically Transportation Code, §643.003, which authorizes the
18 commission to adopt rules to administer Transportation Code,
19 Chapter 643 regarding motor carrier registration and
20 Transportation Code, §645.003 which requires the commission to
21 adopt rules to administer Transportation Code, Chapter 645
22 regarding the single state or the unified carrier registration
23 systems.

24

25 CROSS REFERENCE TO STATUTE

- 1 Transportation Code, Chapter 643, Transportation Code, Chapter
- 2 645, and 49 U.S.C. Section 14504a.

1 SUBCHAPTER A. GENERAL PROVISIONS

2 §18.1. Purpose. Transportation Code, Chapters 643, 645, and
3 646 [~~and Occupations Code, Chapter 2303,~~] require the department
4 to regulate motor carriers, leasing businesses, as defined in
5 §18.2 of this subchapter, and motor transportation brokers[~~, and~~
6 ~~vehicle storage facilities,~~] in order to protect the welfare of
7 the public and ensure fair treatment of consumers by household
8 goods carriers. The sections under this chapter prescribe the
9 policies and procedures for the regulation of motor carriers,
10 leasing businesses, and transportation brokers[~~, and vehicle~~
11 ~~storage facilities~~] by providing for insurance limits, the
12 issuance of motor carrier credentials, [~~the licensing of vehicle~~
13 ~~storage facilities, the filing of nonconsent towing fees~~
14 ~~schedules,~~] the filing of performance bonds for transportation
15 brokers, audit and record keeping functions, and enforcement.

16
17 §18.2. Definitions. The following words and terms, when used
18 in this chapter, shall have the following meanings, unless the
19 context clearly indicates otherwise.

20 (1) Approved association--A group of household goods
21 carriers, its agents, or both, that has an approved collective
22 ratemaking agreement on file with the department under §18.64 of
23 this chapter.

1 (2) Binding proposal--A formal written offer stating the
2 exact price for the transportation of specified household goods
3 and any related services.

4 (3) Certificate of insurance--A certificate prescribed by
5 and filed with the department in which an insurance carrier or
6 surety company warrants that a motor carrier for whom the
7 certificate is filed has the minimum coverage as required by
8 §18.16 and §18.86 of this chapter.

9 (4) Certificate of registration--A certificate issued by
10 the department to a motor carrier and containing a unique
11 number.

12 (5) Certified scale--Any scale designed for weighing
13 motor vehicles, including trailers or semitrailers not attached
14 to a tractor, and certified by an authorized scale inspection
15 and licensing authority. A certified scale may also be a
16 platform-type or warehouse-type scale properly inspected and
17 certified.

18 (6) Commercial motor vehicle--

19 (A) Includes:

20 (i) any motor vehicle or combination of vehicles with
21 a gross weight, registered weight, or gross weight rating in
22 excess of 26,000 pounds, that is designed or used for the
23 transportation of cargo in furtherance of any commercial

1 enterprise;

2 [~~(ii) all tow trucks, regardless of the gross weight~~
3 ~~rating of the tow truck;~~]

4 (ii) [~~(iii)~~] any vehicle, including buses, designed
5 or used to transport more than 15 passengers, including the
6 driver;

7 (iii) [~~(iv)~~] any vehicle used in the transportation
8 of hazardous materials in a quantity requiring placarding under
9 the regulations issued under the federal Hazardous Materials
10 Transportation Act (49 U.S.C. [~~USC~~] §§5101-5127);

11 (iv) [~~(v)~~] a commercial motor vehicle, as defined by
12 49 C.F.R. [~~CFR~~] §390.5, owned or controlled by a person or
13 entity that is domiciled in or a citizen of a country other than
14 the United States; and

15 (v) [~~(vi)~~] any vehicle transporting household goods
16 for compensation, regardless of the gross weight rating,
17 registered weight or gross weight.

18 (B) Does not include:

19 (i) a farm vehicle with a gross weight, registered
20 weight, and gross weight rating of less than 48,000 pounds;

21 (ii) cotton vehicles registered under Transportation
22 Code, §504.505;

23 (iii) a vehicle registered with the Railroad

1 Commission under Natural Resources Code, §113.131 and §116.072;

2 (iv) a vehicle transporting liquor under a private
3 carrier permit issued in accordance with Alcoholic Beverage
4 Code, Chapter 42;

5 (v) a motor vehicle used to transport passengers and
6 operated by an entity whose primary function is not the
7 transportation of passengers, such as a vehicle operated by a
8 hotel, day-care center, public or private school, nursing home,
9 or similar organization;

10 (vi) a motor vehicle registered under the Single
11 State Registration System established under 49 U.S.C. [USC]
12 §14504 when operating exclusively in interstate or international
13 commerce; ~~[and]~~

14 (vii) a vehicle operated by a governmental entity; ~~[-]~~

15 (viii) a motor vehicle exempt from registration by
16 the Unified Carrier Registration Act of 2005; and

17 (ix) a tow truck, as defined by Occupations Code,
18 §2308.002 and permitted under Occupations Code, Chapter 2308,
19 Subchapter C.

20 (7) Commercial school bus--A motor vehicle owned by a
21 motor carrier that is:

22 (A) registered under Transportation Code, Chapter 643,
23 Subchapter B;

1 (B) operated exclusively within the boundaries of a
2 municipality and used to transport preprimary, primary, or
3 secondary school students on a route between the students'
4 residences and a public, private, or parochial school or daycare
5 facility;

6 (C) operated by a person who holds a driver's license
7 or commercial driver's license of the appropriate class for the
8 operation of a school bus;

9 (D) complies with Transportation Code, Chapter 548; and

10 (E) complies with Transportation Code, §521.022.

11 (8) Commission--The Texas Transportation Commission.

12 [~~(9) Consent tow Any tow of a motor vehicle initiated by~~
13 ~~the owner or operator of the vehicle or by a person who has~~
14 ~~possession, custody, or control of the vehicle. The term does~~
15 ~~not include a tow of a motor vehicle initiated by a peace~~
16 ~~officer investigating a traffic accident or a traffic incident~~
17 ~~that involves the vehicle.]~~

18 (9) [~~(10)~~] Conspicuous--Written in a size, color, and
19 contrast so as to be readily noticed and understood.

20 (10) [~~(11)~~] Conversion--A change in an entity's
21 organization that is implemented with a Certificate of
22 Conversion issued by the Texas Secretary of State under Texas
23 Business Corporation Act, Article 5.18.

1 (11) [~~(12)~~] Department--Texas Department of
2 Transportation.

3 (12) [~~(13)~~] Director--The director of the Motor Carrier
4 Division, Texas Department of Transportation.

5 (13) [~~(14)~~] Division--The Motor Carrier Division.

6 (14) [~~(15)~~] DOI--Texas Department of Insurance.

7 (15) [~~(16)~~] Estimate--An informal oral calculation of the
8 approximate price of transporting household goods.

9 (16) [~~(17)~~] Farmer--A person who operates a farm or is
10 directly involved in cultivating land or in raising crops or
11 livestock that are owned by or are under the direct control of
12 that person.

13 (17) [~~(18)~~] Farm vehicle--Any vehicle or combination of
14 vehicles controlled or operated by a farmer or rancher being
15 used to transport agriculture products, farm machinery, and farm
16 supplies to or from a farm or ranch.

17 (18) [~~(19)~~] Gross weight rating--The maximum loaded
18 weight of any combination of truck, tractor, and trailer
19 equipment as specified by the manufacturer of the equipment. If
20 the manufacturer's rating is unknown, the gross weight rating is
21 the greater of:

22 (A) the actual weight of the equipment and its lading;
23 or

1 (B) the maximum lawful weight of the equipment and its
2 lading.

3 (19) [~~+20~~] Household goods--Personal property intended
4 ultimately to be used in a dwelling when the transportation of
5 that property is arranged and paid for by the householder or the
6 householder's representative. The term does not include
7 personal property to be used in a dwelling when the property is
8 transported from a manufacturing, retail, or similar company to
9 a dwelling if the transportation is arranged by a manufacturing,
10 retail, or similar company.

11 (20) [~~+21~~] Household goods agent--A motor carrier who
12 transports household goods on behalf of another motor carrier.

13 (21) [~~+22~~] Household goods carrier--A motor carrier who
14 transports household goods for compensation or hire in
15 furtherance of a commercial enterprise.

16 (22) [~~+23~~] Insurer--A person, including a surety,
17 authorized in this state to write lines of insurance coverage
18 required by Subchapter B and Subchapter G of this chapter.

19 (23) [~~+24~~] Inventory--A list of the items in a household
20 goods shipment and the condition of the items.

21 (24) [~~+25~~] Leasing business--A person that leases
22 vehicles requiring registration under Subchapter B of this
23 chapter to a motor carrier that must be registered.

1 (25) [~~+26~~] Manager--The manager of the department's
2 Motor Carrier Division, Motor Carrier Operations Section.

3 (26) [~~+27~~] Mediation--A non-adversarial form of
4 alternative dispute resolution in which an impartial person, the
5 mediator, facilitates communication between two parties to
6 promote reconciliation, settlement, or understanding.

7 (27) [~~+28~~] Motor Carrier or carrier--A person that
8 controls, operates, or directs the operation of one or more
9 vehicles that transport persons or cargo over a public highway
10 in this state.

11 (28) [~~+29~~] Motor transportation broker--A person who
12 sells, offers for sale, or negotiates for the transportation of
13 cargo by a motor carrier operated by another person or a person
14 who aids and abets another person in selling, offering for sale,
15 or negotiating for the transportation of cargo by a motor
16 carrier operated by another person.

17 (29) [~~+30~~] Moving services contract--A contract between
18 a household goods carrier and shipper, such as a bill of lading,
19 receipt, order for service, or work order, that sets out the
20 terms of the services to be provided.

21 (30) [~~+31~~] Multiple user--An individual or business who
22 has a contract with a household goods carrier and who used the
23 carrier's services more than 50 times within the preceding 12

1 months.

2 ~~[(32) Nonconsent tow Any tow of a motor vehicle that is~~
3 ~~not a consent tow.]~~

4 (31) ~~[(33)]~~ Not-to-exceed proposal--A formal written
5 offer stating the maximum price a shipper can be required to pay
6 for the transportation of specified household goods and any
7 related services. The offer may also state the non-binding
8 approximate price. Any offer based on hourly rates must state
9 the maximum number of hours required for the transportation and
10 related services unless there is an acknowledgment from the
11 shipper that the number of hours is not necessary.

12 (32) ~~[(34)]~~ Principal place of business--A single
13 location that serves as a motor carrier's headquarters and where
14 it maintains its operational records or can make them available.

15 (33) ~~[(35)]~~ Public highway--Any publicly owned and
16 maintained street, road, or highway in this state.

17 (34) ~~[(36)]~~ Reasonable dispatch--The performance of
18 transportation, other than transportation provided under
19 guaranteed service dates, during the period of time agreed on by
20 the carrier and the shipper and shown on the shipment
21 documentation. This definition does not affect the availability
22 to the carrier of the defense of force majeure.

23 (35) ~~[(37)]~~ Registration receipt--A receipt issued to the

1 registrant by its registration state after the requirements of
2 49 C.F.R. [~~CFR~~] Part 367 have been met.

3 (36) [~~+38~~] Registration state--A state where the
4 registrant maintains a valid single state registration as
5 defined in 49 C.F.R. [~~CFR~~] Part 367.

6 (37) [~~+39~~] Replacement vehicle--A vehicle that takes the
7 place of another vehicle that has been removed from service.

8 (38) [~~+40~~] Revocation--The withdrawal of registration
9 and privileges by the department or a registration state.

10 (39) [~~+41~~] Shipper--The owner of household goods or the
11 owner's representative.

12 (40) [~~+42~~] Short-term lease--A lease of 30 days or less.

13 (41) [~~+43~~] Single state registration system--The program
14 established by 49 U.S.C. [~~USE~~] §14504.

15 (42) [~~+44~~] SOAH--The State Office of Administrative
16 Hearings.

17 (43) [~~+45~~] State of travel--A state in which a motor
18 carrier operates motor vehicles subject to the single state
19 registration system.

20 (44) [~~+46~~] Substitute vehicle--A vehicle that is leased
21 from a leasing business and that is used as a temporary
22 replacement for a vehicle that has been taken out of service for
23 maintenance, repair, or any other reason causing the temporary

1 unavailability of the permanent vehicle.

2 (45) [~~(47)~~] Suspension--Temporary removal of privileges
3 granted to a registrant by the department or a registration
4 state.

5 (46) Unified carrier registration system--A motor vehicle
6 registration system established under 49 U.S.C. §14504a or a
7 successor federal registration program.

8 [~~(48) Towing company A motor carrier that transports~~
9 ~~vehicles using a tow truck.~~]

10 [~~(49) Tow The utilization of a mechanical device used to~~
11 ~~winch or otherwise move another vehicle.~~]

12 [~~(50) Tow truck A motor vehicle equipped with or used in~~
13 ~~combination with a mechanical device used to tow, winch, or~~
14 ~~otherwise move another vehicle. The following motor vehicles~~
15 ~~are not considered tow trucks:~~]

16 [~~(A) a motor vehicle owned and used exclusively by a~~
17 ~~governmental entity, including a public school district;~~]

18 [~~(B) a motor vehicle towing;~~]

19 [~~(i) a race car;~~]

20 [~~(ii) a motor vehicle for exhibition; or~~]

21 [~~(iii) an antique motor vehicle;~~]

22 [~~(C) a recreational vehicle towing another vehicle;~~]

23 [~~(D) a motor vehicle used in combination with a tow~~

1 ~~bar, tow dolly, or other mechanical device if the vehicle is not~~
2 ~~operated in the furtherance of a commercial enterprise; or]~~
3 ~~[(E) a motor vehicle that is controlled or operated by~~
4 ~~a farmer or rancher and that is used for towing a farm vehicle.]~~

1 SUBCHAPTER B. MOTOR CARRIER REGISTRATION

2 §18.10. Purpose. Transportation Code, Chapter 643, provides
3 that a motor carrier may not operate a commercial motor vehicle
4 [~~or a tow truck~~] or transport household goods on a for-hire
5 basis on a road or highway of this state unless the carrier
6 registers with the department or is exempt from registration
7 under Transportation Code, §643.002. This subchapter prescribes
8 the procedures by which a motor carrier, leasing business, or
9 for-hire transporter of household goods may register, sets out
10 minimum insurance requirements and minimum workers' compensation
11 or accident insurance requirements, and prescribes procedures
12 for registering as a motor carrier under the single state
13 registration system.

14
15 §18.11. Motor Carrier Registration.

16 (a) A motor carrier may not operate a commercial motor
17 vehicle [~~or tow truck~~] upon the public streets and highways of
18 this state without first obtaining a certificate of registration
19 issued by the department as prescribed in this subchapter.

20 (b) A household goods carrier may not operate upon the
21 public streets and highways of this state without first
22 obtaining a certificate of registration issued by the department
23 as prescribed in this subchapter.

1

2 §18.13. Application for Motor Carrier Registration.

3 (a) Form of application. An application for motor carrier
4 registration must be filed with the department's Motor Carrier
5 Division and must be in the form prescribed by the director and
6 must contain, at a minimum, the following information.

7 (1) Business or trade name. The applicant must designate
8 the business or trade name of the motor carrier.

9 (2) Owner name. If the motor carrier is a sole
10 proprietorship, the owner must indicate the name and social
11 security number of the owner. A partnership must indicate the
12 partners' names, and a corporation must indicate principal
13 officers and titles.

14 (3) Principal place of business. A motor carrier must
15 disclose the motor carrier's principal business address. If the
16 mailing address is different from the principal business
17 address, the mailing address must also be disclosed.

18 (4) Legal Agent.

19 (A) A Texas-domiciled motor carrier must provide the
20 name and address of a legal agent for service of process if the
21 agent is different from the motor carrier.

22 (B) A motor carrier domiciled outside Texas must
23 provide the name and Texas address of the legal agent for

1 service of process.

2 (C) A legal agent for service of process shall be a
3 Texas resident, a domestic corporation, or a foreign corporation
4 authorized to transact business in Texas with a Texas address
5 for service of process.

6 (5) Description of vehicles. An application must include
7 a motor carrier equipment report identifying each commercial
8 motor vehicle that requires registration and that the carrier
9 proposes to operate. Each commercial motor vehicle must be
10 identified by its motor vehicle identification number, make,
11 model year, and type of cargo and by the unit number assigned to
12 the commercial motor vehicle by the motor carrier. Any
13 subsequent registration of vehicles must be made under
14 subsection (e) of this section.

15 (6) Type of motor carrier operations. An applicant must
16 state if the applicant:

17 (A) proposes to transport passengers, household goods,
18 or hazardous materials; or

19 [~~(B) is a tow truck company that performs nonconsent~~
20 ~~tows; or~~]

21 (B) [~~(C)~~] is domiciled in a foreign country.

22 (7) Insurance coverage. An applicant must indicate
23 insurance coverage as required by §18.16 of this subchapter.

1 (8) Safety affidavit. Each motor carrier must complete,
2 as part of the application, an affidavit stating that the motor
3 carrier knows and will conduct operations in accordance with all
4 federal and state safety regulations.

5 (9) Drug-testing certification. Each motor carrier must
6 certify, as part of the application, that the motor carrier is
7 in compliance with the drug-testing requirements of 49 C.F.R.
8 Part 382.

9 (A) Drug-testing consortium participants. If the motor
10 carrier belongs to a consortium, as defined by 49 C.F.R. Part
11 382, the applicant must provide the names of the persons
12 operating the consortium.

13 (B) Report of positive result. A motor carrier
14 required to register under this section shall report to the
15 Department of Public Safety, in the manner required by the
16 Department of Public Safety, a valid positive result on a
17 controlled substances test performed as part of the carrier's
18 drug testing program on an employee of the carrier who holds a
19 commercial driver's license under Transportation Code, Chapter
20 522. The term "employee" as used in this subparagraph includes
21 all employees as defined in 49 C.F.R. [~~CFR~~] §40.3.

22 (10) Duration of registration. An applicant must
23 indicate the duration of the desired registration. Registration

1 may be for seven calendar days or for 90 days, one year, or two
2 years. The duration of registration chosen by the applicant
3 will be applied to all vehicles. Household goods carriers may
4 not obtain seven day or 90 day certificates of registration.

5 (11) Additional requirements. The following fees and
6 information must be submitted with all applications.

7 (A) An application must be accompanied by an
8 application fee of:

9 (i) \$100 for annual and biennial registrations;

10 (ii) \$25 for 90 day registrations; or

11 (iii) \$5 for seven day registrations.

12 (B) An application must be accompanied by a vehicle
13 registration fee of:

14 (i) \$10 for each vehicle [~~, other than a tow truck,~~
15 ~~requiring registration or \$25 for each tow truck~~] that the motor
16 carrier proposes to operate under a seven day, 90 day, or annual
17 registration; or

18 (ii) \$20 for each vehicle [~~, other than a tow truck,~~
19 ~~requiring registration or \$50 for each tow truck~~] that the motor
20 carrier proposes to operate under a biennial registration.

21 (C) An application must be accompanied by proof of
22 insurance or financial responsibility and insurance filing fee
23 as required by §18.16 of this subchapter.

1 (D) An application must be accompanied by any other
2 information required by law.

3 (12) Application of fees. Applicants who have paid
4 vehicle fees under §18.17 of this subchapter may request that
5 the department apply those fees to the carrier's motor carrier
6 registration. The request must be accompanied by a copy of the
7 Single State Registration receipt. On review of the Single
8 State Registration receipt, the department will apply fees paid
9 under the Single State Registration System as follows.

10 (A) The per vehicle fees paid by the applicant will be
11 applied on a per vehicle basis toward the vehicle fees that the
12 applicant owes for the vehicles registered under motor carrier
13 registration.

14 (B) Vehicle fees will be applied only to the first year
15 of registration if an applicant applies for a biennial motor
16 carrier registration. The motor carrier must pay all vehicle
17 fees for the second year.

18 (b) Incomplete applications. The director will return an
19 application to the applicant if it is not accompanied by all
20 fees and by proof of insurance or financial responsibility.

21 (c) Conditional acceptance of application. The director
22 may conditionally accept an application if it is accompanied by
23 all fees and by proof of insurance or financial responsibility,

1 but is not accompanied by all required information. Conditional
2 acceptance in no way constitutes approval of the application.
3 The director will notify the applicant of any information
4 necessary to complete the application. If the applicant does
5 not supply all necessary information within 45 days from
6 notification by the director, the application will be considered
7 withdrawn and all fees will be retained.

8 (d) Disposition of application.

9 (1) Approval. An applicant meeting the requirements of
10 this section and whose registration is approved will be issued
11 the following documents.

12 (A) Certificate of registration. The department will
13 issue a certificate of registration. The certificate of
14 registration will contain the name and address of the motor
15 carrier and a single registration number, regardless of the
16 number of vehicles requiring registration that the carrier
17 operates.

18 (B) Insurance cab card. The department will issue an
19 original insurance cab card listing all vehicles to be operated
20 under the carrier's certificate of registration. The insurance
21 cab card shall be continuously maintained at the registrant's
22 principal place of business. The insurance cab card will be
23 valid for the same period as the motor carrier's certificate of

1 registration and will contain information regarding each vehicle
2 registered by the motor carrier.

3 (i) A copy of the page of the insurance cab card on
4 which the vehicle is shown shall be maintained in each vehicle
5 listed. The appropriate information concerning that vehicle
6 shall be highlighted. The insurance cab card will serve as
7 proof of insurance as long as the motor carrier has continuous
8 insurance or financial responsibility on file with the
9 department.

10 (ii) On demand by a department-certified inspector or
11 any other authorized government personnel, the driver shall
12 present the highlighted page of the insurance cab card that is
13 maintained in the vehicle.

14 (iii) The carrier shall notify the department in
15 writing if it discontinues use of a registered commercial motor
16 vehicle before the expiration of its insurance cab card.

17 (iv) Any erasure, alteration, or unauthorized use of
18 an insurance cab card renders it void.

19 (v) If an original insurance cab card is lost,
20 stolen, destroyed, or mutilated, if it becomes illegible, or if
21 it otherwise requires replacement, a new insurance cab card will
22 be issued by the department at the request of the motor carrier.

23 (vi) Registration listings previously issued by the

1 department will remain valid until expiration or renewal or
2 until revoked or suspended by the department.

3 (2) Denial. The department may deny a registration if
4 the applicant had a registration revoked under §18.72 of this
5 chapter.

6 (e) Additional and Replacement Vehicles. A motor carrier
7 required to obtain a certificate of registration under this
8 section shall not operate additional vehicles unless the carrier
9 identifies the vehicles on a form prescribed by the director and
10 pays applicable fees as described in this subsection.

11 (1) Additional vehicles. To add a vehicle, a motor
12 carrier must pay a fee of \$10 for each additional vehicle[~~—~~
13 ~~other than a tow truck, or \$25 for each tow truck~~] that the
14 motor carrier proposes to operate under a seven day, 90 day, or
15 annual registration. To add a vehicle during the first year of
16 a biennial registration, a motor carrier must pay a fee of \$20
17 for each vehicle[~~—, other than a tow truck, or \$50 for each tow~~
18 ~~truck~~]. To add a vehicle during the second year of a biennial
19 registration, a motor carrier must pay a fee of \$10 for each
20 vehicle[~~—, other than a tow truck, or \$25 for each tow truck~~].

21 (2) Replacement vehicles. No fee is required for a
22 vehicle that is replacing a vehicle for which the fee was
23 previously paid. Before the replacement vehicle is put into

1 operation, the motor carrier shall notify the department,
2 identify the vehicle being taken out of service, and identify
3 the replacement vehicle on a form prescribed by the department.
4 A motor carrier registered under seven day registration may not
5 replace vehicles.

6 (3) Fees paid under the Single State Registration System.
7 Vehicle fees paid under §18.17 of this subchapter will be
8 applied toward a motor carrier's vehicle fees under subsection
9 (a)(12) of this section.

10 (f) Supplement to original application. A motor carrier
11 required to register under this section shall submit a
12 supplemental application under the following circumstances.

13 (1) Change of cargo. A registered motor carrier may not
14 begin transporting household goods or hazardous materials[~~, or~~
15 ~~performing nonconsent tows,~~] unless the carrier submits a
16 supplemental application to the department and shows the
17 department evidence of insurance or financial responsibility in
18 the amounts specified by §18.16 of this subchapter.

19 (2) Change of name. A motor carrier that changes its
20 name shall file a supplemental application for registration no
21 later than the effective date of the change. The motor carrier
22 shall include evidence of insurance or financial responsibility
23 in the new name and in the amounts specified by §18.16 of this

1 subchapter. A motor carrier that is a corporation must have its
2 name change approved by the Texas Secretary of State before
3 filing a supplemental application. A motor carrier incorporated
4 outside the state of Texas must complete the name change under
5 the law of its state of incorporation before filing a
6 supplemental application.

7 (3) Change of address or legal agent for service of
8 process. A motor carrier shall file a supplemental application
9 for any change of address or any change of its legal agent for
10 service of process no later than the effective date of the
11 change. The address most recently filed will be presumed
12 conclusively to be the current address.

13 (4) Change in principal officers and titles. A motor
14 carrier that is a corporation shall file a supplemental
15 application for any change in the principal officers and titles
16 no later than the effective date of the change.

17 (5) Conversion of corporate structure. A motor carrier
18 that has successfully completed a corporate conversion involving
19 a change in the name of the corporation shall file a
20 supplemental application for registration and evidence of
21 insurance or financial responsibility reflecting the new company
22 name. The conversion must be approved by the Texas Secretary of
23 State before the supplemental application is filed.

1 (6) Change in drug-testing consortium status. A motor
2 carrier that changes consortium status shall file a supplemental
3 application that includes the names of the persons operating the
4 consortium.

5 (7) Retaining a revoked or suspended certificate of
6 registration number. A motor carrier may retain a prior
7 certificate of registration number by:

8 (A) filing a supplemental application to re-register
9 instead of filing an original application; and

10 (B) providing adequate evidence that the carrier has
11 satisfactorily resolved the facts that gave rise to the
12 suspension or revocation.

13 (g) Change of ownership. A motor carrier must file an
14 original application for registration when there is a corporate
15 merger or a change in the ownership of a sole proprietorship or
16 of a partnership.

17 (h) Alternative vehicle registration for household goods
18 agents. To avoid multiple registrations of a commercial motor
19 vehicle, a household goods agent's vehicles may be registered
20 under the motor carrier's certificate of registration under this
21 subsection.

22 (1) The carrier must notify the department on a form
23 approved by the director of its intent to register its agent's

1 vehicles under this subsection.

2 (2) When a carrier registers vehicles under this
3 subsection, the carrier's certificate will include all vehicles
4 registered under its agent's certificates of registration. The
5 carrier must register under its certificate of registration all
6 vehicles operated on its behalf that do not appear on its
7 agent's certificate of registration.

8 (3) The department may send the carrier a copy of any
9 notification sent to the agent concerning circumstances that
10 could lead to denial, suspension, or revocation of the agent's
11 certificate.

12 (i) Substitute vehicles leased from leasing businesses. A
13 registered motor carrier is not required to comply with the
14 provisions of subsection (e) of this section for a substitute
15 vehicle leased from a business registered under §18.19 of this
16 subchapter. A motor carrier is not required to carry proof of
17 registration as described in subsection (d) of this section if a
18 copy of the lease agreement for the originally leased vehicle is
19 carried in the cab of the temporary replacement vehicle.

20

21 §18.14. Expiration and Renewal of Commercial Motor Vehicle
22 Registration.

23 (a) Expiration and renewal dates.

1 (1) A motor carrier with annual or biennial registration
2 will be assigned a date for the expiration and renewal of its
3 motor carrier registration according to the last digit of the
4 carrier's certificate of registration number, as outlined in the
5 following chart:

6 Figure 1: 43 TAC §18.14(a)(1)

If the last digit is: Registration must be renewed
before the first day of:

1	January
2	February
3	March
4	April
5	May
6	June
7	July
8	October
9	November
0	December

7

8 (2) 90 day certificates of registration are valid for 90
9 calendar days from the effective date.

10 (3) Seven day certificates of registration are valid for
11 seven calendar days from the effective date.

1 (b) Registration renewal.

2 (1) Approximately 60 days before the expiration of
3 registration, the department will mail or send electronically a
4 renewal notice to each registered motor carrier with annual or
5 biennial registration. The notice will be mailed to the
6 carrier's last known address according to the division's
7 records. Failure to receive the notice does not relieve the
8 registrant of the responsibility to renew. A motor carrier must
9 ensure that the department receives the renewal at least 15 days
10 prior to the renewal date specified in subsection (a) of this
11 section. A supplement to an application for motor carrier
12 registration renewal must:

13 (A) supply any new information required under §18.13(f)
14 of this subchapter if the information has not previously been
15 supplied to the department;

16 (B) include a \$10 fee for each vehicle[~~, other than a~~
17 ~~tow truck, requiring registration or \$25 for each tow truck]~~
18 that the carrier operates under an annual certificate of
19 registration and a \$20 fee for each vehicle[~~, other than a tow~~
20 ~~truck, requiring registration or \$50 for each tow truck]~~ that
21 the carrier operates under a biennial certificate of
22 registration; and

23 (C) include a copy of the Single State Registration

1 receipt when requesting that vehicle fees paid under §18.17 of
2 this subchapter be applied toward the fees specified by this
3 subsection.

4 (2) Seven day and 90 day registrations may not be
5 renewed.

6 (3) A motor carrier shall maintain continuous insurance
7 or evidence of financial responsibility in an amount at least
8 equal to the amount prescribed under §18.16 of this subchapter.

9 (4) The insurance cab card issued to a motor carrier is
10 valid for the same period as the motor carrier's certificate of
11 registration.

12 (5) To renew registration after it has expired, a motor
13 carrier must identify its vehicles on a form prescribed by the
14 director, pay all vehicle fees, and if current proof of
15 insurance is not on file with the division, meet all insurance
16 requirements.

17 (c) Interstate motor carrier operating in intrastate
18 commerce.

19 (1) An interstate motor carrier registered under §18.18
20 of this chapter is not required to renew a certificate of
21 registration issued under §18.11 of this chapter except when the
22 motor carrier is operating commercial motor vehicles as a

23 (A) charter bus carrier;

1 (B) for-hire household goods carrier; or
2 (C) recyclable materials or waste carrier.
3 (2) If a motor carrier that registered under §18.18 of
4 this chapter does not maintain continuous motor carrier
5 registration under §18.11 of this chapter, the motor carrier
6 must file an application under §18.13 of this chapter to operate
7 on public streets and highways in this state.

8
9 §18.16. Insurance Requirements.

10 (a) Automobile liability insurance requirements. A motor
11 carrier must file proof of commercial automobile liability
12 insurance with the department on a form acceptable to the
13 director for each vehicle required to be registered under this
14 subchapter. The motor carrier must carry and maintain
15 automobile liability insurance that is combined single limit
16 liability for bodily injury to or death of an individual per
17 occurrence, loss or damage to property (excluding cargo) per
18 occurrence, or both. Extraneous information will not be
19 considered acceptable, and the department may reject proof of
20 commercial automobile liability insurance if it is provided in a
21 format that includes information beyond what is required.

22 Minimum insurance levels are indicated in the following table.
23 Figure: 43 TAC §18.16(a)

Type of Vehicle	Minimum Insurance Level
1. <u>Household</u> [Tow trucks and household] goods carriers (gross vehicle weight less than 26,000 lbs.).	\$ 300,000
2. Buses designed or used to transport more than 15 passengers (including the driver), but fewer than 26 passengers (not including the driver).	\$ 500,000
3. Commercial motor vehicles which are buses with a seating capacity of 15 passengers or fewer (including the driver) operated by a foreign motor carrier and foreign motor private carrier as defined in 49 U.S.C. [USE] §13102.	\$1,500,000
4. Buses designed or used to transport 26 passengers or more (not including the driver).	\$5,000,000
5. Commercial school buses, regardless of the passenger capacity as described in Transportation Code, §643.1015.	\$500,000
6. Commercial motor vehicles that are buses with a seating capacity of 16 passengers or more (including the driver) operated by a foreign motor carrier or foreign motor private carrier as defined in 49 U.S.C. [USE] §13102.	\$5,000,000
7. Farm trucks (gross vehicle weight 48,000 lbs. or more).	\$ 500,000
8. Commercial motor vehicles (gross vehicle weight in excess of 26,000 lbs.) [, including tow trucks].	\$ 500,000
9. Commercial motor vehicles, as defined in 49 C.F.R. [CFR] §390.5, operated by a foreign motor carrier or foreign motor private carrier as defined in 49 U.S.C. [USE] §13102.	\$ 750,000
10. Commercial motor vehicles - Oil listed in 49 C.F.R. [CFR] §172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 C.F.R. [CFR] §171.8 and listed in 49 C.F.R. [CFR] §172.101, but not mentioned in item 10 of this table.	\$1,000,000
11. Commercial motor vehicles - Hazardous substances, as defined in 49 C.F.R. [CFR] §171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities	\$5,000,000

NOTE: Additions underlined
Deletions in []
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Exhibit C

Type of Vehicle	Minimum Insurance Level
in excess of 3,500 water gallons; or any quantity of Division 1.1, 1.2, and 1.3 materials, any quantity of Division 2.3, Hazard Zone A material; in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in 49 <u>C.F.R.</u> [CFR] §173.403.	

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(b) Cargo insurance.

~~[(1)]~~ Household goods carriers shall file and maintain with the department proof of financial responsibility.

(1) [~~(A)~~] The minimum limits of financial responsibility for a household goods carrier for hire is \$5,000 for loss or damage to a single shipper's cargo carried on any one motor vehicle.

(2) [~~(B)~~] The minimum limits of financial responsibility for a household goods carrier for hire is \$10,000 for aggregate loss or damage to multiple shipper cargo carried on any one motor vehicle. In cases in which multiple shippers sustain damage and the aggregate amount of cargo damage is greater than the cargo insurance in force, the insurance company shall prorate the benefits among the shippers in relationship to the damage incurred by each shipper.

~~[(2) Tow truck company performing nonconsent tows. A tow~~

1 ~~truck company that performs nonconsent tows shall file and~~
2 ~~maintain with the department proof of financial responsibility~~
3 ~~for on-hook cargo. The minimum level of financial~~
4 ~~responsibility for each registered vehicle performing nonconsent~~
5 ~~tows will be in the amount of at least \$50,000.]~~

6 (c) Workers' compensation or accidental insurance coverage.

7 (1) A motor carrier that is required to register under
8 this subchapter and whose primary business is transportation for
9 compensation or hire between two or more incorporated cities,
10 towns, or villages shall provide workers' compensation for all
11 its employees or accidental insurance coverage in the amounts
12 prescribed in paragraph (2) of this subsection.

13 (2) Accidental insurance coverage required by paragraph
14 (1) of this subsection shall be at least in the following
15 amounts:

16 (A) \$300,000 for medical expenses and coverage for at
17 least 104 weeks;

18 (B) \$100,000 for accidental death and dismemberment,
19 including 70% of employee's pre-injury income for not less than
20 104 weeks when compensating for loss of income; and

21 (C) \$500 for the maximum weekly benefit.

22 (d) Qualification of motor carrier as self-insured.

23 (1) General qualifications. A motor carrier may meet the

1 insurance requirements of subsections (a) and (b) of this
2 section by filing an application, in a form prescribed by the
3 department, to qualify as a self-insured. The application must
4 include a true and accurate statement of the motor carrier's
5 financial condition and other evidence that establishes its
6 ability to satisfy obligations for bodily injury and property
7 damage liability without affecting the stability or permanency
8 of its business. The department may accept United States
9 Department of Transportation evidence of the motor carrier's
10 qualifications as a self-insured.

11 (2) Adopted final orders. The department adopts all
12 final orders of the Railroad Commission of Texas to the extent
13 that they concern self-insurance and were in effect on August
14 31, 1995. Those final orders are continued in effect until
15 changed by order of the department.

16 (3) Applicant guidelines. In addition to filing an
17 application as prescribed by the department, an applicant for
18 self-insured status must submit materials that will allow the
19 department to determine the following information.

20 (A) Applicant's net worth. An applicant's net worth
21 must be adequate in relation to the size of its operations and
22 the extent of its request for self-insurance authority. The
23 applicant must demonstrate that it can and will maintain an

1 adequate net worth.

2 (B) Self-insurance program. An applicant must
3 demonstrate that it has established and will maintain a sound
4 insurance program that will protect the public against all
5 claims involving motor vehicles to the same extent as the
6 minimum security limits applicable under this section. In
7 determining whether an applicant is maintaining a sound
8 insurance program, the department will consider:

9 (i) reserves;

10 (ii) sinking funds;

11 (iii) third-party financial guarantees;

12 (iv) parent company or affiliate sureties;

13 (v) excess insurance coverage; and

14 (vi) other appropriate aspects of the applicant's
15 program.

16 (C) Safety program. An applicant must submit evidence
17 of substantial compliance with the Federal Motor Carrier Safety
18 Regulations as adopted by the Texas Department of Public Safety
19 and with Transportation Code, Chapter 644.

20 (4) Other securities or agreements. The department may
21 accept an application for approval of a security or agreement if
22 satisfied that the security or agreement offered will adequately
23 protect the public.

1 (5) Periodic reports. An applicant shall file annual
2 statements, semi-annual and quarterly reports, and any other
3 reports required by the department reflecting the applicant's
4 financial condition and the status of its self-insurance program
5 while the motor carrier is self-insured.

6 (6) Duration of self-insured status. The department may
7 approve an applicant as a self-insured for any specific time or
8 for an indefinite time.

9 (7) Revocation of self-insured status. On receiving
10 evidence that a self-insured motor carrier's financial condition
11 has changed, that its safety program or record is inadequate, or
12 that it is otherwise not in compliance with this subchapter, the
13 department may at any time require the self-insured to provide
14 additional information. On 10 days notice from the department,
15 the self-insured shall appear and demonstrate that it continues
16 to have adequate financial resources to pay all claims involving
17 motor vehicles for bodily injury and property damage liability.
18 The self-insured shall also demonstrate that it remains in
19 compliance with the requirements of this section and of any
20 active self-insurance orders issued or adopted by the
21 department. If an applicant fails to comply with this
22 paragraph, its self-insured status may be revoked.

23 (8) Appeal. An applicant may appeal a denial or

1 revocation of self-insurance status by filing a petition for an
2 administrative hearing in accordance with §§1.21 et seq. of this
3 title (relating to Procedures in Contested Cases).

4 (e) Filing proof of insurance with the department.

5 (1) Forms.

6 (A) A motor carrier shall file and maintain proof of
7 automobile liability insurance for all vehicles required to be
8 registered under this subchapter at all times. This proof shall
9 be filed on a form acceptable to the director.

10 (B) A household goods carrier shall file and maintain
11 proof of cargo insurance for its cargo at all times. This proof
12 shall be on a form acceptable to the director.

13 [~~(C) A tow truck company that performs nonconsent tows
14 shall file and maintain with the department proof of on hook
15 cargo insurance for all nonconsent tows. This proof shall be on
16 a form acceptable to the director.]~~

17 (2) Filing proof of insurance and financial
18 responsibility. A motor carrier's insurance or surety company,
19 bank, or other financial institution shall file and maintain
20 proof of insurance or financial responsibility on a form
21 acceptable to the director:

22 (A) at the time of the original application for motor
23 carrier certificate of registration;

1 (B) on or before the cancellation date of the insurance
2 coverage as described in subsection (f) of this section;

3 (C) when the motor carrier changes insurers;

4 (D) when the motor carrier asks to retain the
5 certificate number of a revoked certificate of registration;

6 (E) when the motor carrier changes its name under
7 §18.13(f)(2) of this subchapter;

8 (F) when the motor carrier, under subsection (a) of
9 this section, changes the classification of the cargo being
10 transported; and

11 (G) when replacing another active insurance filing.

12 (3) Filing fee. Each certificate of insurance or proof
13 of financial responsibility filed with the department for the
14 coverage required under this section shall be accompanied by a
15 nonrefundable filing fee of \$100. This fee applies both when
16 the carrier submits an original application and when the carrier
17 submits a supplemental application when retaining a revoked
18 certificate of registration number.

19 (4) Acceptable filings. The department will not accept
20 an insurance policy or certificate of insurance unless it is
21 issued by an insurance company licensed and authorized to do
22 business in the state of Texas. It must be in a form prescribed
23 or approved by the DOI and signed or countersigned by an

1 authorized agent of the insurance company. The department will
2 accept a certificate of insurance issued by a surplus lines
3 insurer that meets the requirements of Insurance Code, §981.101,
4 and rules adopted by the DOI under that chapter.

5 (f) Cancellation of insurance coverage. Except when
6 replaced by another acceptable form of insurance coverage or
7 proof of financial responsibility approved by the department, no
8 insurance coverage shall be canceled or withdrawn until 30 days
9 after notice has been given to the department by the insurance
10 company in a form approved by the department. Nonetheless,
11 proof of insurance coverage for a seven day or 90 day
12 certificate of registration may be canceled by the insurance
13 company without 30 days notice if the certificate of
14 registration is expired, suspended, or revoked, and the
15 insurance company provides a cancellation date on the proof of
16 insurance coverage. The department will revoke a certificate of
17 registration under §18.72 of this chapter for failure to
18 maintain proof of current insurance.

19 (g) Replacement insurance filing. The department will
20 consider a new insurance filing as the current record of
21 financial responsibility required by this section if:

22 (1) the new insurance filing is received by the
23 department; and

1 (2) a cancellation notice has not been received for
2 previous insurance filings.

3 (h) Insolvency of insurance carrier. If the insurer of a
4 motor carrier becomes insolvent or becomes involved in a
5 receivership or other insolvency proceeding, the motor carrier
6 must file an affidavit with the department. The affidavit must
7 be executed by an owner, partner, or officer of the motor
8 carrier and show that:

9 (1) no accidents have occurred and no claims have arisen
10 during the insolvency of the insurance carrier; or

11 (2) all claims have been satisfied.

12 (i) Notifications. The department shall notify the Texas
13 Department of Public Safety and other law enforcement agencies
14 of each motor carrier whose certificate of registration has been
15 revoked for failing to maintain liability insurance coverage.

16

17 §18.18. Unified Carrier Registration System.

18 (a) The State of Texas, through the department, shall
19 participate in the federal motor carrier registration program
20 under the Unified Carrier Registration system as defined in
21 §18.2(46) of this rule.

22 (b) An interstate carrier operating in Texas must register
23 and comply with provisions of the Unified Carrier Registration

1 System as required by 49 U.S.C. 14504(a).

2

3 §18.19. Short-term Lease and Substitute Vehicles.

4 (a) Registration. A short-term lease vehicle registered
5 under this section is exempt from the registration requirements
6 described in §18.13 of this subchapter while leased to a
7 registered motor carrier.

8 (1) Application. A leasing business registering vehicles
9 under this section shall file an application on a form
10 prescribed by the director.

11 (2) Annual Report. The operation of a short-term lease
12 vehicle shall be reported to the department on a form prescribed
13 by the director not later than April 1 of each calendar year for
14 the previous calendar year's operations. The report must
15 identify the number of short-term lease vehicles that would
16 otherwise be subject to the registration requirements of this
17 subchapter.

18 (3) Fees. An annual registration fee of \$10 per vehicle
19 [~~other than a tow truck, or \$25 for each tow truck~~] operated
20 must be paid at the time the report is filed under paragraph (2)
21 of this subsection.

22 (4) Cancellation, Expiration, and Revocation.

23 (A) A leasing business must make a written request for

1 cancellation of registration.

2 (B) A leasing business registration expires on April 30
3 of each year unless the leasing business reports by April 1 the
4 actual number of vehicles requiring registration operated in the
5 previous calendar year.

6 (C) The department may suspend or revoke a leasing
7 business registration under §18.72 of this chapter.

8 (b) Proof of contingency liability insurance. A leasing
9 business registering a vehicle under this section must file and
10 maintain proof of liability insurance on a form prescribed by
11 the director as required by §18.16 of this subchapter.

12 (1) Filings. A leasing business shall file proof of
13 insurance at the time of its initial registration and whenever
14 it changes insurance carriers in accordance with §18.16 of this
15 subchapter.

16 (2) Filing fee. Each proof of insurance filing under
17 this section shall be accompanied by a nonrefundable \$100 filing
18 fee.

19 (3) Cancellation of insurance coverage. Any cancellation
20 of insurance filed under this section must comply with the
21 requirements set out in §18.16 of this subchapter.

22 (c) Substitute vehicles. A registered motor carrier is not
23 required to comply with the provisions of §18.13(e) of this

1 subchapter for a vehicle that is leased from a leasing business
2 and that is used as a temporary replacement for a vehicle that
3 has been taken out of service for maintenance, repair, or any
4 other reason causing the temporary unavailability of the
5 permanent vehicle.

6 (d) Identification. A registered motor carrier is not
7 required to carry proof of registration, as required by
8 §18.13(d)(1)(B) of this subchapter, in a vehicle leased from a
9 registered leasing business. A copy of the lease agreement or
10 of the lease for the originally leased vehicle, in the case of a
11 temporary replacement vehicle, must be carried in the cab of the
12 vehicle.

1 SUBCHAPTER C. RECORDS AND INSPECTIONS

2 §18.31. Investigations and Inspections of Motor Carrier
3 Records.

4 (a) Certification of inspectors. In accordance with
5 Transportation Code, Chapter 643, the executive director or
6 designee will designate department employees as certified
7 inspectors for the purpose of entering the premises of a motor
8 carrier to copy or verify documents required by this section to
9 be maintained by the motor carrier. The executive director or
10 designee shall provide credentials to certified inspectors
11 identifying them as department certified inspectors.

12 (b) Inspections.

13 (1) A motor carrier shall admit a certified inspector
14 access to the carrier's premises to conduct inspections or
15 investigations of alleged violations of this chapter,
16 Transportation Code, Chapters [~~Chapter~~] 643 and 645 [~~7~~
17 ~~Subchapters B, C, D, and E~~]. The motor carrier shall provide
18 adequate work space with reasonable working conditions, and
19 allow the certified inspector to copy and verify records and
20 documents required to be maintained by the carrier under §18.32
21 of this subchapter.

22 (2) The certified inspector may conduct inspections and
23 investigations during normal business hours unless mutual

1 arrangements have been made otherwise.

2 (3) The certified inspector will present his or her
3 credentials and a written statement from the department to the
4 motor carrier indicating the inspector's authority to inspect
5 and investigate the motor carrier.

6 (c) Access. A motor carrier shall provide access to
7 requested records and documents at:

8 (1) the motor carrier's principal place of business; or

9 (2) a location agreed to by the department and the motor
10 carrier.

11 (d) Designation of meeting time. If the motor carrier's
12 normal business hours do not provide the access necessary for
13 the investigator to conduct the investigation and the parties
14 cannot reach an agreement as to a time to meet to access the
15 records, the department shall designate the time of the meeting
16 by certified mail or facsimile.

17

18 §18.32. Motor Carrier Records.

19 (a) General records to be maintained. Every motor carrier
20 shall prepare and maintain at its principal place of business in
21 Texas:

22 (1) operational logs, insurance certificates, [~~and~~]
23 documents to verify the carrier's operations, and proof of

1 registration fee payments;

2 (2) complete and accurate records of services performed;

3 (3) all certificate of title documents, weight tickets,
4 permits for oversize or overweight vehicles and loads, dispatch
5 records, [~~low tickets,~~] or any other document that would verify
6 the operations of the vehicle to determine the actual weight,
7 insurance coverage, size, and/or capacity of the vehicle; and

8 [~~(4) documents supporting fee payments and the original~~
9 ~~registration receipts issued by the department for an interstate~~
10 ~~carrier registered under §18.17 of this chapter (relating to~~
11 ~~Single State Registration System), for a period of at least~~
12 ~~three years; and]~~

13 (4) [~~(5)~~] the original certificate of registration and
14 registration listing, if applicable.

15 (b) Additional records for household goods carriers. In
16 order to verify compliance with Subchapters B and E of this
17 chapter, every household goods carrier shall retain complete and
18 accurate records maintained in accordance with reasonable
19 accounting procedures of all services performed in intrastate
20 commerce. Household goods carriers shall retain all of the
21 following information and documents:

22 (1) moving services contracts, such as, bills of lading
23 or receipts;

- 1 (2) proposals for moving services;
- 2 (3) inventories, if applicable;
- 3 (4) freight bills;
- 4 (5) time cards, trip sheets, or driver's logs;
- 5 (6) claim records;
- 6 (7) ledgers and journals;
- 7 (8) canceled checks;
- 8 (9) bank statements and deposit slips;
- 9 (10) invoices, vouchers or statements supporting
- 10 disbursements; and
- 11 (11) dispatch records.

12 (c) Proof of motor carrier registration.

13 (1) Except as provided in paragraph (2) of this
14 subsection, every motor carrier shall maintain a copy of its
15 current registration listing in the cab of each registered
16 vehicle at all times. A motor carrier shall make available to a
17 certified inspector or any law enforcement officer a copy of the
18 current registration listing upon request.

19 (2) A registered motor carrier is not required to carry
20 proof of registration in a vehicle leased from a leasing
21 business that is registered under §18.19 of this chapter
22 (relating to Short-term Lease and Substitute Vehicles), when
23 leased as a temporary replacement due to maintenance, repair, or

1 other unavailability of the originally leased vehicle. A copy
2 of the lease agreement, or the lease for the originally leased
3 vehicle, in the case of a substitute vehicle, must be carried in
4 the cab of the vehicle.

5 (d) Location of files. Except as provided in paragraphs
6 (1) and (2) of this subsection, every motor carrier shall
7 maintain at a principal office in Texas all records and
8 information required by the department.

9 (1) Texas firms. If a motor carrier wishes to maintain
10 records at a location other than its principal office in Texas,
11 the motor carrier shall make a written request to the manager.
12 A motor carrier may not begin maintaining records at an
13 alternate location until the request is approved by the manager.

14 (2) Out-of-state firms. A motor carrier whose principal
15 business address is located outside the state of Texas shall
16 maintain records required under this section at its principal
17 office in Texas. Alternatively, a motor carrier may maintain
18 such records at an out-of-state facility if the carrier
19 reimburses the department for necessary travel expenses and per
20 diem for any inspections or investigations conducted in
21 accordance with §18.31 of this subchapter.

22 ~~[(3) A motor carrier that performs nonconsent tows shall~~
23 ~~maintain a current towing fee schedule, as prescribed in~~

1 ~~Subchapter H of this chapter (relating to Nonconsent Towing Fees~~
2 ~~Schedule), at all vehicle storage facilities where vehicles are~~
3 ~~delivered.]~~

4 (e) Preservation and destruction of records. All books and
5 records generated by a motor carrier, except driver's time cards
6 and logs, must be maintained for not less than two years at the
7 motor carrier's principal business address. A motor carrier
8 must maintain driver's time cards and logs for not less than six
9 months at the carrier's principal business address.

1 SUBCHAPTER F. ENFORCEMENT

2 §18.70. Purpose. The purpose of this subchapter is to provide
3 for an efficient and effective system of enforcement of
4 Transportation Code, Chapters 643, 645, and 648, by setting out
5 procedures for administrative penalties, the suspension [~~and~~
6 revocation and denial of motor carrier registration and leasing
7 business registration, and probation of the suspension of a
8 motor carrier's certificate of registration.

9

10 §18.71. Administrative Penalties.

11 [~~(a) Definition. For purposes of this section, the term~~
12 ~~"director" shall mean the executive director of the department~~
13 ~~or the executive director's designee not below the rank of~~
14 ~~division or office director.]~~

15 (a) [~~(b)~~] Authority. The department may impose an
16 administrative penalty against a motor carrier required to
17 register under this section if the motor carrier violates a
18 provision of Transportation Code, Chapter 643 or [~~7, Subchapters~~
19 ~~A, B, C, D, and E,~~] Transportation Code, Chapter 645 [~~7~~] or
20 violates a rule or order adopted under Chapter 643 or 645 [a
21 ~~provision of Subchapters B, C, E, or H of this chapter (relating~~
22 ~~to Motor Carrier Registration, Records and Inspections, Consumer~~
23 ~~Protection, and Nonconsent Towing Fees Schedule)].~~

1 **(b)** [~~(e)~~] Amount of penalty.

2 (1) The penalty for each violation may be in an amount
3 not to exceed \$5,000.

4 (2) If it is found that the motor carrier knowingly
5 committed a violation, the penalty for that violation may be in
6 an amount not to exceed \$15,000. A person acts knowingly if
7 that person has acted with knowledge that [~~such~~] acts
8 [~~constitute or~~] are in violation of Transportation Code, Chapter
9 643, [~~Subchapters A, B, C, D, and E~~], [~~Transportation Code~~],
10 Chapter 645, or a rule or order adopted under Transportation
11 Code, Chapter 643 or 645 [~~a provision of Subchapters B, C, E, or~~
12 ~~H of this chapter (relating to Motor Carrier Registration,~~
13 ~~Records and Inspections, Consumer Protection, and Nonconsent~~
14 ~~Towing Fees Schedule)~~].

15 (3) If it is found that the motor carrier knowingly
16 committed multiple violations, the aggregate penalty for the
17 multiple violations may be in an amount not to exceed \$30,000.
18 Multiple violations are all violations arising during a single
19 episode pursuant to one scheme or course of conduct.

20 (4) Each day a violation continues or occurs is a
21 separate violation for purposes of imposing a penalty.

22 ~~[(d) Initiation of proceedings.]~~

23 ~~[(1) Investigation. If an authorized investigator of the~~

1 ~~department determines that a violation has occurred, the~~
2 ~~investigator will issue a summary to the manager. The manager~~
3 ~~shall issue a report to the director stating the facts on which~~
4 ~~the investigator based his or her determination, and a~~
5 ~~recommendation on the imposition and amount of the penalty.]~~

6 (5) [~~(2)~~ Amount of penalty.] Any recommendation that a
7 penalty should be imposed must be based on the following
8 factors:

9 (A) the seriousness of the violation; including the
10 nature, circumstances, extent and gravity of any prohibited
11 acts, and the hazard or potential hazard created to the health,
12 safety or economic welfare of the public;

13 (B) the economic harm to property or the environment
14 caused by the violation;

15 (C) the history of previous violations;

16 (D) the amount necessary to deter future violations;

17 (E) efforts made to correct the violation; and

18 (F) any other matters that justice may require.

19 [~~(3)~~ Notice of report. Within 14 days of the date the
20 report was issued to the director, the department will mail, by
21 certified mail, written notice of the report to the motor
22 carrier. The notice will include:]

23 [~~(A)~~ a brief summary of the alleged violation(s);]

1 ~~[(B) a statement of the amount of the recommended~~
2 ~~penalty;]~~

3 ~~[(C) a statement of the right of the motor carrier to~~
4 ~~an informal hearing in accordance with paragraph (4) of this~~
5 ~~subsection; and]~~

6 ~~[(D) a statement of the right of the motor carrier to~~
7 ~~request an administrative hearing concerning the occurrence of~~
8 ~~the violation, the amount of the penalty, or both the occurrence~~
9 ~~of the violation and the amount of the penalty.]~~

10 ~~[(4) Motor carrier response. Not later than the 20th day~~
11 ~~after the date on which a written notice of violation is~~
12 ~~received by the motor carrier, the motor carrier may:]~~

13 ~~[(A) accept in writing the determination and~~
14 ~~recommended penalty;]~~

15 ~~[(B) submit a written request for an administrative~~
16 ~~hearing concerning the occurrence of the violation, the amount~~
17 ~~of the penalty, or both the occurrence of the violation and the~~
18 ~~amount of the penalty; or]~~

19 ~~[(C) submit a written request for an informal hearing~~
20 ~~under subsection (e) of this section.]~~

21 ~~[(e) Informal hearing.]~~

22 ~~[(1) Request. If requested in writing by the motor~~
23 ~~carrier within 20 days of the date of the notice issued under~~

1 ~~subsection (d)(3) of this section, the department will hold an~~
2 ~~informal hearing to discuss a sanction recommended under this~~
3 ~~section. Such hearing will be scheduled and conducted by the~~
4 ~~manager.]~~

5 ~~[(2) Procedure. An informal hearing shall not be subject~~
6 ~~to rules of evidence and civil procedure except to the extent~~
7 ~~necessary for the orderly conduct of the hearing. The~~
8 ~~department will summarize the nature of the violation and the~~
9 ~~penalty, and discuss the factual basis for such. The motor~~
10 ~~carrier will be afforded an opportunity to respond to the~~
11 ~~allegations verbally and/or in writing.]~~

12 ~~[(3) Resolution. In the event matters are resolved in~~
13 ~~the motor carrier's favor, the manager will send that carrier~~
14 ~~written notification that the proposed sanction is withdrawn.]~~

15 ~~[(4) Modified sanction. If matters are resolved~~
16 ~~resulting in a modified sanction, the manager may prepare a~~
17 ~~settlement agreement as provided by subsection (j) of this~~
18 ~~section.]~~

19 ~~[(5) Failure to resolve. If matters are not resolved in~~
20 ~~the informal hearing, the department will initiate a formal~~
21 ~~enforcement action as provided by subsection (f) of this~~
22 ~~section.]~~

23 ~~[(f) Administrative hearing.]~~

1 ~~[(1) If the motor carrier requests a hearing or fails to~~
2 ~~respond in a timely manner to the notice, the department will~~
3 ~~initiate a contested case in accordance with §§1.21 et seq. of~~
4 ~~this title (relating to Procedures in Contested Cases). The~~
5 ~~department will provide written notice of such action to the~~
6 ~~motor carrier.]~~

7 ~~[(2) A contested case under this subsection will be~~
8 ~~governed by §§1.21 et seq. of this title, subject to the~~
9 ~~following exceptions.]~~

10 ~~[(A) Attorney's fees. If the administrative law judge~~
11 ~~finds that a violation has occurred, he or she shall, in~~
12 ~~addition to the proposed penalty, include in the proposal for~~
13 ~~decision a finding setting out costs, fees, expenses, and~~
14 ~~reasonable and necessary attorney's fees incurred by the state~~
15 ~~in bringing the proceeding. If, under subparagraph (B) of this~~
16 ~~paragraph, the director finds that a violation has occurred, the~~
17 ~~director shall adopt the finding and make it a part of the final~~
18 ~~order.]~~

19 ~~[(B) Action of director. An administrative law judge's~~
20 ~~proposal for decision shall be submitted to the director, who~~
21 ~~may find that a violation has occurred and impose a penalty or~~
22 ~~may find that no violation has occurred. The director may~~
23 ~~increase or decrease the amount of the penalty recommended by~~

1 ~~the administrative law judge within the limits prescribed by~~
2 ~~subsection (c) of this section.]~~

3 ~~[(g) Action of motor carrier.]~~

4 ~~[(1) Within 30 days after the date the director's order~~
5 ~~becomes final as provided by §2001.144, Government Code, the~~
6 ~~motor carrier shall:]~~

7 ~~[(A) pay the department the amount of the penalty:]~~

8 ~~[(B) pay the department the amount of the penalty and~~
9 ~~file a petition for judicial review contesting the occurrence of~~
10 ~~the violation, the amount of the penalty, or both the occurrence~~
11 ~~of the violation and the amount of the penalty; or]~~

12 ~~[(C) without paying the amount of the penalty, file a~~
13 ~~petition for judicial review contesting the occurrence of the~~
14 ~~violation, the amount of the penalty, or both the occurrence of~~
15 ~~the violation and the amount of the penalty.]~~

16 ~~[(2) Within the 30 day period, a motor carrier who acts~~
17 ~~under paragraph (1)(C) of this section may:]~~

18 ~~[(A) stay enforcement of the penalty by:]~~

19 ~~[(i) paying the amount of the penalty into the~~
20 ~~registry of the court for placement in an escrow account; or]~~

21 ~~[(ii) providing to the court a supersedeas bond that~~
22 ~~is approved by the court for the amount of the penalty and that~~
23 ~~is effective until all judicial review of the director's order~~

1 ~~is final; or]~~

2 ~~[(B) request the court to stay enforcement of the~~

3 ~~penalty by:]~~

4 ~~[(i) filing with the court a sworn affidavit of a~~

5 ~~representative of the carrier stating that the carrier is~~

6 ~~financially unable to pay the amount of the penalty and is~~

7 ~~financially unable to give the supersedeas bond; and]~~

8 ~~[(ii) serving a copy of the affidavit on the director~~

9 ~~by certified mail.]~~

10 ~~[(3) If the department receives a copy of an affidavit~~

11 ~~under paragraph (2)(B)(i) of this subsection, it may file with~~

12 ~~the court, within five days after the date the copy is received,~~

13 ~~a contest to the affidavit. The court shall hold a hearing on~~

14 ~~the facts alleged in the affidavit as soon as practicable and~~

15 ~~shall stay the enforcement of the penalty on finding that the~~

16 ~~alleged facts are true. The motor carrier who files an~~

17 ~~affidavit has the burden of proving that the carrier is~~

18 ~~financially unable to pay the amount of the penalty and to give~~

19 ~~a supersedeas bond.]~~

20 ~~[(h) Collection. If the motor carrier does not pay the~~

21 ~~amount of the penalty and the enforcement of the penalty is not~~

22 ~~stayed, the director may refer the matter to the attorney~~

23 ~~general for collection of the amount of the penalty.]~~

1 [~~(i) Judicial review. Judicial review of the order of the~~
2 ~~director is instituted by filing a petition as provided by~~
3 ~~Subchapter C, Chapter 2001, Government Code, and is under the~~
4 ~~substantial evidence rule, and shall proceed in accordance with~~
5 ~~Transportation Code, §643.251.]~~

6 [~~(j) Settlement agreements.]~~

7 [~~(1) At any time prior to the date on which a final order~~
8 ~~is issued by the director under subsection (f)(2)(B) of this~~
9 ~~section, the department and the alleged violator may agree to~~
10 ~~enter into a compromise settlement agreement. The agreement~~
11 ~~shall not constitute an admission by the motor carrier of any~~
12 ~~violation. The compromise settlement agreement shall be signed~~
13 ~~by the alleged violator and the director, and will reflect that~~
14 ~~the alleged violator consents to the assessment of a specific~~
15 ~~administrative penalty or other action by the department against~~
16 ~~the violator.]~~

17 [~~(2) Simultaneously with the filing of a compromise~~
18 ~~settlement agreement, the alleged violator shall remit a~~
19 ~~cashier's check or money order to the Texas Department of~~
20 ~~Transportation, payable to the "Comptroller of Public Accounts."~~
21 ~~These funds shall be held in an escrow account pending the~~
22 ~~issuance of a final order.]~~

23 [~~(3) Upon the issuance by the director of a final order,~~

1 ~~the administrative penalty proceeding shall cease.]~~

2

3 §18.72. Administrative Sanctions [~~Suspension and Revocation~~].

4 (a) Grounds for action. The department may [~~place on~~
5 ~~probation a motor carrier whose certificate of registration has~~
6 ~~been suspended or suspend, or revoke~~] suspend, revoke, or deny a
7 certificate of registration of a motor carrier or leasing
8 business if the motor carrier or leasing business:

9 (1) fails to maintain insurance or proof of financial
10 responsibility as required by §18.16 of this chapter;

11 (2) fails to keep proof of insurance in the cab of each
12 vehicle as required by §18.16 of this chapter;

13 (3) fails to register a vehicle requiring registration
14 under Subchapter B of this chapter; [~~or~~]

15 (4) violates any other provision of this chapter;

16 (5) violates any provision of Transportation Code 643;

17 (6) [~~4~~] knowingly provides false information on any
18 form filed with the department under this chapter or
19 Transportation Code, Chapter 643; or [~~or~~]

20 (7) violates an order adopted under this chapter or
21 Transportation Code, Chapter 643.

22 (b) Department of Public Safety enforcement
23 recommendations.

1 (1) The department may suspend or revoke a certificate of
2 registration of a motor carrier upon a written request by the
3 Department of Public Safety [~~may request that the department~~
4 ~~place on probation a motor carrier whose certificate of~~
5 ~~registration has been suspended or suspend or revoke a~~
6 ~~certificate of registration]~~, if a motor carrier:

7 (A) has an unsatisfactory safety rating under 49 CFR,
8 Part 385; or

9 (B) has multiple violations of Transportation Code,
10 Chapter 644, a rule adopted under that chapter, or
11 Transportation Code, Title 7, Subtitle C.

12 (2) A request [~~for probation, suspension, or revocation]~~
13 under paragraph (1) of this subsection must [~~be submitted in~~
14 ~~writing by the executive director of the Department of Public~~
15 ~~Safety and must]~~ include documentation showing [~~evidence of]~~ the
16 violation.

17 (c) Probation [~~Action without hearing~~]. [~~The division may~~
18 ~~place on probation a motor carrier whose certificate of~~
19 ~~registration has been suspended or suspend or revoke a~~
20 ~~certificate of registration without a hearing if:~~]

21 (1) The department may probate any suspension ordered
22 under this section.

23 (2) In determining whether to probate a suspension, the

1 department will review:

2 (A) the seriousness of the violation;

3 (B) prior violations by the motor carrier;

4 (C) whether the department has previously probated a
5 suspension for the motor carrier;

6 (D) cooperation by the motor carrier in the
7 investigation and enforcement proceeding; and

8 (E) the ability of the motor carrier to correct the
9 violations.

10 (3) The department shall set the length of the probation
11 based on the seriousness of the violation and previous
12 violations by the motor carrier.

13 (4) The department will require that the motor carrier
14 report monthly to the department any information necessary to
15 determine compliance with the terms of the probation.

16 (5) The department may revoke the probation and order the
17 initial suspension and administrative penalty if the motor
18 carrier fails to abide by any terms of the probation.

19 ~~[(1) the department provides notice to the motor carrier~~
20 ~~or leasing business of:]~~

21 ~~[(A) the proposed probation, suspension, or revocation;~~
22 ~~and]~~

23 ~~[(B) the right of the carrier or leasing business to~~

1 ~~request a hearing under Chapter 2001, Government Code; and]~~

2 ~~[(2) the motor carrier or leasing business fails to file~~
3 ~~with the department a written request for an administrative~~
4 ~~hearing within ten days after the date the carrier or leasing~~
5 ~~business received the notice of probation, suspension, or~~
6 ~~revocation.]~~

7 ~~[(d) Contested case. If the motor carrier or leasing~~
8 ~~business files a written request for an administrative hearing~~
9 ~~with the director, the department will initiate a contested case~~
10 ~~proceeding in accordance with §§1.21 et seq. of this title~~
11 ~~(relating to Procedures in Contested Cases).]~~

12 ~~[(e) Failure to maintain insurance.]~~

13 ~~[(1) Notice. On receipt of notice of cancellation of~~
14 ~~insurance coverage under §18.16(f) of this chapter, the~~
15 ~~department will provide written notice of proposed probation,~~
16 ~~suspension, and revocation as required by subsection (c) of this~~
17 ~~section.]~~

18 ~~[(2) Sanction. If the motor carrier or leasing business~~
19 ~~does not file proof of insurance as required by §18.16 of this~~
20 ~~chapter before the cancellation of its existing insurance, the~~
21 ~~division will revoke the certificate of registration on the day~~
22 ~~of cancellation as described in §18.16 of this chapter.]~~

23 ~~[(f) Suspension due to failure to comply with order issued~~

1 ~~under Family Code.]~~

2 ~~[(1) On receipt of a final order suspending a license,~~
3 ~~issued under Family Code, §232.003 or §232.008, the department~~
4 ~~will suspend:]~~

5 ~~[(A) a certificate of registration issued under~~
6 ~~Subchapter B of this chapter; or]~~

7 ~~[(B) the registration of an interstate motor carrier~~
8 ~~issued under §18.17 of this chapter.]~~

9 ~~[(2) The department will charge an administrative fee of~~
10 ~~\$10 to a motor carrier, leasing business, or interstate motor~~
11 ~~carrier that is the subject of an order suspending a license.]~~

12 ~~[(g) Terms of probation. If a motor carrier is placed on~~
13 ~~probation, the department may require the motor carrier to~~
14 ~~report regularly to the department on any matter that is related~~
15 ~~to the probation.]~~

16

17 §18.73. Administrative Proceedings.

18 (a) If the department decides to take an enforcement action
19 under §18.71 or §18.72 of this chapter, the department shall
20 give written notice to the motor carrier by first class mail to
21 the carrier's address as shown in the records of the department.

22 (b) The notice required by subsection (a) must include:

23 (1) a brief summary of the alleged violation;

- 1 (2) a statement of each sanction;
2 (3) the effective date of each sanction;
3 (4) a statement informing the carrier of the carrier's
4 right to request a hearing;
5 (5) a statement as to the procedure for requesting a
6 hearing, including the period during which a request must be
7 made; and
8 (6) a statement that the proposed penalties and sanctions
9 will take effect on the date specified in the letter if the
10 motor carrier fails to request a hearing.
- 11 (c) The motor carrier must submit a written request for a
12 hearing to the address provided in the notice not later than the
13 26th day after the date the notice is mailed.
- 14 (d) On receipt of the written request for a hearing the
15 department will refer the matter to the State Office of
16 Administrative Hearings. When the hearing is set, the
17 department will give notice of the time and place of the hearing
18 to the carrier.
- 19 (e) If the motor carrier does not make a written request
20 for a hearing or enter into a settlement agreement under §18.74
21 of this chapter before the 27th day after the date the notice is
22 mailed, the department's decision becomes final and
23 unappealable.

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§18.74. Settlement Agreements.

(a) The department and the alleged violator may enter into a compromise settlement agreement at any time before the issuance of a final decision. The compromise settlement agreement must provide that the alleged violator consents to the assessment of a specified administrative penalty or to other specified action by the department against the violator and must be signed by the alleged violator and the director. A compromise agreement is not an admission of the alleged violation.

(b) If the settlement agreement requires the payment of a penalty to the department, the alleged violator must submit a cashier's check or money order to the department in the agreed amount before the agreement may be executed.

(c) Upon the execution by the director of a settlement agreement, the administrative proceeding ends. The settlement is a department order that is final and unappealable.

(d) The settlement agreement must include a clause that allows the department the authority to revoke the settlement agreement and initiate a hearing on the original alleged violations if the alleged violator fails to abide by the terms of the settlement agreement.

1

2 §18.75. Implications for Nonpayment of Penalties.

3 (a) If a motor carrier fails to pay any penalty imposed or
4 cost assessed before the 61st day after the day the order
5 imposing the penalty or assessing the cost becomes final, the
6 department may initiate a new administrative action to revoke,
7 suspend, or deny the motor carrier's certificate of
8 registration.

9 (b) If a motor carrier's registration is revoked or
10 suspended by an administrative action under this chapter, the
11 motor carrier is not eligible for a reinstatement or renewal of
12 a registration under Subchapter B of this chapter until all
13 required penalties, costs, fees, or expenses have been paid to
14 the department.

15 (c) If a motor carrier is denied registration under this
16 chapter, the motor carrier is not eligible to register or renew
17 the motor carrier registration under Subchapter B of this
18 chapter until all required penalties, costs, fees, or expenses
19 have been paid to the department.

20

21 §18.76. Registration Suspension Ordered under Family Code.

22 (a) On receipt of a final order issued under Family Code,
23 §232.003, §232.008, or §232.009, regarding child support

1 enforcement, the department will suspend:

2 (1) a certificate of registration issued under Subchapter

3 B of this chapter; or

4 (2) the registration of an interstate motor carrier

5 issued under §18.17 or §18.18 of this chapter.

6 (b) The department will charge an administrative fee of \$10

7 to a person whose registration is suspended under this section.

8 (c) A suspension under this section does not require the

9 department to give notice or otherwise follow the administrative

10 process provided under §18.73 of this chapter.

11 (d) A registration suspended under this section may only be

12 reinstated on receipt of an order issued under Family Code,

13 §232.013.