

**APPLICABILITY AND COMPLIANCE WITH ARKANSAS LAWS AND FEDERAL MOTOR CARRIER
SAFETY ADMINISTRATION REGULATIONS for CHILD CARE BUSINESSES**

COMPLIANCE ASSESSMENT GUIDE

APPLICABILITY – Any business in Arkansas that operates a commercial vehicle is subject to certain Arkansas laws and Federal Motor Carrier Safety Administration (FMCSA) regulations. Operating commercial vehicles in-state only, as oppose to interstate operations, does not relieve the operator from applicable requirements of the FMCSA regulations. Any child care business that operates a bus that is designed to transport 16 or more passengers including the driver is required to follow all applicable transportation laws and FMCSA regulations. The following guide/checklist is designed for Child Care Licensing Specialist (CCLS) to evaluate if these laws and regulations are being followed.

GENERAL SAFETY REQUIREMENTS GUIDE/CHECKLIST

A. Commercial Driver’s License (CDL): Drivers operating a vehicle designed to transport 16 or more passengers including driver must possess a valid Class C, Class B, or Class A CDL with a “P” endorsement. If the vehicle has a Gross Vehicle Weight Rating of over 26,001 pounds the CDL must be a Class B or Class A. Does each driver possess the appropriate CDL? () Yes () No

B. USDOT Drug and Alcohol Testing: Any driver operating a commercial vehicle and possessing a CDL is subject to FMCSA Drug and Alcohol testing rules as required by State law and FMCSA regulations. Has the child care business contracted with a consortium/third-party administrator for the provision of testing services? () Yes () No The following items should be verified:

1. Before Driving – Employer must acquire Pre-Employment Drug Test results.
2. Before Driving - Receipt of Employer’s USDOT Required Drug and Alcohol Policy.
5. Driver(s) placed in Random Testing Pool.
3. Within 30 Days - Prior Employer 3-year Check for Drug & Alcohol if previously employed as a CDL driver.
4. Provided Driver Educational Materials.

C. Driver Qualification File: Every child care business must have a qualification file for each CDL driver they employ as required by FMCSA regulations. Does the child care business have a file containing qualification information? Yes () No () The following items should be verified:

1. Before Driving – Proper USDOT Application if previously employed as a CDL driver.
2. Before Driving – Must possess a USDOT Medical Certificate.
3. Before Driving – Road test or CDL/Proper Class license in lieu of road test.
4. Within 30 Days – Obtain Prior Employer 3-Year Check if previously employed as a CDL driver.
5. Within 30 Days – Obtain Motor Vehicle Driving Record from State Office of Driver Services.
6. Annually – Employer must obtain and review motor vehicle driving record.

7. Annually - Employee must provide employer with a list of traffic violations.

D. Instructed in Commercial Motor Vehicle Rules: Every owner, supervisor, and driver must be instructed in and comply with applicable operating rules. Does the child care business have documentation of instruction required by CFR Part 392? () Yes () No

E. Inspection, Repair and Maintenance: Every child care business that operates commercial motor vehicles must systematically inspect, repair, and maintain each vehicle. Does the business have documentation for each vehicle that contains inspection, repair and maintenance records, as well as, tests conducted on buses with pushout windows, emergency doors, and marking lamps? () Yes () No

a. Every commercial vehicle is required to have a USDOT periodic inspection once every 12 months conduct by a qualified inspector. Documentation of the most recent inspection must be kept on the vehicle. Did the child care business have documentation of the inspection?
() Yes () No

b. A driver of a commercial vehicle must be satisfied that the vehicle is in good working order before operating the vehicle. A written report is not required but the driver must include in their inspection the following: service brakes, parking brake, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers and rear-vision mirrors. Are the drivers following this rule? () Yes () No

c. Every driver of a commercial vehicle must prepare a daily written post-trip inspection report at the end of each driving day for each commercial vehicle driven. The report must cover service brakes, parking brake, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rearview mirrors, wheels and rims, and emergency equipment. Did the child care business have documentation of these inspections? () Yes () No

F. Driver's Record of Duty: A commercial driver operating within a 100 air-mile radius of their normal work location is not required to keep a driver's duty status log. However, the employer must maintain, for a period of six-months, accurate time records to include: 1) time driver reporting for duty; 2) hours on duty each day; and, 3) time released from duty. Did the child care business have time records? () Yes () No

Clarification Concerning School Buses: Yellow school buses operated by a school district to transport K-12 student are subject to the Arkansas Department of Education rules and exempt from the FMCSA regulations. **Former/Used school buses purchased by a child care business are considered commercial motor vehicles and subject to FMCSA regulation; and by law, "cannot be operated upon the public highways and roads of this state when the vehicle is painted with the officially designated school bus colors or has the words 'SCHOOL BUS' marked thereon".**

RECOMMENDATIONS TO CCLS

Child care businesses that chose to operate a commercial motor vehicle must follow the applicable State laws and regulations. Failure to do so is in violation of the Child Care Center Minimum Licensing Requirement 1301 Transportation Requirement.

Any “NO” answer to items A and B should facilitate an immediate suspension of the commercial vehicle operation. ACA 27-23-101 et al, Arkansas Uniform Commercial Driver License law and ACA 27-23-101 et al, Commercial Driver Alcohol and Drug Testing are mandated by the State of Arkansas and serious safety infractions if violated.

Any “NO” answers to items C, D, E and F are violation of the FMCSA regulations and carry a significant safety risk, as well as, subjecting the business and drivers to certain penalties and liability for noncompliance. In these cases, education is the appropriate remedy to ensure businesses become compliant. Owners should be given reasonable time to become informed and initiate corrective actions, or cease to use a commercial motor vehicle.

Enforcement of these laws and regulations are the responsibility of the Arkansas Highway Police, a division of the Arkansas Department of Transportation. For questions concerning compliance requirements, contact Lance Tatum, FMCSA Safety Auditor, Arkansas Highway Police, 501-569-2421 or lance.tatum@ardot.gov .