

COPY

Title ~~4~~7—DEPARTMENT OF ~~ECONOMIC DEVELOPMENT~~ TRANSPORTATION  
Division 265—~~Division of~~ Motor Carrier and Railroad Safety  
Chapter 8—Railroads ~~and Street Railroads~~

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MAR 09 2018

PROPOSED AMENDMENT

SECRETARY OF STATE  
ADMINISTRATIVE RULES

**[4]7 CSR 265-8.040 Transportation of Employees.** The Missouri Highways and Transportation Commission is moving the rule to Title 7, amending sections (1), (2), (3), (4) and (5) subsections (2)(A), (2)(B), (2)(F), (2)(I), (5)(A), (5)(B), (5)(C), (5)(D), (5)(E), (5)(F), (5)(G), (5)(H), (5)(I), (5)(J), (5)(L), (5)(M), (5)(N) and (5)(O) adding new subsections (3)(A)(1-2), (3)(B)(1-4) (3)(C)(1-6), (4)(A) and (4)(B) deleting subsection (5)(D) and renumbering remaining subsections accordingly.

*PURPOSE: This amendment moves the rule from Title 4 to Title 7, removes references to 1966 and 1985 vehicles, updates the division name, removes a subsection duplicated elsewhere in the rule and eliminates unnecessary restrictive language.*

(1) This rule applies to every motor vehicle *[acquired after September 19, 1966,]* which is designed primarily for highway use and which is used to transport employees, whether or not used on a public highway, including motor vehicles regularly assigned to a gang or crew with headquarters or assembly point within Missouri and including motor vehicles headquartered elsewhere but frequently used in Missouri. *[Motor vehicles owned or operated prior to July 1, 1985 are not required to conform with this rule, but motor vehicles purchased, leased or otherwise acquired after July 1, 1985, including those previously used in other states and reassigned for regular use in Missouri, but not including existing vehicles assigned to system gangs even though the system gangs may be temporarily working in Missouri, shall conform to this rule.]* This rule **does** *[shall]* not apply to taxicabs or other vehicles licensed by a competent authority to transport the public and used by a railroad to transport its employees. All owners of the motor vehicles, and their duly appointed agents, and the drivers of the vehicles shall abide by all safety orders issued to them by the division. It is recognized that this rule cannot cover all contingencies, **thus** *[and accordingly,]* the division *[, upon written application or upon its own motion,]* in a particular case, after notice, *[and hearing,]* may modify or grant exceptions to any of its provisions where their effect is unduly burdensome, or may prescribe higher standards than these prescribed where the higher standards are necessary for the safety of employees. In time of emergency, vehicles not complying with this rule may be used. An emergency *[shall be considered as existing]* **exists** when rail traffic has been stopped or disrupted (or where there is a threat of stoppage or disruption) because of derailment, accident, storm, fire, flood or other similar condition. Winter weather requiring the removal of snow and ice from flange ways and switches or station platforms *[shall]* **is not** *[be]* considered an emergency *[, except as noted].*

(2) The following words and phrases as used in this rule *[shall]* mean:

(A) Division—the **Multimodal Operations Division within the Department** of Transportation;

(B) Employee—an individual employed for any period in any work for which s/he is compensated, whether full- or part-time, whose regular course of employment **is** related to the maintenance or construction of the railroad physical property or to the operation of trains;

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(F) Motor vehicle—any vehicle which is self-propelled and designed primarily for highway use, and which may *[or may not]* be equipped with retractable flange wheels for operation on railroad tracks;

(I) Rear compartment—a crew cab, which may be a continuation of the driver's cab providing additional seating capacity or an auxiliary cab located directly behind the driver's cab. **Canvas-covered truck beds or shelters built of wood, plywood or light-gauge metal on the bed of a truck are not considered a rear compartment;**

(3) *[Employees will be transported in a]* **Vehicle** rear compartments *[which]* **for the transportation of employees** may be either a continuation cab or an auxiliary cab.

(A) *[If a]* **A** continuation cab*[, it should be]*:

1. **Is** designed and furnished by the motor vehicle manufacturer as a continuation of the driver's cab and of equal strength, all welded construction with box section beams throughout. *[In this type of cab no communication system between the rear compartment and the driver is required.]*

2. **Does not require a communication system between the rear compartment and driver.**

(B) An auxiliary cab:

1. **Is** *[is]* a rear compartment separated from the driver's cab, *[. It shall be]* of metal construction (including top), welded or riveted, with interior lining, equipped with adequate padded seats and back rests firmly secured in place.

2. *[It shall be]* **Is** fastened directly to the frame of the motor vehicle and not to the surface of the bed of the vehicle.

3. *[When necessary, it shall be equipped with steps and hand holds.]* **Is** equipped with steps and hand holds **when necessary.**

4. **Is equipped with a communication system** *[Communication]* between **the auxiliary** *[this type of]* cab and the driver **including, but not limited to:** *[may be in the form of]* a light mounted on the instrument panel, *[or]* an audible device *[that can be]* operated by the employees riding in the rear compartment, *[. An]* **or an** intercommunication system for actual voice contact *[also may be used]*. Communication systems *[must]* **are to** be kept in good working condition at all times.

(C) Both **continuation and auxiliary** *[types of]* cabs **are to be equipped with:**

1. *[shall be provided with]* **A** *[ a]* heating system for cold weather and a ventilation system for hot weather, providing heat and ventilation substantially equal to that provided for the driver.

2. Exhaust systems *[shall be]* so designed as to prevent exhaust fumes from entering the rear compartment.

3. Heavy duty hinge-type doors *[shall be provided,]* equipped with automotive-type safety latches.

4. *[All windows shall be of]* **Windows with** safety glass *[as required by Missouri law]* **per Chapter 307 RSMo.**

5. *[Where a compartment is equipped with only one (1) door, at]* **At** least one (1) window *[shall be]* of the knockout type and of sufficient size to provide emergency exits for the employees **in those compartments equipped with only one (1) door.**

6. *[All vehicles shall have adequate]* **Adequate** seating capacity for the number of employees carried. *[Canvas-covered truck beds or shelters built of wood, plywood or light-gauge metal on the bed of a truck shall not be considered as a rear compartment.]*

(4) All vehicles **subject to this rule are to** *[shall]* be:

(A) kept in good repair and safe operating condition at all times and unsafe vehicles *[shall]* not *[be]* used to transport employees.

(B) *[They shall be regularly]* **Regularly** inspected and tested *[. Compartments]* and **compartments** for employees *[shall be]* kept in a clean and sanitary condition *[and employees shall cooperate in maintaining the conditions]*.

(5) *[In transporting employees, the]* **The** following safety measures *[shall be observed]* **apply to vehicles used to transport employees:**

(A) *[The vehicles shall be especially built or modified for transporting employees in]* **The** compartments **used for transporting employees are** separate from space used to transport tools, material and equipment for the employees;

(B) *[All vehicles used for the transportation of employees shall carry an]* **An** adequate first-aid kit suitable for the number of employees transported **is equipped and accessible;**

(C) *[Each vehicle used to transport employees shall be equipped with either]* **Either** a two (2)-pound dry chemical-type or a four (4)-pound carbon dioxide-type fire extinguisher approved by the Underwriters' Laboratories, Inc. (UL) **is furnished and accessible** *[. These are minimum capacities. Toxic vaporizing liquid-type fire extinguishers, such as those containing carbon tetrachloride or chlorobromethane, will] not be permitted];*

*[(D) Racks, boxes, holsters or equivalent means shall be provided and arranged so employees will not be endangered by tools or equipment while being transported, loaded or removed;]*

*[E]* **(D)** *[To prevent materials being transported on flatbed]* **Flatbed** trucks **used in the transportation of employees are equipped with a suitable front-end gate to prevent materials** from shifting against the cab or rear compartment *[, a suitable front-end gate must be provided];*

*[(F)]* **(E)** Only authorized, experienced, competent, qualified and licensed drivers **per Chapter 302 RSMo**, not less than eighteen (18) years of age, *[shall be]* **are** permitted to operate the vehicles *[used to transport employees. Qualification and license shall be not less than those required by Chapter 302, RSMo];*

*[(G)]* **(F)** *[When the driver's compartment is separate from the compartment used to transport employees, the]* **The** signals *[adopted for use]* **used** on *[the]* a communication system *[shall be simple and]* **are** understood by both driver and employees **in a vehicle where the driver's compartment is separate from the compartment used to transport employees;**

*[(H)]* **(G)** *[No vehicle]* **Not** *[shall be]* loaded *[beyond]* **and operated, either: in excess of its** safe carrying capacity or *[beyond]* its licensed capacity *[when in]* **for** use on public streets or highways *[. No motor vehicle shall be driven]; [if it is so loaded]* or if the load is so distributed or so inadequately secured as to prevent safe operation;

*[(I)]* **(H)** *[No motor vehicle]* **Not** *[shall be]* driven when anything in, on or attached to the vehicle obscures the driver's view ahead or to either side, *[or]* interferes with the free movement of *[his/her]* **the driver's** arms or legs, *[or]* prevents *[his/her]* **the driver's** free and ready access to *[his/her]* **the vehicle** controls and emergency equipment, or prevents the free and ready exit of any person from the vehicle;

*[(J)]* **(I)** *[All vehicles transporting employees shall observe]* **Operated in compliance with all** motor vehicle laws of Missouri;

*[(K)]* **(J)** *[No]* **Not used to haul** explosives, except flagging equipment *[, shall be hauled on any vehicle while it is engaged in transporting employees. This shall not prohibit the driver and*

one (1) qualified powder man from riding in a vehicle in which explosives are being hauled];

[(L)(K) Gasoline and other low flash-point liquids [shall] **are not [be]** hauled [in vehicles transporting employees] except when in UL-approved safety containers [. The containers shall be] carried in a safe, suitable location outside the passenger compartment [as far from the compartment as possible and where they] **that** will not block exits from the vehicle[,] **and** firmly secured to prevent shifting;

[(M)L) Occupants [shall] **do not** ride with any part of their bodies extending out over the side of the vehicle;

[(N)M) [Employees wearing] **Personal** equipment which might injure a fellow employee [(spurs, exposed sharp tools and the like) shall remove] **is removed** [that equipment] before entering **and while** any vehicle [in which employees are being transported] **is in operation**; and

[(O)N) Any hazardous condition or defect of a motor vehicle or unsafe practice of the driver or employees riding in vehicles used to transport employees [shall be] **is reported** [in writing] to the employer or supervisor as soon as possible by any employee having knowledge of the conditions.

*AUTHORITY: section 622.027, RSMo 1986.\* Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed March 9, 2018.*

*\*Original authority: 622.027, RSMo 1985.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, MO 65102 or [Pamela.Harlan@modot.mo.gov](mailto:Pamela.Harlan@modot.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*