

ALABAMA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE CODECHAPTER 770-X-10
MOTOR CARRIER GENERAL ORDERS RULES AND REGULATIONS PAMPHLET NO.
2003770-X-10-.02 Transportation For Compensation.

Persons subject to the Alabama Motor Carrier Act, as amended, include those persons who transport passengers or property by motor vehicle in intrastate commerce, and in Alabama in interstate commerce, for compensation, except persons engaging in transportation or transporting commodities who or which are exempted by the terms of that Act, as amended. Persons engaged in non-exempt transportation for compensation include, but are not limited to:

(1) Persons who receive direct compensation for transporting passengers or property.

(2) Persons who receive compensation for transporting under a "buy-sell" arrangement. This determination will be made under the "Primary Business Test" used by the Federal Motor Carrier Safety Administration and the Federal Courts. Under this test a person is engaged in transportation for compensation notwithstanding the "buy-sell" arrangement if:

(a) That person's primary business is transportation for compensation. Some of the factors which indicate such a primary business are:

1. Operation under a name which indicates a carrier enterprise.
2. Advertising or holding out for transportation and/or the absence of advertising or holding out to provide other than transportation.
3. Investment principally in transportation facilities and equipment and/or the absence of substantial investment in other facilities and equipment, especially those which would indicate a non-carrier enterprise.

(b) That person's primary business is other than transportation for compensation, but this arrangement and those operations are not in a bona fide furtherance of this business and are engaged in with the purpose of receiving compensation for the transportation performed.

Some of the factors which indicate a person is within either (9) or (ii) above include:

1. Orders for the commodity are received prior to the purchase.
2. Warehousing or storage facilities are not usually and regularly utilized for this operation.
3. The commodity is usually and regularly delivered directly from the supplier to the customer.
4. The person assumes no substantial risk of fluctuation in the price of the commodity.
5. The person performs no real service other than transportation from which it can receive compensation.
6. The movement of the commodity is coordinated with the movement in the opposite direction of other commodities.
7. Authorized carriers for hire are never engaged to effect delivery of the commodity.

The primary business of carriers who hold authority from this Commission is considered to be trucking.

(3) Persons who rent or lease a vehicle or vehicles and provide operators or drivers to a merchant, manufacturer, dealer, shipper or consignee. Factors which indicate that transportation for compensation is being performed include:

- (a) The lessor or rentor also uses the equipment to haul for third parties.
- (b) The lessor or rentor assumes responsibility for safe delivery of the cargo or furnishes cargo insurance.
- (c) The lessee does not recognize liability for operation of the leased vehicle on the highways, and the lessor furnishes public liability and property damage insurance.
- (d) The lessor or rentor is compensated under an arrangement which indicates a normal transportation charge instead of a charge for the use of a leased or rented vehicle.
- (e) The lessor issued receipts or bills of lading for the contents of the cargo transported on the leased vehicles.

(f) The lessor arranges for the segregation of the driver's wages and has the lessee pay it, and then credits the amount of such wages on agreed total compensation to lessor from the lessee.

(g) The lessor exercises the principal control over the drivers or operators of the vehicles.

(h) The driver's daily logs are submitted first to the lessor, and later transmitted to the lessee, if ever.

For a merchant, manufacturer, dealer, shipper or consignee to be exempt in transporting goods in a leased vehicle there must be a bona fide long-term lease of the vehicle, the operator of the vehicle must be a bona fide employee of such person, such person must assume and have control of and responsibility for the operation of the vehicle, and such person must significantly shoulder the burdens of transportation.

(4) Persons who rent or lease a bus or other passenger vehicle for the duration of a trip or tour and either drive the vehicle, provide the driver for the vehicle, or arrange for a driver for the vehicle.

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Statutory Authority: Code of Ala. 1975, §§37-3-5, 37-3-7.

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