



# Ohio Legislative Service Commission

## Bill Analysis

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### Am. H.B. 71

128th General Assembly

(As Reported by H. Commerce and Labor)

**Reps.** Hagan and Batchelder, Foley, Harris, Ujvagi, Luckie, Book, Harwood, Winburn, Domenick, Letson, Yuko, Patten, Combs, Koziura, Huffman, Stewart, Murray, Brown

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## BILL SUMMARY

- Creates provisions of the Private Motor Carriers Law (R.C. Chapter 4923.) to specifically regulate contract carriers that contract with a railroad company to transport on-duty employees of that railroad within Ohio and from within Ohio to other states.
- Establishes standards pertaining to safety for vehicles used to transport railroad employees.
- Requires contract carriers that transport railroad employees to retain maintenance records, records of the time all drivers operate vehicles that transport railroad employees, and records of inspections completed on days when a vehicle is used to transport railroad employees.
- Requires contract carriers to make all required records available for inspection upon demand by the Public Utilities Commission or the Commission's designee.
- Requires contract carriers that transport railroad employees to supervise and hire drivers in accordance with specified provisions, including conducting criminal records checks, reviewing driving records, and providing alcohol and drug screening.
- Limits the time periods a driver may operate a vehicle that is transporting railroad employees.
- Requires contract carriers to maintain no-fault insurance or liability insurance in an amount not less than \$5 million for each vehicle it uses to transport railroad

employees that can hold 16 or more passengers or in an amount not less than \$1,500,000 for each vehicle it uses to transport railroad employees that can hold 15 or fewer passengers.

- Subjects violations of the bill's provisions to current Private Motor Carriers Law penalties.

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## **CONTENT AND OPERATION**

### **Introduction**

Current Private Motor Carriers Law (R.C. Chapter 4923.) regulates the operation of "contract carriers by motor vehicle," which includes every person or the person's lessee, legal or personal representative, trustee, or receiver appointed by any court when engaged in the business of private carriage of persons or property, or both, or of providing or furnishing such transportation service, for hire, in or by motor propelled vehicles of any kind, including trailers, over any public highway of Ohio. Specific operations that would otherwise fall under the definition for "contract carriers by motor vehicle" are specifically excluded under current law, such as contract carriers that engage in the transportation of persons in taxicabs or that engage in the transportation of newspapers. (R.C. 4923.02(A), not in the bill.) The bill specifies requirements for contract carriers that contract with a railroad company to transport on-duty employees of that railroad within Ohio and from within Ohio to other states (R.C. 4923.30(A)). These requirements are in addition to any other requirements a contract carrier may have to comply with under the current Private Motor Carriers Law.

### **Requirements for vehicles used to transport railroad employees**

Under the bill, all vehicles a contract carrier uses to transport railroad employees must be equipped with adequate seating and heating sources for the employees and a method whereby the employees are able to communicate directly with the railroad company (R.C. 4923.30(B)). Additionally, a contract carrier that contracts to transport railroad employees must require the driver of a vehicle used to transport railroad employees to inspect the vehicle at the beginning and end of each day the vehicle is so used. Each inspection must include the completion of an inspection checklist in a manner and format prescribed by the Public Utilities Commission. The inspection checklist constitutes a maintenance record, and the contract carrier must retain the inspection checklist for not less than 90 days after the date of the inspection. (R.C. 4923.30(C)(8).)

The bill requires a contract carrier that contracts to transport railroad employees to keep every vehicle used to transport railroad employees in a safe and proper

operating condition by maintaining the vehicle according to the maintenance schedule recommended for that vehicle by its manufacturer. The contract carrier must maintain a record of all maintenance and repairs performed on each vehicle and retain each record for not less than one year and six months after the date of such maintenance or repair. (R.C. 4923.30(C)(9).) Additionally, the bill requires all motor vehicles a contract carrier uses to transport railroad employees within Ohio and from within Ohio to other states to, at a minimum, meet all state and federal laws, rules, and regulations pertaining to safe construction and maintenance (R.C. 4923.30(E)). Each vehicle a contract carrier uses to transport railroad employees must meet all state and federal requirements for safety devices, first-aid kits, and sidewalls, canopies, tailgates, or other means of retaining freight safely (R.C. 4923.30(F)).

### **Duties of contract carriers that contract to transport railroad employees**

Under the bill, a contract carrier that contracts to transport railroad employees must do all of the following:

(1) Require each operator who transports railroad employees to have a valid driver's license;

(2) Provide alcohol and drug screening in accordance with regulations adopted by the United States Secretary of Transportation<sup>1</sup> for each operator who transports railroad employees;

(3) Conduct a criminal records check as provided by the Superintendent of the Bureau of Criminal Identification and Investigation under current law of each person who transports railroad employees;

(4) Require a completed application for employment from each prospective vehicle operator who will transport railroad employees;

(5) Conduct an annual review of the driving record of each driver who transports railroad employees and maintain a personal file that includes a driving record for each such driver;

(6) Limit the hours of service of a driver who transports railroad employees to ten hours on-duty time following eight consecutive hours off duty;

(7) Prohibit any driver from operating a vehicle that is transporting railroad employees after the driver has been on duty 60 hours in any 7 consecutive days if the contract carrier does not operate commercial motor vehicles every day of the week or

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<sup>1</sup> 49 C.F.R. Part 40.

after the driver has been on duty 70 hours in any period of 8 consecutive days if the contract carrier operates commercial motor vehicles every day of the week;

(8) Keep time records for six months indicating the time all for-hire motor carrier drivers who operate vehicles that transport railroad employees report for duty, the time of relief from duty, the hours driven, and the hours on duty and off duty. (R.C. 4923.30(C)(1) to (7) and (10).)

The bill requires the contract carrier to make all records required to be kept by the bill available for inspection upon demand by the Public Utilities Commission or the Commission's designee (R.C. 4923.30(D)).

All drivers of motor vehicles used to transport railroad employees must operate them in full compliance with all applicable state and federal laws, rules, and regulations pertaining to their operation and the transportation of passengers at all times (R.C. 4923.30(E)).

The bill requires each contract carrier to maintain no-fault insurance or liability insurance in an amount not less than \$5 million for each vehicle it uses to transport railroad employees that is designed by its manufacturer to carry 16 or more passengers and not less than \$1,500,000 for each vehicle it uses to transport railroad employees that is designed by its manufacturer to carry 15 or fewer passengers (R.C. 4923.30(F)).

### **Rules and permissibility of other rules regarding contract carriers that transport railroad employees**

The Public Utilities Commission, in accordance with the Administrative Procedure Act (R.C. Chapter 119.), is required to adopt rules to implement and administer the bill.

The bill specifies that the bill's provisions establish minimum standards and must not be construed to supersede or abrogate any law, rule, or regulation that imposes stricter standards upon the operation of contract carriers that transport railroad employees. (R.C. 4923.30(G) and (H).)

### **Penalties for violations**

Whoever violates any provision of the bill or any rule adopted by the Public Utilities Commission pursuant to the bill is subject to the existing penalties in the Private Motor Carriers Law (R.C. 4923.30(I)). Under that Law, the person is liable to the state for a forfeiture of not more than \$10,000 for each day of each violation. The Commission, after providing reasonable notice and the opportunity for a hearing in accordance with the procedural rules, must assess, by order, a forfeiture upon a person

that the Commission determines, by a preponderance of the evidence, committed the violation. In determining the amount of the forfeiture for a violation discovered during a roadside inspection, the Commission must be consistent with the recommended fine or penalty schedule and recommended civil penalty procedure adopted by the Commercial Vehicle Safety Alliance, but must not exceed \$1,000. The Attorney General, upon the written request of the Commission, must bring a civil action in the Franklin County Court of Common Pleas to collect a forfeiture assessed. Additionally, the Attorney General, upon the written request of the Commission, must bring an action for injunctive relief in the Franklin County Court of Common Pleas against any person who has violated or is violating any order issued by the Commission to secure compliance with a provision of the bill or another provision of the Private Motor Carriers Law. (R.C. 4923.99, not in the bill.)

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## HISTORY

ACTION	DATE
Introduced	03-17-09
Reported, H. Commerce & Labor	07-01-09

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