



**Motor Carrier Attachment –
Post Crash Compliance
Review**

Arlington, WI

HWY20FH006

(13 pages)

UNITED STATES DEPARTMENT OF TRANSPORTATION

		U.S. DOT#: 1248031 MC/MX#: 486848	Legal: K EXPRESS INC Operating (DBA):	Investigation Date: 07/01/20
Investigation Type: Onsite Focused Investigation		Location of Investigation: Company principal place of business (PPOB) Extent of Operations: Entire Operation		
Physical Address		Mailing Address		
1123 NORTH ELLIS STREET BENSENVILLE, IL 60106 United States		1123 NORTH ELLIS STREET BENSENVILLE, IL 60106 United States		
Contact Information				
Contact Name: ██████████ ██████████ Phone: ██████████ Cell: ()- ██████████ Fax: ██████████				
Business and Financial				
Business Type: Corporation Gross Revenue: ██████████ For Year Ending: 12/31/19 Federal Tax ID: ██████████				
Operation Classification and Type		Cargo		
Type of Operation: Non-HM Interstate Carrier Operation Classification For-Hire Motor Carrier Property Other Non-Hazardous Freight		General Freight		
Equipment		Driver Information		
	Owned	Term Leased	Drivers	
			Intrastate	Interstate
Straight Trucks	2		< 100 Miles	
Truck Tractors	26	1	>= 100 Miles	32
Trailers	33			
Power units used in the U.S.: 29 Percentage of time used in the U.S.: 100%		Average trip leased driver/month: 0 Drivers with CDL: 32 Total Drivers: 32		

Person(s) Interviewed

Name: [REDACTED]

Title: President

Questions

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:

3250 EXECUTIVE PARK DRIVE
SPRINGFIELD, IL 62703-4514
Phone: (217) 492-4608
Fax: (217) 492-4986

This report will be used to assess your safety compliance.

Violations

<p>1. Primary: 391.23(m)(2)(i)(C)</p> <p>Using a copy of a medical examiner's certificate as proof of the driver's medical certification beyond 15 days after the date of issuance</p>	<p>Violations Discovered</p> <table border="1"> <thead> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>1</td> <td></td> <td>1</td> </tr> </tbody> </table> <p>Checked</p> <table border="1"> <thead> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>1</td> <td></td> <td>1</td> </tr> </tbody> </table>	Fed	State	Total	1		1	Fed	State	Total	1		1
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<p>Example/Notes:</p> <p>Driver Name: Phillip Bruno Trip Date: 06/12/2020</p>	<p>Drivers/Vehicles</p> <table border="1"> <thead> <tr> <th>In Violation</th> <th>Checked</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>1</td> </tr> </tbody> </table>	In Violation	Checked	1	1								
In Violation	Checked												
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<p>2. Primary: 395.8(f)(12)</p> <p>Failing to require driver to prepare record of duty status in form and manner prescribed.</p>	<p>Violations Discovered</p> <table border="1"> <thead> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>2</td> <td></td> <td>2</td> </tr> </tbody> </table> <p>Checked</p> <table border="1"> <thead> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>9</td> <td></td> <td>9</td> </tr> </tbody> </table>	Fed	State	Total	2		2	Fed	State	Total	9		9
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2		2											
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<p>Example/Notes:</p> <p>Driver: Phillip Bruno Trip Date: 06/09/2020</p>	<p>Drivers/Vehicles</p> <table border="1"> <thead> <tr> <th>In Violation</th> <th>Checked</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>1</td> </tr> </tbody> </table>	In Violation	Checked	1	1								
In Violation	Checked												
1	1												

<p>3. Primary: 382.701(a)</p> <p>Failing to conduct a pre-employment query.</p>	<p>Violations Discovered</p> <table border="1"> <thead> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>5</td> <td></td> <td>5</td> </tr> </tbody> </table> <p>Checked</p> <table border="1"> <thead> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Fed	State	Total	5		5	Fed	State	Total			
Fed	State	Total											
5		5											
Fed	State	Total											

	5	5
Example/Notes:	Drivers/Vehicles	
Driver: [REDACTED]	In Violation	Checked
Hire Date: 06/03/2020	5	5
Trip Date: 06/10/2020		

4. Primary: 391.21(a)	Violations Discovered		
Using a driver who has not completed and furnished an employment application.	Fed	State	Total
	1		1
	Checked		
	Fed	State	Total
	1		1

Example/Notes:	Drivers/Vehicles	
Driver name: Phillip Bruno	In Violation	Checked
Trip date: 06/08/2020	1	1
Description of violation: The carrier used Phillip Bruno as a driver, who had not completed and furnished an employment application - driver did not provide a list of employers for the preceding 3 years.		

5. Primary: 391.53(a)	Violations Discovered		
Failing to maintain records relating to the investigation into the safety performance history of a new or prospective driver pursuant to paragraphs (d) and (e) of §391.23	Fed	State	Total
	1		1
	Checked		
	Fed	State	Total
	1		1

Example/Notes:	Drivers/Vehicles	
Driver name: Phillip Bruno	In Violation	Checked
Trip date: 06/08/2020	1	1
Description of violation: The carrier failed to maintain records related to the investigation into safety performance history concerning alcohol and controlled substances testing.		

6. Primary: 392.2

Operating a commercial motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated - Unsafe Driving.

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

Example/Notes:

06/16/2020 - The FMCSA and State partners have identified violations across multiple inspections at the roadside over the previous 24 months that are reflected in the Unsafe Driving BASIC of the Carrier Safety Measurement System, including: Failing to use seat belt while operating a CMV.

Vehicle License or Company Number: Unit 55, Illinois Registration P926443, VIN 1FUJGLDR2DSBV4970

Driver Name: [REDACTED]

Trip Date: 05/22/2020

Description of Violation: Failing to use seat belt while operating a CMV

Drivers/Vehicles

In Violation	Checked

7. Primary: 395.8(e)(1)

False reports of records of duty status (inaccurate).

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
9		9

Example/Notes:

Driver name: Phillip Bruno

Trip Date: 06/08/2020

Description of violation: False by less than 1 hour or 50 miles.

Drivers/Vehicles

In Violation	Checked
1	1

Safety Fitness Rating

Your proposed safety rating is: **NOT RATED** Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

You must take corrective actions for any violations (deficiencies) identified in the Violations section of this report.

This was a focused investigation, which did not review in full all factors in the safety fitness rating methodology in 49 CFR part 385, Appendix B. A focused investigation may be unrated or it may result in a Conditional or Unsatisfactory rating if sufficient violations are discovered in the factors examined.

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Unsafe Driving

Process Breakdown: Training and Communication

K Express should establish an effective, in depth, and well documented training regiment to ensure that drivers fully understand the consequences of unsafe driving practices and the effect on the general public, the carrier, and themselves.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Training and Communication:

1. Convey expectations to all applicable staff for adhering to safe-driving regulations and company policies and procedures, and for expecting responsibilities by providing new-hire and refresher training, and establish communication channels such as newsletters and/or meetings focused on conflicts between on-time delivery and speeding.
2. Provide seminars on topics relevant to safe driving, such as when to use flashers; how to handle road rage; the importance of keeping one's eyes on the road ahead and scanning it, with no manual dialing or texting and no use of in-vehicle devices that draw attention away from the road; how to use maps; and no use of radar detectors.
3. Communicate the carrier's Unsafe Driving percentiles to all staff, and explain to them individually what they can do to help improve the percentile.
4. Ensure that managers and supervisors regularly communicate and demonstrate their commitment to safe driving.
5. Inform drivers that their driving history is a factor in determining whether the carrier will be chosen for a roadside inspection as a way to motivate them to drive safely.
6. Ensure that all drivers and other employees receive new-hire and refresher training in safe driving as required by regulations and company policy.
7. Ensure that drivers are trained in driver Out-of-Service (OOS) rules, their responsibility in adhering to them, and the carrier's procedures for reporting OOS violations and communicating appropriately with other personnel.

Recommendations

1. Additional Information

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

2. Recommendations

- **Understand Why Compliance Saves Time and Money:** Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business. Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.

- **NOTICE:** 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

- **The Pre-Employment Screening Program (PSP)** is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information: <https://www.psp.fmcsa.dot.gov/psp/default.aspx>

- **Seek Out Resources:**

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual is available on the Internet at the Federal Motor Carrier Safety Administration's web site at <http://www.fmcsa.dot.gov> and <http://www.safer.fmcsa.dot.gov>.

You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA. If you do not have a PIN Number, use the link below to request a PIN number for your DOT number and MC Number. The PIN number allows you to complete any updates on-line and much quicker than via the mail or fax. The PIN number is sent to you via U.S. mail and should take about a week.
https://li-public.fmcsa.dot.gov/LIVIEW/PKG_PIN_START.PRC_INTRO

Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

FMCSA Rules and Regulations <http://www.fmcsa.dot.gov/rules-regulations/rules-regulations.htm>

FMCSA Safety and Security <http://www.fmcsa.dot.gov/safety-security/safety-security.htm>

The Motor Carrier Safety Planner is available for free on the FMCSA website. This online guide provides simple explanations and templates to help companies that operate CMVs understand and comply with Federal safety regulations.
<https://www.fmcsa.dot.gov/safety/carrier-safety/motor-carriers-guide-improving-highway-safety>

For an overview of the complete North American Standard Inspection Level I process, you can obtain a brochure or view a video at <https://www.fmcsa.dot.gov/international-programs>

- **The CSA Safety Management Cycle** is a model that provides a holistic system view of the management processes and safety improvement practices a carrier should have in place in order to ensure compliance with FMCSA regulations. The six safety management processes in the cycle are areas that a motor carrier can systematically explore to discover what safety management processes are ineffective or not in place, thus identifying the process breakdowns.

Policies and Procedures

Roles and Responsibilities
Qualification and Hiring
Training and Communication
Monitoring and Tracking
Meaningful Action

• If you have any questions concerning this report, please contact:

Daniel C. Brown
Federal Motor Carrier Safety Administration
Illinois Division
3250 Executive Park Drive
Springfield, IL 62703
Phone: [REDACTED]

385.1005 Prohibition.

Two or more motor carriers shall not use common ownership, common management, common control, or common familial relationship to enable any or all such motor carriers to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with statutory or regulatory requirements prescribed under 49 U.S.C. Chapter 311, subchapter III, or with an order issued under such requirements.

385.1007 Determination of violation.

(a) General. The Agency Official may issue an order to suspend or revoke the registration of one or more motor carriers if he or she determines that the motor carrier or motor carriers have reincarnated or affiliated to avoid regulatory compliance or mask or otherwise conceal regulatory noncompliance, or a history of noncompliance.

(b) Reincarnation or affiliation. The Agency Official may determine that one or more motor carriers are reincarnated if there is substantial continuity between entities such that one is merely a continuation of the other. The Agency Official may determine that motor carriers are affiliates if business operations are under common ownership, common management, common control or common familial relationship. To make these determinations, the Agency Official may consider, among other things, the factors in 49 CFR 386.73(c) and examine, among other things, the records identified in 49 CFR 386.73(d).

(c) Regulatory noncompliance. The Agency Official may determine that a motor carrier or its officer, employee, agent, or authorized representative, avoids regulatory compliance or masks or otherwise conceals regulatory noncompliance, or a history of noncompliance by operating or attempting to operate a motor carrier as a reincarnated or affiliated entity to:

- Avoid complying with an FMCSA order;
- Avoid complying with a statutory or regulatory requirement;
- Avoid paying a civil penalty;
- Avoid responding to an enforcement action; or
- Avoid being linked with a negative compliance history.

385.1017 Penalties.

Any motor carrier that the Agency determines to be in violation of this subpart shall be subject to the civil or criminal penalty provisions of 49 U.S.C. 521(b) and applicable regulations.

3. **FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse**

The FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse is a secure, online database that gives employers and other authorized users real-time information about commercial driver's license (CDL) and commercial learner's permit (CLP) holders' drug and alcohol program violations.

The Clearinghouse improves safety on our Nation's roadways by giving employers access to information they need to make informed safety decisions about which employees to place in safety-sensitive functions, including operating a commercial motor vehicle (CMV).

To learn more and find out how to register visit: <https://clearinghouse.fmcsa.dot.gov/Learn>

Cease using driver(s) hired after January 6, 2020 until you conduct a full inquiry in the FMCSA Commercial Driver's License Drug and

Alcohol Clearinghouse and receive a result confirming the driver is not prohibited from performing a safety sensitive function. Do not continue to allow a driver(s) to perform a safety sensitive function after 24 hours have passed since a limited query in the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse displays a result indicating Records Found without receiving a result from a full inquiry confirming the driver is not prohibited from performing a safety sensitive function.

Table 1: Violations Discovered During Review/Inspection

Violation	Date	Identifying Information	Description
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Safety Investigator Narrative

Investigators who contributed to the review:

Name	Title	Inspector ID (e.g., SI Code)
Daniel Brown	Primary SI	US1713
Hal Massel	Secondary SI	US1793

Investigation Scope

Start Date: 6/16/20

Investigation Type: Onsite Investigation, Focused, selected BASICS

Selected BASICS

The Following BASICS were selected to be reviewed for the investigation:

Unsafe Driving	Full - due to Roadside
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Reason(s) for Investigation: Significant Crash, Other (COVID-19 National Emergency)

Comments

General comments:

<p>When the focused investigation began, the following BASICS were above intervention threshold: Unsafe Driving. This carrier review was assigned based on a significant crash.</p> <p>On 06/12/2020 at 0645 AM, on Interstate 39/90/94 NB, in Colombia County, WI, a tractor trailer combination operated by K Express, Inc., US DOT 1248031, failed to slow for the stopped traffic. The K Express truck struck 3 passenger cars and a pickup truck that were stopped in traffic before striking the rear of a dump truck. The crash resulted in 4 fatalities, 7 injuries. The driver of the CMV, Phillip A. Bruno, was one of the 4 fatalities.</p> <p>The investigation of a fatal crash required assessment of the driver's qualification file, controlled substances and alcohol program, hours of service (HOS), and the vehicles involved in the crash's vehicle maintenance per the FMCSA Operations Directive Significant crash/Incident memorandum of 04/29/2008. See the conclusion section for the detailed description of the investigative findings.</p>

Company Information

Company Owners and Partners/Officers/Members of the Company

Name	Title	In Charge of Safety Management?	Received Report?	Present for Close-Out?
[REDACTED]	Vice-President	No	No	No
[REDACTED]	President	Yes	Yes	Yes