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GOVERNOR LAURA KELLY

EXECUTIVE ORDER NO. 20-33

Extending conditional and temporary relief from certain motor carrier rules and regulations in response to the COVID-19 pandemic

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration's top priority;

WHEREAS, Kansas is facing a crisis—the pandemic and public health emergency of COVID-19—resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with more than 1,384,000 cases of the illness and more than 83,000 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, as of this date, there have been 7,886 reported positive cases of COVID-19—including 172 deaths—in Kansas spread among 84 counties;

WHEREAS, the President of the United States has declared an emergency under 42 U.S.C 5121, et seq., and pursuant to 49 CFR 390.23 (a)(1)(i), an emergency exists that warrants an exemption from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSRs). The Acting Director of the Federal Motor Carrier Safety Administration ("FMCSA") issued an Emergency Declaration for these exemptions. Such emergency is in response to the Coronavirus 2019 (COVID-19) outbreaks and their effects on people and the immediate risk they present to the public health, safety and welfare in the fifty States and the District of Columbia. This declaration addresses National emergency conditions that create a need for immediate transportation of

essential supplies, equipment and persons; and provides necessary relief from FMCSRs for motor carriers and drivers engaged in the transport of essential supplies, equipment and persons;

WHEREAS, by execution of this Emergency Declaration, motor carriers and drivers providing direct assistance in support of relief efforts related to COVID-19 outbreaks are granted emergency relief from Parts 390 through 399 of Title 49 Code of Federal Regulations, except as restricted herein. Direct assistance means the transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services, such as medical care, or essential supplies of food, related to COVID-19 outbreaks during emergency;

WHEREAS, these conditions require the operation of motor carriers and drivers of commercial motor vehicles for the purposes of providing direct assistance to supplement local, state and federal efforts in relief and restoration effort throughout the Nation;

WHEREAS, Section 127 of title 23, U.S.C., establishes weight limitations for vehicles operating on the Interstate System. Those maximum weight limitations are as follows: single axle - 20,000 lbs.; tandem axle - 34,000 lbs.; and gross weight - 80,000 lbs. (or the maximum allowed by Federal Bridge Formula). Section 127 states that the overall gross weight may not exceed 80,000 lbs., including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued Special Permits in accordance with applicable State laws. This language establishes the States' authority to issue Special Permits to "non-divisible" loads. Examples of non-divisible loads include: bulldozers, large generators, scrapers, and modular homes. Section 1511 of MAP-21 extends the States' authority to issue Special Permits to vehicles with divisible loads that are delivering relief supplies during a Presidentially declared emergency or major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act") (42 U.S.C. 5121 et seq.);

WHEREAS, when the COVID-19 pandemic is stressing health care, local and state support systems, and our economy, any impediment to efficient and timely transportation of supplies and goods also impedes our ability to promote and secure the safety and protection of the civilian population;

WHEREAS, when the COVID-19 pandemic is stressing health care, local and state support systems, and our economy, strict compliance with certain regulations or laws may prevent, hinder, or delay necessary action in coping with the pandemic; and

WHEREAS, this Administration will do whatever it can to assist Kansans in these challenging times, including ensuring that essential goods and supplies can be delivered as efficiently as possible while still maintaining adequate safety standards.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A. 48-924 and K.S.A. 48-925, in order to mitigate the effects of the spread of COVID-19, cope with the effects of the pandemic, and to promote and secure the safety and protection of the civilian population, I hereby acknowledge a state of emergency exists in the United States and direct and order the following:

1. In accordance with the FMCSA's declaration under Title 49 C.F.R. § 390.23(a)(1)(i), Title 49 C.F.R §§ 390-399 are hereby suspended for motor carriers and persons operating commercial vehicles actively participating in COVID-19 relief or restoration efforts.

2. Motor carriers and persons operating commercial vehicles actively participating in COVID-19 relief and restoration efforts may haul up to 10% more than their licensed weight on Kansas highways, not to exceed 90,000 pounds.

3. All other applicable state and federal regulations shall continue to apply, including but not limited to: Title 49 C.F.R. Part 382, Controlled Substances and Alcohol Use and Testing; the Kansas Motor Vehicle Driver's License Act, K.S.A. 8-234 *et. seq.,* and Title 49 C.F.R. Part 383 Commercial Driver's License Standards as adopted by the Kansas Uniform Commercial Drivers' License Act, K.S.A. 8-2,125 *et. seq.*, the federal Minimum Levels of Financial Responsibility (insurance requirements) Title 49 C.F.R. Part 387 as adopted by K.A.R. 82-4-3n and state insurance requirements as provided in K.A.R. 82-4-23; and, adherence to the regulations governing the Transportation of Hazardous Materials as provided Title 49 C.F.R. 397 and adopted by K.A.R.82-4-3k and Parts: 107, 171-173, 177, 178 and 180 as adopted by K.A.R.82-4-20.

4. The licensing, certification, and permitting rules and regulations as required by the Kansas Corporation Commission are temporarily suspended for motor carriers and persons operating commercial vehicles actively participating in COVID-19 relief or restoration efforts.

5. The registration and fuel tax permits as enforced by the Kansas Department of Revenue are temporarily suspended for motor carriers and persons operating commercial vehicles actively participating in COVID-19 relief or restoration efforts.

6. Motor carriers and persons operating commercial vehicles actively participating in COVID-19 relief or restoration efforts must still obtain the requisite over-dimension/overweight permits as required by the Kansas Department of Transportation prior to operating; however, the fees associated with these permits are temporarily waived.

7. Except as specifically stated in this order, all other state motor carrier laws or regulations remain in full force and effect.

8. This order supersedes any contrary order by any local health department regarding motor carriers and should be read in conjunction with previous executive orders responding to the COVID-19 pandemic. Any contrary provision in previous executive orders is superseded by this order.

This document shall be filed with the Secretary of State as Executive Order No. 20-33. It shall become effective immediately and remain in force until rescinded, until 11:59 p.m. on June 14, 2020, or until the statewide State of Disaster Emergency proclaimed on April 30, 2020, relating to COVID-19 expires, whichever is earlier.

THE GOVERNOR'S OFFICE

BY THE GOVERNOR Laura Cole

DATED 5.15.2020

FILED
MAY 15 2020
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