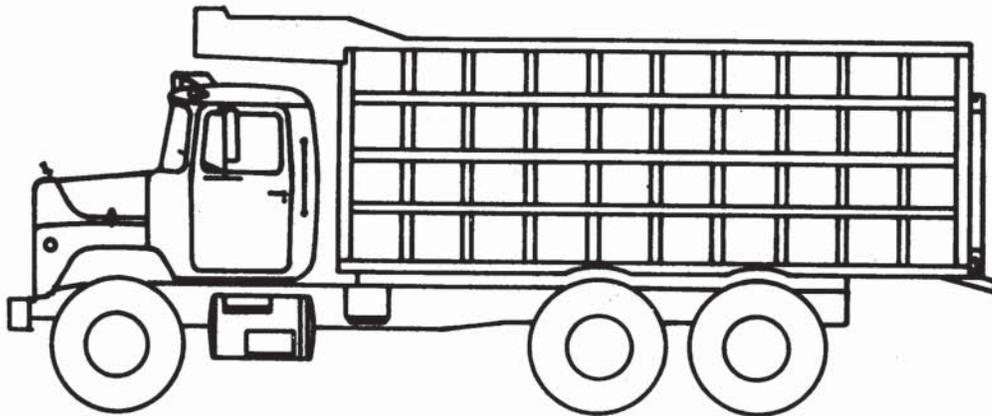


# **COAL TRUCKS AND THE LAW**

**Statutes, Regulations and Policies Affecting  
Truck Transportation of Coal in Kentucky**



**Research Report No. 176**

**LEGISLATIVE RESEARCH COMMISSION**

**Frankfort, Kentucky**

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# COAL TRUCKS AND THE LAW

## Statutes, Regulations and Policies Affecting Truck Transportation of Coal in Kentucky

Prepared by  
**William VanArsdall**

**Research Report No. 176**

*Legislative Research Commission  
Frankfort, Kentucky  
January, 1981*



## FOREWORD

During 1980, the Kentucky General Assembly passed two resolutions requesting the Legislative Research Commission to study "federal and state laws, regulations and policies which collectively hamper the transportation of coal." House Resolution No. 120 was introduced by Representative Albert Robinson and Senate Resolution No. 66 was introduced by Senator Gene Huff.

Pursuant to those resolutions, this report was prepared by William VanArsdall. It was typed by Susan Eastman and edited by Dr. Charles Bush. The cooperation of representatives of the coal trucking industry is gratefully acknowledged, and special thanks go to officials in the Kentucky Department of Transportation, the Bureau of State Police, and the Department of Justice.

VIC HELLARD, JR.  
Director

The Capitol  
Frankfort, Kentucky  
January, 1981



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## SUMMARY

Kentucky needs a coal transportation system which is efficient and safe. This need will assume greater importance as energy reserves decrease elsewhere, and national attention focuses on moving coal from the mine to the consumer.

Trucks will continue to play a major part in that process. Each year the number of miles of Kentucky road the coal trucks travel increases.

Unfortunately, the present methods of hauling the mineral result in damage to highways. Dust, danger and noise have become serious problems. The people who suffer the most from such road conditions are not always those who derive the greatest benefit from coal transportation.

The federal government and the state of Kentucky have adopted a set of rules designed to prevent excessive highway damage. Coal truck operators feel that some of these laws, regulations and policies treat them unfairly. To make a decent profit, they say, drivers must risk being treated as criminals. Their complaints concern licensing methods, scales, taxes and uneven enforcement.

Chapter I of this report is a discussion of the effects of coal transportation on Kentucky's roads and on its citizens. Chapter II identifies the applicable laws and regulations, and Chapter III takes up specific complaints of truck drivers. In Chapter IV, recommendations from various sources are discussed.



## CHAPTER I

### COAL TRANSPORTATION AND KENTUCKY'S ROADS

Coal is important to Kentucky's future. It will continue to play a major role in the state's economy, and decisions made now can effect our quality of life for decades.

Demand for coal is already high, and it will surely increase. As energy supplies dwindle elsewhere, the existence of this abundant source of energy within the United States will take on added significance. The leaders of the seven largest western industrial nations pledged in June 1980 to double the use of coal in ten years, in an effort to lower the West's dependence on foreign oil.<sup>1</sup>

Kentucky will certainly feel the effects of this demand, since it is the largest producer of coal in the nation. In 1979, Kentucky produced a total of 149.8 million tons, and output through July of 1980 was 6.5 percent higher than during the same period a year earlier.<sup>2</sup> In one recent year, Kentucky supplied one quarter of the total U.S. production of bituminous coal, the type preferred for most purposes.<sup>3</sup> Predictions are that production will keep increasing; it has been estimated that annual Kentucky coal production may, by 1984, reach levels 1.6, 1.9, or even 2.3 times the 1973 coal production level.<sup>4</sup> The Commonwealth ranks seventh in total estimated coal reserves and third in known reserves of bituminous coal. There are 64,200,000,000 tons of known coal reserves in the state, and an estimated 50,000,000,000 tons of uncharted coal.<sup>5</sup>

The future of coal production and the future of Kentucky are strongly linked. "A coal industry has long been integral to the social and economic well-being and development of the Commonwealth of Kentucky."<sup>6</sup> Income, employment, and population growth have all been connected statistically to the growth of the coal industry in the eastern Kentucky region.<sup>7</sup>

Because continued production of coal is inevitable, intelligent planning for its transportation is extremely important. If an efficient system of getting coal from the mine to the market exists and if detrimental effects can be avoided, the state will benefit. If not, the demand for the product appears to be such that coal will be produced regardless of the threats to living conditions and the environment. Government and the coal industry should work together to make sure that the quality of life in Kentucky does not suffer.

#### Use of Trucks in Coal Transportation

Whatever the future of the coal industry, trucks will play a major part. They continue to be the primary method of initial transportation of coal in eastern Kentucky.<sup>8</sup> Trucks transport about 58 percent of all coal produced in the Appalachian region.<sup>9</sup> Of the 81.8 million short tons of coal produced in southeastern Kentucky during 1974, 86.5 percent moved by truck at some point.<sup>10</sup> Most mines in Kentucky use trucks to move coal either to the tippie or to its final destination. Much of this movement is on relatively short runs from the point at which the coal leaves the ground to loading points for shipment by rail or water.

Over the last few decades the use of trucks in coal transportation has expanded greatly. Since 1956 "there has been a dramatic shift in the primary mode of coal transport, to the point that in 1973 only about 32 percent of the region's coal was shipped by rail, and almost 68 percent of such coal

moved from eastern Kentucky by truck."<sup>11</sup> This shift to trucks has been evident in western Kentucky as well.<sup>12</sup> The Kentucky Department of Transportation gives several reasons for the movement to trucking in eastern Kentucky: railroad's inability to move and to accommodate shifts in areas of production, deterioration in railroad physical plants and services, emphasis on improving highways in the last few decades, and improvement in the efficiency and local carrying capacity of trucks.<sup>13</sup> Though rail and pipeline construction is occurring, trucking will remain very important for the foreseeable future: "construction of conveyors and rail facilities, the major alternatives to highway transportation . . . are imperfect substitutes for roadway movement of coal."<sup>14</sup>

### Highway Damage

One unfortunate result of this heavy reliance on trucking is the damage which occurs to the state's roads. Trucks carrying large amounts of coal regularly roll over highways which are not able to withstand the weight. Many of the roads used for hauling coal were not built with such heavy traffic in mind, and even the state's best highways will crumble under prolonged hard use. Bridges become unsafe. The Kentucky Department of Transportation reports that there is

a highly deficient highway system in the Eastern Kentucky Region. More miles of highway become inadequate annually than can be improved. Coal haul demands on all roads have resulted in marginally deficient roads becoming highly inadequate. Approximately 75 percent of all State maintained roads upon which coal is hauled are deficient. In the Eastern Kentucky Region, approximately 85 percent of all such State maintained roads are inadequate . . . . Normal deterioration, accelerated by the impact of heavy coal hauling, has created an impossible maintenance problem. Coal trucks with gross weights in excess of 90,000 pounds traveling on roads designed for load limits of from 30,000 to 70,000 pounds cause intermediate-type bituminous roads to fail and become rutted . . . . The final result is a "road" which serves neither the local resident nor the trucker.<sup>15</sup>

It has been estimated that 6,814 miles of Kentucky roads carry coal-haul traffic, 5,112 of these miles being in eastern Kentucky.<sup>16</sup> In 1974 more than three-fourths of the miles affected in eastern Kentucky carried ten or more coal trucks per day—often as many as fifty to one hundred per day.<sup>17</sup> At a rate of more than ten laden trucks a day, "it may be assumed that local farm-to-market or similar paved roads soon become dirt roads."<sup>18</sup>

This threat will not lessen. By all indications, the use of the state's roads for hauling coal is going to increase dramatically in the coming years. In 1973 there were approximately 2,890 trucks being utilized principally for this purpose on Kentucky's roadways.<sup>19</sup> This number will grow to between 8,000 and 15,000 by 1984, according to the Kentucky Department of Transportation, unless the amount of coal moved by rail increases significantly or unless there is an unforeseen technological advance. "It is clear," the Department says, "that, given the condition of many of Kentucky's coal haul roads today, the Commonwealth's highway system cannot bear such a burden."<sup>20</sup>

repaid by the profit from the coal. The people of the region and the citizens of this state are paying a price so that coal can be transported and consumed outside the state. Dr. Curtis E. Harvey of the Department of Economics at the University of Kentucky states that "the transport of coal over public roads usually involves costs which are not borne by the users of the coal." These "external costs" are of two kinds, he says: first, because of "the deterioration of existing roads . . . safety hazards are increased," and second, if public roads "remain a major mode of transporting coal, this will generate unwarranted and excessive claims against public resources." Dr. Harvey goes on to state that:

. . . mining operators and/or their transport agents find it in their self-interest to transfer some of their production costs—namely those associated with the transport of coal—to others. If no one person owns a road, or even if it is owned but the owner cannot effectively police the use of it, it becomes possible to use and damage it without having to pay for it. In fact, it is clear that the absence of well-defined property rights on roads provides a primary incentive for coal transporters to shift some of the transport costs to the citizenry. It is, after all, taxpayers who currently pay for the upkeep and the expansion of the road system used by coal haul trucks, regardless of the use that these citizens themselves make of the roads . . . . It is appropriate to view the external costs imposed by coal haulers on area residents as a tax, because it is a burden which the residents cannot escape unless they can exclude coal trucks from using their roads altogether.<sup>28</sup>

Repairing coal-haul roads and bringing them back to acceptable travel conditions would be a major financial undertaking for Kentucky. According to 1976 figures from the Kentucky Department of Transportation, the estimated cost to restore Kentucky's state-maintained coal-haul roads to their original condition is \$138,448,000. Total annual maintenance after restoration would cost \$37,374,000. The cost to improve state-maintained roads and bridges so that they will support heavy coal hauling would be \$643,120,000. To upgrade local roads to a "traffic-bound macadam" surface (one which can be maintained cheaply) would cost \$103,181,000. The cost to improve all deficient roads to an acceptable design standard for normal travel purposes, without coal hauling, is estimated at \$2,562,309,000. To provide a structural condition for those same roads sufficient to support heavy coal transportation, the price estimated by Kentucky's Department of Transportation is \$3,043,224,000.<sup>29</sup>

### Debate Over Solutions

Some of these amounts are clearly beyond the Commonwealth's ability to pay. How have roads been allowed to reach such a state of deterioration? One obvious answer is that too many heavy and improperly loaded trucks have been traveling the state's highways. Laws enacted to protect the roads have been ignored. While truck drivers must accept their share of the blame for this situation, placing all the responsibility on truckers is too simple. Several factors have contributed.

A major reason for the problem of road damage is economic pressure on truckers. Drivers claim they are caught in a financial squeeze between coal producers and coal consumers. Spokesmen say they must often run overweight in order to break even. Competition is intense; cutthroat bidding and cost undercutting are common.

## Harmful Effects

The detrimental effects of such road deterioration are numerous. Dust, accidents, reduced mobility, noise, vibration, and psychological damage are some of the hazards associated with a high volume of coal traffic.

Dust can be a serious environmental and health hazard. High concentrations of dust can become suspended in the air along damaged roads. Dust can cover everything for many feet on either side of a roadway, sometimes filling the air in an entire valley. Drivers may be forced to turn their headlights on during the day.<sup>21</sup>

State standards for matter suspended in air are repeatedly found to be exceeded in such areas.<sup>22</sup> The Kentucky Division of Pollution Control reports that 22 percent of its claims and 35 percent of its investigations are related to roadway dust. Clouds of dust make the air unhealthy and difficult to breathe, often forcing residents to keep their windows closed.

Accidents may increase on roads with a heavy volume of coal truck movement. First, the chance of accidents goes up when visibility is reduced by dust. Citizens have expressed fears that children waiting for school buses will be run over.<sup>23</sup> A study sponsored by the Appalachian Regional Commission (ARC), referring to accidents on rural roads, states that "roadway dust may contribute to these accidents . . . and this may be a serious highway safety problem in such states as Kentucky, Pennsylvania and West Virginia."<sup>24</sup> Second, when a truck is involved in a wreck, there is a higher likelihood of injury or fatality to those in other vehicles than there is from wrecks with smaller vehicles.<sup>25</sup> The narrow, curving roads on which coal is often moved are especially hazardous when large numbers of heavy trucks use them. According to the Research Triangle Institute, the most detrimental environmental effect of coal movement on Appalachia's higher-volume narrow primary roads may be the danger of traffic accidents.<sup>26</sup>

Noise is another serious problem. The ARC states that noise from heavily laden coal trucks may be an even greater problem than pollutant emissions and dust levels. "Noise from a heavy truck at 50 feet can reach 90 dBA, the equivalent of a person shouting in one's ear from a distance of two feet. The impact of noise . . . affects mostly those residents who live in dwellings within 50 to 60 feet of heavily traveled coal roads."<sup>27</sup> Prolonged exposure to high levels of noise can lead to physical and emotional damage. Vibration alone is capable of harming structures and causing psychological problems.

Damaged roads also result in reduced mobility for residents. Fearing accidents, damage to vehicles, and inconvenience, citizens may limit their shopping and recreational travel, thus increasing the isolation imposed by the hilly terrain of much of the state's coal-producing area. Access to public services and activities outside the home may be curtailed by poor roads. It has long been a goal of the state to open eastern Kentucky to the outside by building highways. This purpose is frustrated when the movement of one product, destined largely for out-of-state markets, prevents free travel by the people of the area.

## Cost to Kentucky

Thus, while it is certainly true that the coal industry brings great economic benefit to Kentucky and that coal is one of the state's major assets, there are costs paid by residents which are not

With some exceptions, the average coal hauler is an individual who borrows money for the down payment and finances the rest of the truck cost with a commercial finance company. Entry is easy into the business which is very competitive and characterized by rate-cutting. In the view of the [Kentucky Motor Transportation] Association, the independent trucker is caught in a very difficult squeeze. The unregulated nature of coal hauling leads to considerable shifting from mine to mine as other haulers underbid in order to keep their trucks working . . .<sup>30</sup>

Another factor is that the enforcement of weight limits is not as stringent as road conditions demand. During a five and one-half month period in 1977, the 1,086 citations issued in eastern Kentucky for overweight coal trucks resulted in the conviction of only twelve operators.<sup>31</sup> This is a conviction rate of slightly more than 1 percent. In 1974, almost three-fourths of the trucks in the three largest weight classes were running overweight on Kentucky highways.<sup>32</sup>

In some areas, restrictions are practically being ignored. The reasons are summed up well in the ARC report:

Several realities work together to thwart the effectiveness of [load limit posting and effective enforcement]: (1) community economic and political considerations, which argue against depriving a trucker or a mine operator—particularly the smaller trucker or operator—his livelihood; (2) jurisdictional problems, such as arise when highway, road, or street maintenance officers may apprehend but not issue citations to overweight coal trucks; (3) highway patrol or local police can cite but not adjudicate, and local courts are relied upon to adjudicate the violation; and (4) apprehension difficulties, which are multiplied in areas where several mines, several consumption and/or transshipment points, and/or several routes exist between origin and destination pairs. In many areas of Appalachia coal is the backbone of the local economy, and there is reluctance on the part of local officials to invoke strong load limit posting and enforcement measures. Jurisdictional difficulties are highlighted by the number of agents required to make the enforcement and the typical lack of cooperation among these agents. These difficulties are typically more pronounced on state highway systems than on local . . . systems. The manpower costs of effective detection and apprehension are high in many Appalachian areas characterized by several mines, loading points, and routes, and this situation discourages the allocation of highway patrol and police manpower to this activity, and also discourages reporting of violations by maintenance officers.<sup>33</sup>

Is strict enforcement the solution? Some sources argue that it would have adverse effects, threatening the economic survival of truckers and raising the price of coal. "Such enforcement would result either in running large trucks nearly empty or in the increased use of smaller trucks such as the one and a half ton truck. In either case, the cost of moving coal would increase substantially."<sup>34</sup> Such an increase, the argument goes, would hurt the economy of the coal-producing regions and make the citizens worse off.

One authority who favors enforcement is Dr. Curtis E. Harvey, who directed a study which asserts that there is little evidence that enforcing weight limitations will leave many truck drivers and supporting personnel unemployed.<sup>35</sup> Stopping trucks from running overweight, the report maintains, would merely expand the number of trucks in use, increasing the number of drivers needed. Maximum weight limitations, it argues, can be enforced without hardship on the economy or a negative effect on the demand for coal. Dr. Harvey writes:

These conclusions rest on a careful analysis of the elasticities of demand for the high quality Eastern Kentucky coal, which reveals that the demand for such coal is price inelastic, i.e., is not particularly responsive to changes in price. In other words, although higher trucking costs would probably generate a higher supply price for coal, little change in quantity demanded would result, and net receipts to the industry would actually rise—change in price “outweighs” change in quantity sold.<sup>36</sup>

Coal industry spokesmen disagree that demand for coal is insensitive to price changes. On the contrary, they claim that a change in the price of coal transportation has a rapid and dramatic effect on the market.

These are a few of the reasons commonly given for the present condition of Kentucky's coal roads. Others will be discussed later in this report. The important question is, who should bear the cost of the transportation of coal and of the resulting damage to highways? Truck drivers, who often operate on the economic margin? People living near coal roads and already suffering from dust, discomfort and danger? Coal producers? Taxpayers? If a fair distribution of costs can be worked out, Kentucky may begin to solve the problem of broken laws and battered roads.

## CHAPTER II

### LAWS AND REGULATIONS

Funds for Interstate highways are appropriated under Title 23 of the United States Code, Section 127 of which provides that no such funds shall go to a state in which the Interstate system may lawfully be used by vehicles with weight in excess of 20,000 pounds carried on any one axle, or with a tandem axle weight in excess of 34,000 pounds, or with an overall gross weight on a group of two or more consecutive axles in excess of the following formula:

$W = 500 (LN/N-1 + 12N + 36)$  where  $W$  = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds,  $L$  = distance in feet between the extreme of any group of two or more consecutive axles, and  $N$  = number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each, providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

In Kentucky, this formula applies only to trucks weighing above 73,280 pounds. The overall gross weight may not exceed 80,000 pounds.

States must certify yearly that they are enforcing the size and weight restrictions or face a cutoff of federal funds.

Each state shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title. [23 USC §141(b).]

The Secretary of Transportation is empowered [23 USC §141(c)] to require, by regulation, information necessary to verify the state's certification. If a state fails to certify, or if the Secretary of Transportation determines that the state is not adequately enforcing its vehicle size and weight laws, the federal-aid highway funds for that year are reduced by 10 percent.

Under the corresponding federal regulation, 23 CFR 658.9, to obtain approval of federal-aid projects, the state must each year offer a statement by the Governor or his representative that state laws conform to federal requirements and that these laws are enforced. Information must also be sent on laws, regulations, scales, citations and permits.

Kentucky is in compliance with these federal requirements. KRS 189.221 forbids any truck, trailer or vehicle which exceeds 18,000 pounds gross weight to operate on any highway in the state, except those highways designated by the Secretary of Transportation under KRS 189.222. That section allows the Secretary to increase the height, length and weight limits on highways that are part of the state-maintained system, but in no event is a single axle allowed to exceed 20,000 pounds or is the

gross weight to exceed 82,000 pounds. In addition, no increase shall “in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky . . . .” The 1980 Kentucky General Assembly passed a law providing that vehicles engaged exclusively in the transportation of farm products and having a gross weight of more than 38,000 pounds are excluded from the axle weight provisions and subject only to total gross weight provisions.<sup>37</sup>

Pursuant to KRS 189.222, the Secretary of Transportation has declared an increase from the limits of 189.221. By regulation, the maximum gross weights on state-maintained roads are now 80,000 pounds on Class AAA roads, 62,000 pounds on Class AA roads, and 44,000 pounds on Class A roads. The maximum gross weights on Interstate highways are within the federal limits. This regulation also establishes four truck types, classifying them by number and arrangement of axles.<sup>38</sup> Another regulation identifies each road in the state’s primary road system and classifies it.<sup>39</sup> Maximum dimensions for trucks using the primary road system are set in 603 KAR 5:070. Weight limits on bridges are often posted on signs like the one in Figure 1.

Weight limits lower than those in KRS 189.221 may be prescribed whenever “any highway may, by reason of its design, deterioration, rain or other natural causes, be damaged by motor trucks or semitrailer trucks, if their gross weight . . . exceeds certain limits.”<sup>40</sup>

Permits allowing vehicles to exceed the set limits are provided for in KRS 189.270. They may be issued “for stated periods, special purposes and unusual conditions.” The applicant must pay a reasonable fee and may be required to give bond. The regulation adopted pursuant to this statute, 603 KAR 5:075, states that such special permits

will be issued by the Department of Transportation, Permit Section, Division of Motor Carriers, Frankfort, Kentucky, when, in the discretion of the department, such movement is necessary to provide transportation to specified cargo in the interest of the health, welfare and economy of the people.

Figure 2 shows the Kentucky Department of Transportation’s explanation of these permits and its illustration of dimension limits.

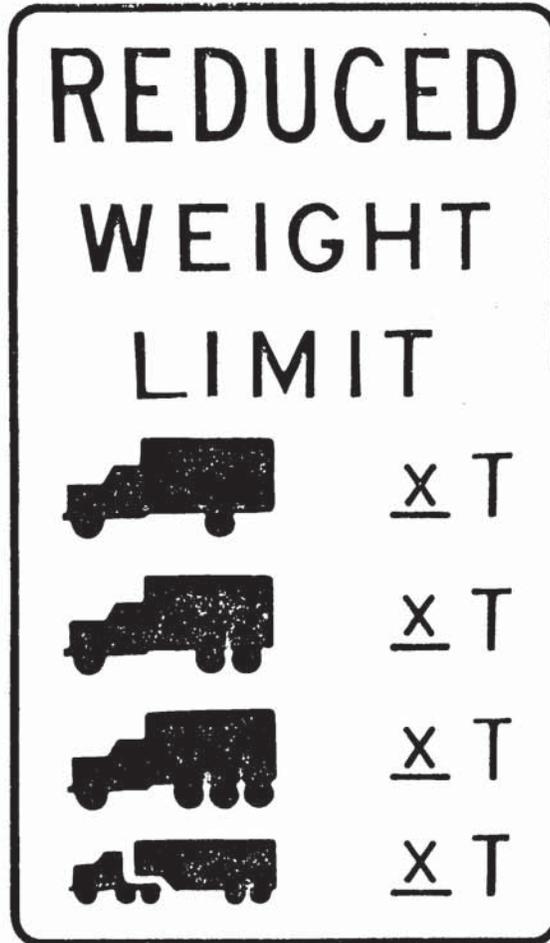
These permits are not to be granted indiscriminately or without reason. The Kentucky Court of Appeals discussed this provision in the case of *Hancock v. Terry Elkhorn Mining Co.* [503 S.W.2d 710 (Ky. 1973)], stating that

KRS 189.270 was designed to take care of emergency or unusual circumstances only . . . . It is obvious that the special permit was only for use in emergency or unusual situations and was not an instrument that could be issued to and used by a person in the day-to-day operation of a business.<sup>41</sup>

The court also quoted a 1932 Kentucky case expressing the opinion that KRS 189.270 was for use only in emergencies: *Ashland Transfer Company v. State Tax Commission*, 56 S.W. 2d 691 (Ky. 1932).

FIGURE 1

Signs Used for Posting of  
Weight Limits on Bridges



THIS IS A SAMPLE OF THE SIGN SHOWING WEIGHT LIMITS ON STATE-MAINTAINED BRIDGES WHICH IS BEING POSTED THROUGHOUT THE STATE BY BUREAU OF HIGHWAYS MAINTENANCE CREWS. THE WEIGHT LIMITS ARE BASED ON THE DISTRIBUTION OF WEIGHT OVER EACH VEHICLE'S AXLES. PREVIOUSLY, BRIDGES HAD A SINGLE GROSS WEIGHT LIMIT THAT APPLIED TO ALL VEHICLES.

TRUCK TYPES

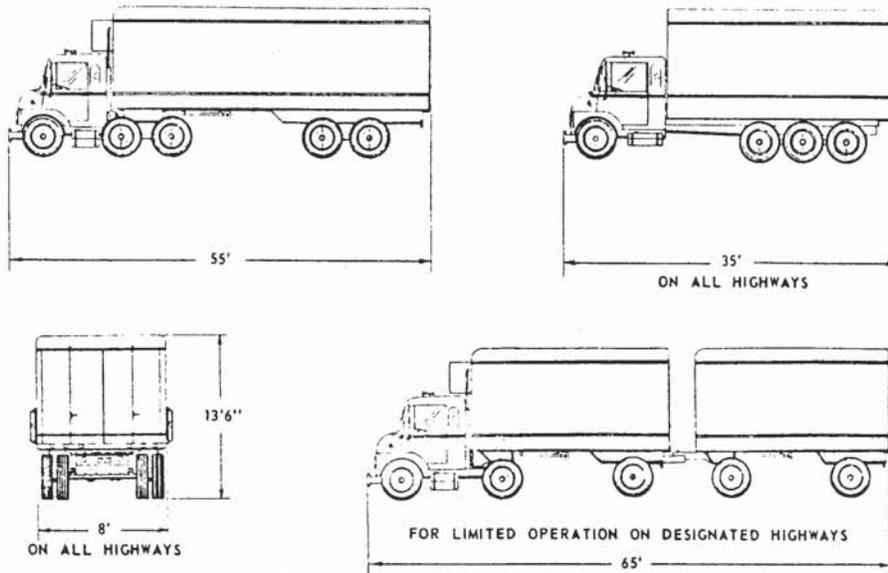
THE FOLLOWING TRUCK TYPES HAVE BEEN ESTABLISHED FOR POSTING BRIDGES AND FOR LISTING BRIDGE WEIGHT RESTRICTIONS.

- TYPE 1 TRUCK WITH TWO (2) SINGLE AXLES
- TYPE 2 TRUCK WITH ONE (1) SINGLE AXLE AND ONE (1) TANDEM AXLE
- TYPE 3 TRUCK WITH ONE (1) SINGLE AXLE AND ONE (1) TRI-AXLE
- TYPE 4 TRUCKS WITH THREE (3) SINGLE AXLES OR TWO (2) SINGLE AXLES AND ONE (1) TANDEM AXLE OR ONE (1) SINGLE AXLE AND TWO (2) TANDEM AXLES OR ANY OTHER TRUCK AND TRAILER COMBINATION

Source: Kentucky Department of Transportation, *Map of Kentucky Showing Designated Class "AAA" and "AA" Trucking Highways*, 1976.

FIGURE 2

Dimension Limits and Permits as Illustrated  
by the Kentucky Department of Transportation



OVER WEIGHT AND OVER DIMENSION PERMITS

PERMITS WILL BE ISSUED BY THE DEPARTMENT, IN ACCORDANCE WITH THE DEPARTMENT'S ESTABLISHED RULES AND REGULATIONS, FOR SPECIAL PURPOSES, SPECIAL TRIPS AND FOR STATED PERIODS FOR DESCRIBED MOTOR VEHICLES AND CARGO TO OPERATE ON DESIGNATED PORTIONS OF THE STATE MAINTAINED HIGHWAY SYSTEM WHEN IT IS APPARENTLY NECESSARY TO PERMIT THE MOVEMENT OF GROSS WEIGHTS AND GROSS DIMENSIONS IN EXCESS OF THE WEIGHTS AND DIMENSIONS SPECIFIED BY THE STATUTES IN ORDER TO PROVIDE TRANSPORTATION FOR SPECIFIED CARGO IN THE INTEREST OF THE HEALTH, WELFARE AND ECONOMY OF THE PEOPLE. THE RULES AND REGULATIONS ESTABLISHED BY THE DEPARTMENT WILL BE BASED ON CONSIDERATION OF THE NECESSITY FOR SUCH MOVEMENTS AND THE PROTECTION OF THE HIGHWAY SYSTEM.

THESE RULES WILL PROVIDE THAT THE APPLICANT SHALL PAY A FEE FOR THE ISSUANCE OF SUCH PERMITS TO COVER THE COST OF PERMIT HANDLING, WHICH FEE WILL BE \$15.00 FOR EACH PERMIT.

TRUCK DIMENSION LIMITS

HEIGHT, INCLUDING BODY AND LOAD NOT TO EXCEED 13'6"

WIDTH, INCLUDING BODY AND LOAD NOT TO EXCEED 8'

LENGTH, MOTOR TRUCK (SINGLE UNIT) INCLUDING ANY PART OF BODY OR LOAD NOT TO EXCEED 35'

TRUCK TRACTORS AND SEMI-TRAILER INCLUDING ANY PART OF BODY OR LOAD NOT TO EXCEED 55'

Source: Kentucky Department of Transportation, *Map of Kentucky Showing Designated Class "AAA" and "AA" Trucking Highways*, 1976.

Another section of the Kentucky statutes allows special permits for hauling industrial materials whose gross weight exceeds the requirement. KRS 189.271 allows such a permit to be issued only for specified materials and requires that it must name the roads over which the vehicle will operate. The period for which it is issued may not exceed one year, and there is a fee attached. At no time is this kind of permit to be issued for a vehicle which exceeds the maximum gross weight allowed under KRS 189.222. An applicant for a permit who has been convicted of overweight violations two or more times within a five-year period must give bond, not to exceed \$6,000 per vehicle.

Any person engaging in surface coal mining and reclamation operations must obtain a permit from the Department for Natural Resources and Environmental Protection. Under legislation which will become effective when Kentucky's surface mining law is approved by the federal government, an application for such a permit must identify the land to be affected and include a description of access from the nearest public highways. Accompanying the application must be a transportation plan, naming the parts of the state primary road system which are intended for use, specifying the legal weight limits for those sections of roads and bridges, and informing the Department of any proposal to obtain a special permit pursuant to KRS 189.271.<sup>42</sup>

KRS 186.050 sets up a schedule of annual registration fees for vehicles. There is a list of fees according to weight: the greater the weight, the higher the fee. In subsection (9) of this section, vehicles over 18,000 pounds which are used exclusively to transport coal from the mine to a railhead or tippie not more than fifty air miles away are only required to pay 40 percent of the registration fee.

Large trucks must pay a surcharge on gasoline they use. The gasoline tax for all motor carriers in Kentucky is 9 percent of the average wholesale price per gallon.<sup>43</sup> Trucks with three or more axles are "heavy equipment motor carriers"<sup>44</sup> and are charged a surtax of 2 percent more of the average wholesale price.<sup>45</sup>

Trucks are subject to Kentucky's motor vehicle usage tax. KRS 138.460 provides that "a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470." That exemption includes trucks owned by nonresidents and used primarily in interstate commerce.<sup>46</sup> For most Kentucky vehicles, the tax is computed on the full retail price; but "in the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent (90%) of the retail price of the vehicle."<sup>47</sup>

Other statutes address the problem of a truck's load escaping onto the highway. One general law states that "No vehicle shall be operated upon any highway unless it is so constructed as to prevent its contents from escaping."<sup>48</sup> The 1980 Kentucky General Assembly created new language in KRS 350.060 to read, "All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage." This provision will take effect when the federal government approves Kentucky's surface mining plan.

The weighing of trucks suspected of being over the limit is provided for in KRS 189.223. "Any peace officer having reason to believe" a truck is in violation "may measure it or weigh it either by portable or stationary scales, and may require it to be driven to the nearest scales, if such scales are within a distance of five (5) miles from the point at which the vehicle is first directed to stop." If the officer determines that the vehicle is operating unlawfully, "he shall require the operator . . . to unload such portion of the load as may be necessary to decrease the gross weight" to the amount allowed, "or he may, at the election of the operator, permit the operator to move the vehicle with its

load to the nearest city or nearest court having jurisdiction, at which place the excess load shall be unloaded.''

Until recently, enforcement of the weight limits was largely the responsibility of the Department of Transportation. In February of 1980, the Governor by executive order created the Division of Security and Compliance within the Bureau of State Police and transferred highway enforcement functions from the Department of Transportation to this new division.<sup>49</sup>

KRS 189.227 provides for the establishment of scales and the employment of weighmasters, who are given the authority of peace officers for the purpose of enforcing the dimension and weight limits.

Penalties for violating the weight provisions include the fines in KRS 189.990. The fines are graduated: the amount per pound increases as the excess load increases. When the excess is 2,000 pounds or less, the penalty is only two cents per pound. When the excess is greater than 5,000 pounds, the fine is nine cents per pound. However, there are outside limits to the amount which must actually be paid: the fine cannot be less than \$65 or more than \$500.

## CHAPTER III

### SPECIFIC COMPLAINTS MADE BY TRUCK OPERATORS

The laws detailed in the preceding chapter were enacted to protect Kentucky's roads. While acknowledging the need for safe highways, however, some truck drivers feel they are being mistreated. They believe that some laws are too restrictive and that enforcement is not being handled impartially; they complain that they risk being treated as criminals for simply doing their jobs. This chapter is an attempt to deal objectively with the drivers' most pressing complaints. It is largely the result of interviews with representatives of the coal trucking industry and with state officials working in transportation and enforcement.

#### Unloading

Truck drivers claim that the current requirement for the dumping of overweight loads is unreasonable. Their primary complaint is that dumped coal is often unprotected and thus gets stolen.

KRS 189.223 provides that an officer who has determined that a load is too heavy shall require the unloading of the overweight portion. Drivers maintain that they comply when caught, leaving the excess coal and continuing to haul the rest, only to find that the coal is gone when they return for it. One example given is of a driver who was forced to leave some coal by the roadside approximately one hundred miles from his destination. He was told by authorities that he should pick it up within three hours or it would not be protected. This was clearly not enough time to complete the haul and protect the coal.<sup>50</sup>

On the other hand, the laws of this state do not require that any protection of the load be offered by the state officer who forces the unloading. KRS 189.223 states that "the excess load shall be unloaded at the sole risk of the owner." Protection is voluntary.

A limited choice of where to unload is left up to the driver. KRS 189.223 provides that the peace officer shall require the operator to unload enough to bring the truck within legal limits, unless the operator chooses to move the vehicle to the nearest city or nearest court having jurisdiction before unloading.

Officials of the Kentucky Department of Transportation point out that there would be no problem of lost coal if trucks were not loaded illegally. The threat of loss or theft may provide an incentive not to risk overloading. If operators knew how much they were carrying at all times and made the effort to stay within the law, they would not be forced to expose their cargo to risk.<sup>51</sup>

There is a suspicion among operators that they are more likely to be forced to dump and abandon coal if it is of high quality. State officials in transportation and enforcement claim no knowledge of such an impropriety and deny that it is occurring.<sup>52</sup>

#### Portable Scales

Portable scales are used widely throughout the state; there are, in fact, only a few stationary scales in operation, and these are located along major highways. Truckers complain that portable scales damage trucks. According to operators, the clutch, the rear end, and the transmission of a truck

can be harmed, requiring repairs that can cost \$2,000 or more.<sup>53</sup> KRS 189.223 states that a peace officer may require a truck which he has reason to believe is overweight to drive to scales only if they are within five miles of the point at which the vehicle is first directed to stop. For that reason, much of the weighing has to be done on a device which can be carried with the officer.

To be weighed on portable scales, a truck must be driven up an incline so that its wheels are several inches off the ground. Damage allegedly occurs when the truck is being driven onto the scales.

Officials in the Kentucky Department of Transportation express doubt that trucks are harmed by this method.<sup>54</sup> One state official believes that careful operation of the truck when pulling on and off such scales can prevent damage. Portable scales, he says, hurt trucks only if the drivers want them to.<sup>55</sup>

Alternatives to these scales may exist. Portable platform scales are available, but are very expensive. The use of private scales is sometimes suggested: Illinois at one time allowed trucks to be weighed on scales at such business locations as grain elevators. According to an Illinois official, however, this practice was relatively rare and was only appropriate on back roads. It has been discontinued.<sup>56</sup> Another method of weighing which Kentucky does not use is the "weigh-in-motion" scale. This is essentially a permanent scale and will be discussed later. The state of Virginia uses visual measurement. Section 46.1-343 of the Code of Virginia requires the owner or operator of a coal truck with a bed size exceeding a certain maximum to

paint a horizontal line two inches wide on the sides of the outside of the bed of the vehicle which is clearly visible to indicate the uppermost limit of the maximum bed size applicable to said vehicle as provided in this section. In addition, one slotted hole two inches high and six inches long on each side of the bed shall be cut in the center of the bed and at the top of the painted line.<sup>57</sup>

This practice allows inspecting officers to tell at a glance whether the vehicle might be overloaded.

### **Bridge Laws**

Federal requirements for Interstate roads include a set of limitations relating weight to the distance between axles. These limits are designed to prevent excessive strain on bridges. This is a separate calculation from the total weight limitations, and a relatively light vehicle might still be operating illegally because its load is not distributed properly. As discussed in Chapter I Kentucky's law copies the federal law on this requirement for Interstates, to prevent a cutoff of federal highway funds as well as to protect bridges.<sup>58</sup>

These extra limitations on truck loads are necessary because bridges are subject to certain stresses which do not affect other sections of highway. Each bridge has one or more critical points, especially near the middle, at which heavy pressure can destroy the whole structure. Distributing a load evenly over the axles of a truck prevents any one point on the bridge from bearing more weight than it can support.<sup>59</sup>

Coal transporters complain that this added requirement simply further reduces the amount they can carry. Although 80,000 pounds is the widely recognized weight limit for the best highways, trucks frequently cannot be loaded this heavily because of the bridge rule.

Confusion over the bridge laws' effect on licensing sometimes occurs. Vehicle registration fees in Kentucky are graduated: the heavier the weight a truck is licensed to carry, the higher the cost of registration.<sup>60</sup> A driver could pay the full \$840 for carrying 80,000 pounds, only to find that he is often not allowed to haul that much because of the length of his truck and the distance between axles.

Some trucks can have their legal capacities increased by the use of a device called a goose-neck hitch. This is an extension which is added to the front of the truck, increasing its length. It is primarily used on trucks which were built before the legal limit was increased to 80,000 pounds on the strongest roads. Truck drivers and Department of Transportation officials agree that the goose-neck hitch is a safety hazard, however, since it decreases the amount of weight at the front of the vehicle and thus reduces traction.<sup>61</sup>

### **Maintenance Agreements**

Rural roads heavily used by coal trucks are often impossible for the government to maintain. Surfaces which were not built to support large loads quickly disintegrate when a nearby mine begins to operate and truck traffic increases. For this reason, coal producers sometimes enter into maintenance agreements with the government. Companies agree to maintain the roads with their own money, and in return the Kentucky Department of Transportation issues permits for hauling above the regular weight limits.

Truck operators criticize this practice because they feel the coal industry is thus being doubly taxed. They wonder why—if companies agree to maintain the roads and repair damage—fines should also be paid for overweight hauling. Drivers note the low limits on many rural roads and the impossibility of obtaining permits for high enough weights. Since the roads will be repaired, they ask, why do drivers have to pay fines for carrying heavy loads on them?

Officials in the Kentucky Department of Transportation respond that a maintenance agreement is only entered into for a particular load factor. The company only obligates itself to maintain roads at the level of use which is stated in the overweight permits. If a driver is over the permit level, he is breaking the law and should be subject to a fine.<sup>62</sup>

### **Usage Tax and Out-of-State Registration**

Some drivers express concern over an arrangement that allows some trucks operating in Kentucky to escape the motor vehicle usage tax. This tax amounts to nearly five percent of the value of a vehicle. If the fee is unevenly levied, operators who are forced to pay it are at a distinct disadvantage.

Once again, KRS 138.460 provides that

a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470 . . . . In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent (90%) of the retail price of the vehicle.

KRS 138.470(5) expressly exempts from this tax

commercial motor vehicles . . . owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements.

Whenever a Kentucky resident registers a vehicle in this Commonwealth which was subject to a similar usage tax in another state, he receives a credit against the Kentucky tax for the amount already paid. The law governing this, KRS 138.460(5), applies only when there is a reciprocal agreement whereby the other state promises to "grant similar credit for substantially identical taxes paid" in Kentucky.

Carriers who operate in Kentucky and in another state can arrange to divide up the fees they owe. A proportional payment is made, often representing each state's fraction of the total miles traveled. Such an agreement is authorized by KRS 186.050, to be made

on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration.

There are three ways this arrangement can be worked out. First, Kentucky subscribes to the International Registration Plan; if the other state does too, payment can be split according to the proportion of miles traveled in each state. Second, a Multi-State Reciprocity Agreement can be worked out, if the other state does not follow the International Registration Plan. Based again on the proportional mileage, an agreed-upon percentage of the trucks is registered in each state. Third, Kentucky and another state may already have in effect an existing bilateral agreement. If this is not superseded by one of the above plans, it can be the basis for proportional registration.<sup>63</sup>

State officials agree that this system can cause problems for Kentucky's coal truck operators.<sup>64</sup> It is possible for shrewd carriers to minimize their fees by carefully choosing the states in which they register and claim to do business. Some concerns are accused of operating unscrupulously and avoiding taxation. One official estimates that Kentucky has lost seven and a half million dollars because of the out-of-state exemption.<sup>65</sup> Drivers feel that subjecting in-state trucks to a tax which is not being charged on vehicles from other states puts local operators at a competitive disadvantage.

### Non-Transferable Licenses

Our state has a different policy on licensing from those of surrounding states. If a Kentucky truck is wrecked or traded, its owner must obtain a new license and pay additional sales tax for its replacement. The registration stays with the truck rather than with the owner. Kentucky truck operators see this as an added burden: whenever a new truck is acquired, a new set of fees must be paid.

In each of the seven states which border on Kentucky, automobile registration follows the owner upon sale. States having such a policy outnumber those in which registration follows the vehicle by approximately two to one.<sup>66</sup> There is a trend away from Kentucky's policy; fifteen years ago, the fifty states were almost evenly divided on this issue.<sup>67</sup>

### The Fuel Surcharge

As amended by the 1980 General Assembly, KRS 138.660 and 138.220 require every motor carrier to pay a fuel tax at the rate of 9 percent of the average wholesale price per gallon. Heavy equipment motor carriers, such as coal trucks, must pay a surtax of 2 percent more.

Independent coal truck operators feel they are at a competitive disadvantage in bargaining over who shall absorb this extra cost. Commercial carriers usually charge it to the shippers, but independent owners' contracts rarely contain such a provision.

While there is a tendency to answer that the failure of these truckers to work out a contract to their own advantage is no one else's fault, this situation does point up a problem: such drivers have a poor bargaining position because of intense competition among themselves. This problem is partly a result of the lack of rate regulation in the industry. The business is

very competitive and characterized by rate-cutting . . . . If rates were stabilized, there would be less competitive undercutting and more stability in the operation. The [Kentucky Motor Transportation] Association points out that states surrounding Kentucky have regulated coal trucking, which is to the disadvantage of Kentucky coal haulers. When business in their home state is slack, out-of-state coal haulers can enter the coal hauling business in Kentucky by undercutting the cost. However, Kentucky coal haulers must obtain a permit to be able to operate in the other states.<sup>68</sup>

Of course, the state of the coal economy is partly to blame if bad bargains are being struck. If the market improved, everyone's share would increase.

### Weigh Stations

Truck drivers are suffering losses of fuel and time when forced to visit permanent weigh stations. Requiring a truck to travel five miles to a permanent scale may result in a significant detour. A weigh station on an Interstate highway may be within five miles of an entrance ramp but farther from the next exit ramp, thus forcing an extended round trip in order to return to the hauling route.

The problem can only arise at a limited number of locations around the state, however. Most areas do not have permanent scales. As previously noted, KRS 189.223 allows a peace officer to require a truck he suspects is overweight to be driven to the nearest scales, "if such scales are within a distance of five (5) miles from the point at which the vehicle is first directed to stop."

Recognizing that permanent weigh stations sometimes cause problems, state officials are looking into alternatives. One idea which would prevent loss of fuel and time is the "weigh-in-motion" scale. This is a device whose weighing platform is set into the highway itself. A truck rolling

over it is weighed without leaving the road. Such scales could be set into a number of roads; enforcement officials would monitor selected sites, moving from one scale to another. Such a system is not presently ready for use; technical problems still exist. However, officials in the Kentucky Department of Transportation's Division of Research believe that within one or two years it may be feasible.<sup>69</sup>

### Heavy Trucks and Rural Roads

One complaint made by drivers is that many coal trucks are practically overweight before they begin loading. A heavy truck, they say, is restricted on many Kentucky roads to hauling unprofitably small quantities of coal.

Their complaint is no exaggeration. There are trucks which can easily exceed the 44,000-pound limit of some state roads without carrying much coal. The problem is even greater on county roads. As they are presently interpreted, the statutes set the limit on county roads at 18,000 pounds.<sup>71</sup> Many *empty* trucks exceed this weight.

This very low rural limit may be due for a change, however. The statute which contains it was enacted thirty years ago; since then, limits have been increased by official order on most state roads, pursuant to KRS 189.222. But because such an increase is only provided for "in respect to highways which are a part of the state-maintained system," county roads retain the old limit.<sup>72</sup> This is a topic on which at least some officials in the Kentucky Department of Transportation agree with coal haulers. Raising county road limits would not only allow heavier hauling, it would allow the posting of weight limits on more bridges. Currently, there is a policy against posting if a bridge on a county road is judged able to withstand more than the 18,000-pound limit.<sup>73</sup> Unfortunately, the absence of such signs can encourage a false sense of security concerning bridges capable of supporting only slightly more than that.

### Alleged Mistreatment by Courts and by Enforcement Officers

Some independent coal truck drivers believe that they are not being treated fairly in the courts. They feel that some judges assume that someone hauling coal is automatically guilty. Drivers are allegedly "harassed" by delays, prejudice and lack of cooperation by judges and hearing officers.

Punishments, they say, vary from court to court. One county may allow considerable leeway to drivers, while a bordering county is strict. Some parts of the state are alleged to have more lenient judges than others.

There are also claims of selective enforcement by peace officers. Independent haulers maintain that small coal operators are more likely to be stopped and forced to comply with the laws than are drivers for large concerns. (This complaint is not shared by all coal transporters. One producer characterized enforcement as "brutally fair.")

It is not the purpose of this report to substantiate or deny such claims. Executives in the Department of Transportation and the Bureau of State Police express doubt that injustice is as common as it is reported to be.<sup>74</sup> If the charges are true, of course, they are serious and these problems should be corrected.

Several organizations will likely be studying these and other aspects of coal transportation in the near future. The thirty-two-member Coal Policy Council, chaired by State Energy Secretary

William B. Sturgill, met for the first time on August 19, 1980. Governor John Y. Brown, Jr. created the council in June to promote use of the state's estimated 64.3 billion tons of coal reserves.<sup>75</sup>

In response to complaints such as those stated in this chapter the Governor has also created the sixteen-member Governor's Task Force on the Transportation of Coal. The main questions to be studied by this panel are:

1. The effects that delivery of coal has on the state's roads.
2. The effect of weight limitations on coal delivery.
3. Selective enforcement of weight limitations.
4. Lack of uniform disposition in courts for violations of weight limits.<sup>76</sup>

These groups and others can do the Commonwealth a service. Coal transporters may well have legitimate complaints, but the roads must be protected. By balancing these two needs, the state can alleviate a great deal of anger, injustice, and hardship.



## CHAPTER IV

### CONCLUSION

Answers to the coal transportation problem are not easy to find. It is difficult to protect the roads, move coal and improve conditions for coal haulers all at the same time; one person's solution is another person's problem.

Coal transporters want to haul profitably and not to be regarded as criminals. They feel they suffer from the economics of the industry and from the attitudes of many people. One spokesman voiced their complaint this way: "We'll pay the fines if we're caught. Just don't treat us like criminals. Don't hurt our trucks. And don't put us in jail." They believe they are caught in an economic squeeze. To make a profit, they often must carry loads that exceed the legal limits. Intense competition between truckers ensures that each ton is carried at the lowest possible rate, and drivers who obey all the rules lose business to those who are less scrupulous. Finally, many drivers feel that enforcement is uneven and punishment is unpredictable.

On the other side of the controversy are those who favor the protection of Kentucky's roads. They feel that no increase should be allowed in dust or in danger on roads and bridges.

What follows is a collection of suggestions gathered from all sides of this dispute. Reflecting various points of view, these recommendations are not always compatible. If all of them were adopted, there would still be difficulties. But they are offered as possible partial solutions to the coal transportation dilemma.

1. Weight limits for trucks should be changed. Some of them are products of an earlier time when conditions were different. They do not reflect current knowledge about stresses on highways and bridges. Even persons responsible for protecting the roads agree that an increase in some weight limits would be acceptable, if it were coupled with the use of more axles on trucks and with better distribution of load weights. Kentucky's low limits for county roads are creating danger on bridges by preventing more frequent posting of restrictions. Of course, federal law is the ultimate source of many of the present limits, and until that is altered some state policies cannot change. The federal laws themselves have received criticism from local officials for being unrealistic, outdated, and not stringent enough.

2. The economic position of independent coal truck operators could be improved through tighter controls on out-of-state trucks using Kentucky's highways and through other measures. Drivers are caught in a financial squeeze for which they are not responsible. If it cannot be mandated that they receive more per load, at least the effects of cutthroat competition within the industry might be minimized. This change would improve the poor bargaining position of drivers, who are now forced into underbidding and into carrying massive loads. More controls on out-of-state trucks would reduce or eliminate the unfair advantage presently allowed non-Kentucky truckers.

3. Penalties for weight violations should not be absorbed solely by coal haulers. All citizens are demanding more sources of energy, and large profits are being made for supplying coal. A society making heavy demands for coal should share the cost rather than forcing it upon one group of middlemen. When a truck is found to be overweight, the party who loaded it might be penalized along with the driver. A citation issued to a trucker could also be issued to the loader; keeping records of each load could be required of all parties involved in the loading.

4. Better covering of trucks should be required. Dust and debris escaping from vehicles present a significant hazard. Legislation passed by the 1980 Kentucky General Assembly (KRS 350.060) requires "a tarp or equivalent cover to prevent spillage" but it applies only to "trucks hauling coal on a fully controlled limited access highway." This provision could be extended to include all coal hauling.

5. Larger, less destructive trucks should be used. Study clearly shows that identical weights can cause widely varying amounts of damage, depending upon the kind of truck used and upon the weight distribution over the axles. Generally, large trucks with many axles are much less destructive than small ones. The most important question is the amount of weight supported by each axle. One heavy axle will do many times the damage of several light ones.

The Kentucky Department of Transportation is conducting research into this topic. Their findings are often stated in terms of the "damage factor." This is a figure which expresses the relative damage an axle or a truck does: an axle with a damage factor of ten does ten times the harm caused by an axle with a damage factor of one. This is illustrated in the accompanying charts. In Figure 3, various damage factors are given for trucks with specified gross weights. Vehicle A, carrying only two-thirds the weight of Vehicle E, does almost twenty times the harm. Vehicle A represents the truck popularly called the "Breathitt County Special," a three-axle vehicle often used in coal hauling.

Damage factors rise more sharply when the load is increased on three axles than they do on five or six. Figure 4 demonstrates this. As the payload increases on the three-axle vehicle in the chart, the curve indicating its rising damage factor becomes rapidly steeper. The curves of the five- and six-axle trucks are much gentler and begin climbing at higher levels. (It should be noted that this analysis applies more to roadway pavement than it does to bridges. The federal formula explained at the beginning of Chapter II is the appropriate method for computing damage to bridges.)

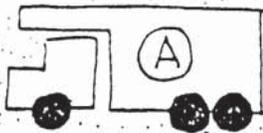
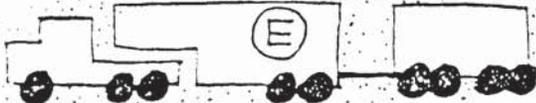
By using better trucks and loading methods, and by running at lower weights, truck operators could reduce damage.

6. Heavy, damaging trucks should be discouraged from using certain roads. This change could be effected in several ways. First, the highway system might be divided into trucking and non-trucking roads. Second, more rail lines could be set up close to mines. In areas accessible to such tracks, government subsidies to railway transportation would be compensated by decreased road damage. Third, methods which would put coal into larger, less damaging trucks closer to the mine should be encouraged. For instance, small trucks might be used only on very short runs to a central point near the mine, where the coal would be transferred to vehicles with five or more axles.

7. Each truck should be licensed to carry only the maximum weight it should carry. Presently, registration can be bought for any weight up to 82,000 pounds, without reference to a truck's individual characteristics. This failure to acknowledge the importance of specifics can cause confusion, giving drivers an illusion of legality. It encourages overloading and increases danger, especially on bridges. Every truck should be given its own maximum load limit, based on the total length of the vehicle and the distance between axles. It should be made clear to truckers that they do not secure the right to haul heavy loads merely by buying expensive registrations.

8. New methods of determining weight violations should be implemented. One of the simplest is the new Virginia system of requiring a small hole in the side of the truck through which an observer can quickly see whether the truck is overloaded. Visual inspection does not give an exact measurement of weight, but it does allow officers to tell at a glance whether a potential violation ex-

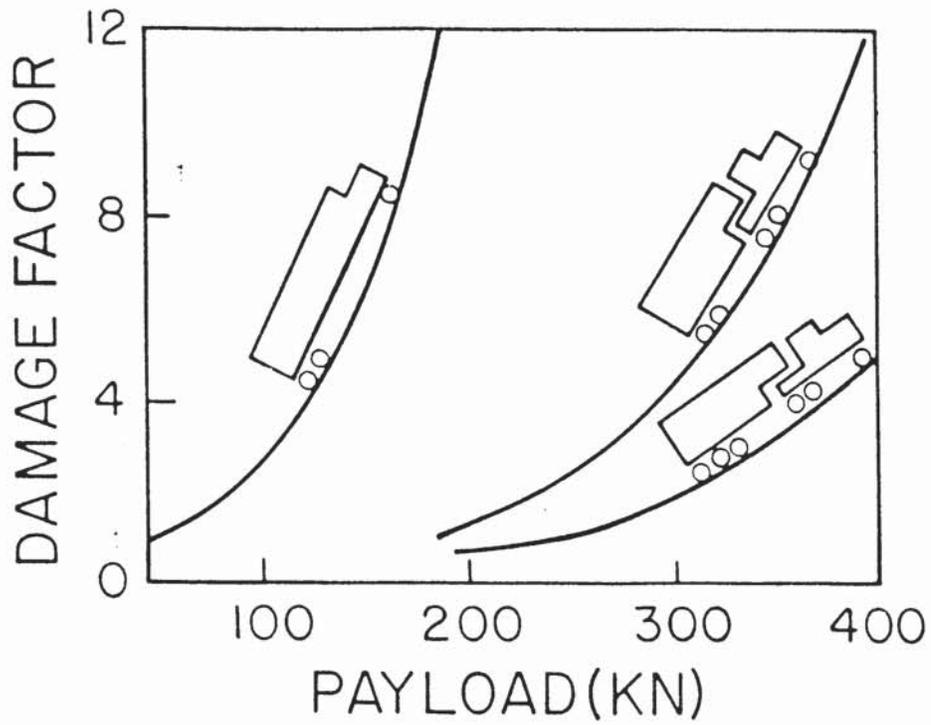
FIGURE 3  
 Damage Factors  
 for Various Vehicles at Specified Weights

Vehicle	Examined Payload	Examined Gross Wt.	Damage Factor
	50,000	80,000	20.72
	47,300	73,000	1.17
	52,000	80,000	1.78
	78,000	120,000	2.12 to 2.18
	78,000	120,000	1.175

Source: Kentucky Department of Energy, *Implications of Improved Coal Truck Design* (1979), page 6.

FIGURE 4

Increase in Damage Factor as Payload Increases for Trucks with Three, Five and Six Axles



Source: Robert C. Deen, *Heavy Loads and Pavement Performance*, Kentucky Department of Transportation (1980), page 11.

ists. This measure should, if enacted, be coupled with rigid enforcement. Another innovation is the portable platform scale, which could be the answer to the complaint that the present portable scales damage trucks. Such new scales exist, but they are expensive. In addition, "weigh-in-motion" scales could be built into the pavement of the state's highways. Research on such scales should be encouraged. They could solve the problems of truck damage and inconvenience allegedly caused by portable scales.

9. There should be more maintenance agreements. Coal companies should be encouraged to undertake the upkeep of the roads which they use most often and on which they do the most damage.

10. Study should be undertaken of Kentucky's exemption of some out-of-state commercial vehicles from the usage tax. Is KRS 138.470(5) causing a loss of revenue to the Commonwealth? Does it subject in-state truck drivers to a competitive disadvantage?

11. Kentucky should consider allowing motor vehicle registration, upon change of ownership, to follow the owner rather than the vehicle. A majority of states have adopted this policy, including all seven states surrounding Kentucky.

12. The maximum fine for weight violations should perhaps be increased. The current low ceiling of \$500 tends to encourage those who are over the limit to load as heavily as possible. Above a certain weight, the fine per additional pound decreases. Since every added pound contributes exponentially to the destruction of the road, excesses should be penalized accordingly.

13. Enforcement and penalties should be studied to determine whether they are being administered uniformly throughout the state. Punishments for hauling too much coal should not vary from county to county or from region to region. If they do, uncertainty, frustration and resentment are inevitable. The Coal Transportation Task Force, the Coal Policy Council, and other groups can determine whether the administration of justice to coal haulers is impartial.



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32. Spindletop Research, Inc., *Kentucky's Coal Transportation* (1975), p. 49.
33. Research Triangle Institute, p. 12-9.
34. Buechel, p. 626.
35. Curtis E. Harvey, *The Economic Impact of Enforcing Weight Restrictions on Eastern Kentucky Roads* (Lexington: University of Kentucky, 1971), p. 101.
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37. KRS 186.050; KRS 189.222.

38. 603 KAR 5:066.
39. 603 KAR 5:096.
40. KRS 189.230.
41. *Hancock v. Terry Elkhorn Mining Co.*, 503 S.W. 2d 710 (Ky. 1973), at 718.
42. KRS 350.060.
43. KRS 138.220; KRS 138.660.
44. KRS 138.655.
45. KRS 138.660.
46. KRS 138.470(5).
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48. KRS 189.150.
49. Governor John Y. Brown, Jr., Executive Orders 80-84 (February 1, 1980) and 80-125 (February 19, 1980).
50. Telephone interview with Marvin Finley, representative of the coal trucking industry, 24 July 1980.
51. Interview with Russell Romine, Assistant State Highway Engineer for Operations, Bureau of Highways, Kentucky Department of Transportation, and George Asbury, Director of Maintenance, Bureau of Highways, Kentucky Department of Transportation, 6 August 1980.
52. Interview with Greg Williamson, former Director of the Division of Security and Compliance, Bureau of State Police, Kentucky Department of Justice, 8 August 1980; interview with Russell Romine and George Asbury.
53. Interview with Marvin Finley.
54. Interview with James Havens, Director of Research, Kentucky Department of Transportation, and Robert Deen, Assistant Director of Research, Kentucky Department of Transportation, 7 August 1980; interview with Russell Romine and George Asbury.
55. Interview with Greg Williamson.
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57. Code of Virginia § 46.1-343(c).
58. 23 USC §127; 603 KAR 5:066.
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60. KRS 186.050.
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**APPENDIX A**  
**Resolutions**



# IN HOUSE

REGULAR SESSION 1980

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House Resolution No. 120

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March 18, 1980

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Representative Albert Robinson introduced the following resolution which was ordered to be printed.

A RESOLUTION requesting the Legislative Research Commission to study the federal and state laws and regulations which collectively hamper the transportation of coal.

WHEREAS, the transportation of coal is vital not only to the economy of the Commonwealth, and the quality of life of its citizens, but also to the increasing energy needs of the United States; and

WHEREAS, federal regulations on truck design and capacity and state provisions on axle weights, registration and methods of weighing vehicles suppress the transportation of coal and serve as a hardship on those whose income is derived from this service; and

WHEREAS, the dumping of loads, towing and impoundment of vehicles and penalties for violations of various motor carrier provisions serve to further harass those transporting coal; and

WHEREAS, many motor transportation companies are exempt from certain taxes or can pass along other taxes, these options are not available to coal transporters, providing an additional financial burden to this industry; and

WHEREAS, these statutes, regulations, taxes and policies inhibit the entire coal industry in the state and limit the growth of the economy of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the  
General Assembly of the Commonwealth of Kentucky:

1           Section 1. That the Legislative Research Commission  
2 is requested to study federal and state laws, regulations  
3 and policies which collectively hamper the transportation  
4 of coal.

5           Section 2. That copies of the completed study and  
6 recommendations be transmitted to the Director of the  
7 Legislative Research Commission, President Pro Tempore of  
8 the Senate, and the Speaker of the House of Representa-  
9 tives by October 1, 1981.

# IN SENATE

REGULAR SESSION 1980

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Senate Resolution No. 66

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March 19, 1980

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Senator Gene Huff introduced the following resolution  
which was ordered to be printed.

A RESOLUTION requesting the Legislative Research Commission to study the federal and state laws and regulations which collectively hamper the transportation of coal.

WHEREAS, the transportation of coal is vital not only to the economy of the Commonwealth, and the quality of life of its citizens, but also to the increasing energy needs of the United States; and

WHEREAS, federal regulations on truck design and capacity and state provisions on axle weights, registration and methods of weighing vehicles suppress the transportation of coal and serve as a hardship on those whose income is derived from this service; and

WHEREAS, the dumping of loads, towing and impoundment of vehicles and penalties for violations of various motor carrier provisions serve to further harass those transporting coal; and

WHEREAS, many motor transportation companies are exempt from certain taxes or can pass along other taxes, these options are not available to coal transporters, providing an additional financial burden to this industry; and

WHEREAS, these statutes, regulations, taxes and policies inhibit the entire coal industry in the state and limit the growth of the economy of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of  
the Commonwealth of Kentucky:

1           Section 1. That the Legislative Research Commission  
2 is requested to study federal and state laws, regulations  
3 and policies which collectively hamper the transportation  
4 of coal.

5           Section 2. That copies of the completed study and  
6 recommendations be transmitted to the Director of the  
7 Legislative Research Commission, President Pro Tempore of  
8 the Senate, and the Speaker of the House of Representa-  
9 tives by October 1, 1981.

**APPENDIX B**  
**Federal Statutes and Regulations**



23 USC § 127

§ 127. Vehicle weight and width limitations—Interstate System

No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles with weight in excess of twenty thousand pounds carried on any one axle, including all enforcement tolerances; or with a tandem axle weight in excess of thirty-four thousand pounds, including all enforcement tolerances; or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500 \left( \frac{LN}{N-1} + 12N + 36 \right)$$

where W= overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, or with a width in excess of ninety-six inches, or the corresponding maximum weights or maximum widths permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof that could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. Notwithstanding any limitation relating to vehicle widths contained in this section, a State may permit any bus having a width of 102 inches or less to operate on any lane of 12 feet or more in width on the Interstate System.

As amended Pub.L. 93-643, § 106, Jan. 4, 1975, 88 Stat. 2283; Pub.L. 94-280, Title I, § 120, May 5, 1976, 90 Stat. 438.

23 USC § 141

**§ 141. Enforcement of requirements**

(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.

(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title.

(c)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.

Added Pub.L. 93-643, § 107(a), Jan. 4, 1975, 88 Stat. 2284, and amended Pub.L. 95-599, Title I, § 123(d), Nov. 6, 1978, 92 Stat. 2702.

**§ 658.9 Certification of size and weight enforcement.**

In order to obtain approval of Federal-aid projects under 23 U.S.C. 106, each State shall certify to the Federal Highway Administrator before January 1 of each year that it is enforcing all State laws governing maximum vehicle size and weights permitted on the Federal-aid primary, urban, and secondary systems, including the Federal-Aid Interstate System in accordance with 23 U.S.C. 127. The certification shall consist of the following elements:

(a) A statement by the Governor of the State, or an official designated by the Governor, that the size and weight laws and regulations in the State governing use of the Interstate System conform to 23 U.S.C. 127.

(b) A statement by the Governor of the State, or an official designated by the Governor, that all size and weight limits are being enforced on the Federal-aid primary, urban, and secondary systems, including the Interstate System. The statement shall include the following information relating to enforcement along the Federal-aid highway systems during the 12-month period ending on the September 30 before the date by which certification is required:

(1) A copy of any State law or regulation pertaining to vehicle sizes and weights adopted since the State's last certification;

(2) [Reserved]

(3) The number of fixed scales operated by the State;

(4) The number of portable scales operated by the State;

(5) The number of vehicles weighed or measured, respectively;

(6) [Reserved]

(7) The separate numbers of citations, assessments, unloadings, or arrests, for size and for weight violations respectively; and

(8) The numbers of State oversize and overweight permits issued, respectively, classified according to the duration of their effectiveness.



**APPENDIX C**  
**Kentucky Statutes, Regulations and Executive Orders**



**138.220. State gasoline tax—Imposition—Determination of average wholesale price—Additional tax or credit to reflect increase or decrease in average wholesale price on tax-paid inventory.—**(1) An excise tax at the rate of nine percent (9%) of the average wholesale price rounded to the third decimal when computed on a per gallon basis shall be paid on all gasoline received in this state. No other excise or license tax shall be levied or assessed on gasoline by the state or any political subdivision of the state. The tax herein imposed shall be paid by the dealer receiving the gasoline to the state treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all such tax may be added to the selling price charged by the dealer or other person paying the tax on gasoline sold in this state. Nothing herein contained shall authorize or require the collection of the tax upon any gasoline after it has been once taxed under the provisions of this section.

\* (2) Effective with the calendar quarter beginning July 1, 1980, the department shall determine on a consistent basis the average wholesale price for each calendar quarter, on the basis of sales data accumulated for the first month of the preceding quarter. Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of the first day of each calendar quarter. [Effective May 1, 1980.]

(3) Dealers with a tax-paid gasoline inventory at the time an average wholesale price becomes effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the average wholesale price for the new quarter. For the purpose of this adjustment, average wholesale price on June 30, 1980, shall be deemed to be one dollar (\$1.00). The department shall promulgate such rules and regulations to properly administer this provision. (4281g-2: amend. Acts 1948, ch. 45, § 1; 1972, ch. 61, § 1; 1976 (Ex. Sess.), ch. 6, § 1; 1980, ch. 218, § 2, effective July 1, 1980.)

**138.460. Motor vehicle usage tax—Imposition—Rate—Collection—Refunds.—**(1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent (90%) of the retail price of the vehicle.

(2) The tax shall be collected by the county court clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state,

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the department of revenue on forms provided by the department and on such forms as the department may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to two and one-half percent (2½%) of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration and license fees.

(5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other

state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the department.

(7) Notwithstanding the provisions of KRS 138.450 (3), in no case shall the tax be less than five dollars (\$5.00) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.

(8) Where a new motor vehicle is sold by a dealer in this state and the original purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a new vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the department of revenue as a result of the registration of the returned vehicle. The registration of the returned vehicle shall be cancelled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the department of revenue as a result of the first registration. No person shall be entitled to a refund unless he shall have filed with the department of revenue an affidavit from the manufacturer identifying the vehicle that was replaced and stating the date of replacement. (4281i-2, 4281i-4, 4281i-5: amend. Acts 1960, ch. 186, Art. IV, § 3; 1968, ch. 40, part III, § 2; 1972, ch. 84, part IV, § 2; 1974, ch. 325, § 1; 1976, ch. 89, § 2; 1976, ch. 133, § 1; 1976, ch. 155, § 3; 1976, ch. 349, § 2, effective July 1, 1976; 1978, ch. 10, § 1, effective June 17, 1978; 1978, ch. 384, § 283, effective June 17, 1978.)

**138.470. Exemptions from tax.**—There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented or loaned to any person and must be held for resale only;

(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the armed forces on duty in this Commonwealth under orders from the United States government;

(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles previously registered in Kentucky, transferred between husband and wife or parent and child;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship, or from a corporation to a proprietorship, within six (6) months from the time that the business is incorporated or dissolved;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation when there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) The interest of a partner in a motor vehicle when other interests are transferred to him;

(12) Motor vehicles repossessed by a secured party who has filed a financing statement as required by KRS 186.045(2) and a repossession affidavit as required by KRS 186.045(6). The reposessor must hold the vehicle for resale only and not for personal use unless he has previously paid the motor vehicle usage tax on said vehicle;

(13) Motor vehicles transferred to an insurance company to settle a claim. Such vehicles shall be junked or held for resale only. (4281i-3: amend. Acts 1950, ch. 63, § 59; 1956 (2nd Ex. Sess.), ch. 5, § 4A; 1960, ch. 5, Art. II, § 2; 1968, ch. 40, part III, § 3; 1970, ch. 13, § 1; 1972, ch. 84, part IV, § 1; 1972, ch. 184, § 1; 1974, ch. 123, § 1; 1976, ch. 155, § 4; 1980, ch. 144, § 1, effective July 15, 1980.)

#### MOTOR CARRIERS

**138.655. Definitions for KRS 138.655 to 138.725 and 138.990(17) and (18).**—As used in KRS 138.655 to 138.725 and 138.990(17) and (18), unless the context requires otherwise:

(1) "Department" means bureau of vehicle regulation;

(2) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation. Whenever used in any clause describing and imposing imprisonment the term "person" as applied to an association means and includes the partners or members thereof, and as applied to a corporation the officers thereof;

(3) "Public highway" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel notwithstanding that it may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction; also including all city streets, alleys and any way or place on which a toll is charged for using such way or place;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle;

(5) "Motor carrier" means every person who operates or causes to be operated on any highway in this state, any bus engaged in hauling passengers for hire operating under a certificate of convenience and necessity and any truck or tractor-trailer combination having a total of three (3) or more axles. The number of axles referred to herein shall include not only those axles on the power unit but if a tractor-trailer combination is involved, also those axles on the trailer or semitrailer;

(a) "Axle" as referred to herein means any two (2) or more load-carrying wheels mounted in a single transverse vertical plane;

(b) "Trailers and semitrailers" are those as defined in subsections (1) and (2) of KRS 186.650, except that it does not include those trailers defined in subsection (3) of KRS 186.650 and those exempted from regulation under KRS 186.675. The term "motor carrier" shall not mean or shall not include any person operating or causing to be operated a city bus except city buses operated across the border of the state of Kentucky;

(6) "City bus" means any motor vehicle used for the transportation of persons for hire exclusively within the limits of any city or within ten (10) miles of its limits over a regular route and exclusively within the boundaries of this state;

(7) "Heavy equipment motor carrier" means any person who operates on the public highways of this state as a "motor carrier" as defined in subsection (5) of this section, except that it shall not include motor vehicles used to transport persons for hire;

(8) "Trip permit" means a permit for the operating during a ten (10) consecutive day period of any motor vehicle of any "heavy equipment motor carrier" not licensed under KRS 138.665;

(9) "Licensee" means for purposes of KRS 138.655 to 138.725 any person who has been granted a license as a "motor carrier" or a "heavy equipment motor carrier," or any motor vehicle in which a valid trip permit is carried;

(10) "Use" means the consumption of gasoline and special fuels in propelling motor vehicles on the public highways;

(11) "Gasoline" means gasoline as defined in KRS 138.210(4);

(12) "Special fuels" means and includes all combustible gases and liquids used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline as defined in KRS 138.210(4);

(13) "Quarterly" for the purposes of KRS 138.655 to 138.725 means a three (3) month period ending June 30 in the year 1956 and each succeeding three (3) month period thereafter. (Enact. Acts 1954, ch. 97, § 2; 1956, ch. 171, § 1; 1956 (2nd Ex. Sess.), ch. 9, § 15; 1958, ch. 70, § 14; 1960, ch. 186, Art. IV, § 5; 1962, ch. 62, § 21; 1980, ch. 39, § 1, effective July 15, 1980.)

**138.660. Imposition of tax—Rate—Surtax—Computation and payment.**—(1) Every motor carrier shall pay a tax at the rate levied in KRS 138.220 and computed on the average wholesale price as defined in KRS 138.210(10) on the amount of gasoline and at the same rate on the amount of special fuels used in operations on the public highways of this state.

(2) In addition to the tax imposed in subsection (1) of this section, if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax at the rate of two percent (2%) of the average wholesale price as provided in subsection (1), on the amount of gasoline and special fuels used in operation on public highways of this state.

(3) The tax levied under subsections (1) and (2) of this section shall be computed and paid as provided in KRS 138.690. (Enact. Acts 1954, ch. 97, § 3; 1956 (2nd Ex. Sess.), ch. 9, § 16; 1958, ch. 70, § 15; 1972, ch. 61, § 7; 1976 (Ex. Sess.), ch. 6, § 3; 1980, ch. 218, § 5, effective July 1, 1980.)

**186.050. Registration fees.** — (1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, shall be eleven dollars and fifty cents (\$11.50).

(2) The annual registration fee for each motorcycle shall be five dollars (\$5.00), and for each sidecar attachment, three dollars (\$3.00).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) hereof, shall be eleven dollars and fifty cents (\$11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) hereof, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	\$24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents (\$11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pound or less, and that during the next twelve (12) months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school

children and school employes may have the truck or bus registered as a school bus and obtain a license for eleven dollars and fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars and fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple, where such railhead or tipple is located at a point not more than fifty (50) air miles from the point at which such coal is mined, or which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such

concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three fourths ( $\frac{3}{4}$ ) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the department that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the bureau's certification to the department of transportation copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar (\$1.00). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars (\$20.00) and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(14) (a) The bureau of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis or proportional registration. Notwithstanding the provisions of KRS 186.020, the department shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under

any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar (\$1.00). Title to such vehicle may be transferred, however title, without proper registration, shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the bureau may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration as provided in paragraph (a) of this subsection, may be registered in Kentucky, and upon proof of proper title, and payment of the required fees, the bureau may issue an apportioned registration plate to such commercial vehicle. The bureau shall promulgate regulations in accordance with this section. (2739g-2c(2), 2739g-2d: amend. Acts 1942, ch. 78, § 7; 1944, ch. 59, § 1; 1946, ch. 15, § 3; 1954, ch. 153, § 3; 1956 (2nd Ex. Sess.), ch. 5, § 1; 1958, ch. 70, § 24; 1960, ch. 157; 1962, ch. 62, § 4; 1962, ch. 96, § 4; 1964, ch. 95, § 1; 1966, ch. 139, § 5; 1968, ch. 40, part IV, § 2; 1972, ch. 268, § 1; 1974, ch. 74, Art. IV, § 20(2); 1974, ch. 90, § 2; 1974, ch. 368, § 2; 1976, ch. 99, § 1; 1978, ch. 144, § 1, effective June 17, 1978; 1978, ch. 239, § 4, effective June 17, 1978; 1980, ch. 39, § 2, effective July 15, 1980; 1980, ch. 68, § 1, effective July 15, 1980.)

**189.150. Escaping contents.** — No vehicle shall be operated upon any highway unless it is so constructed as to prevent its contents from escaping. (2739g-49.)

**189.221. Basic height, width, length and weight limits for trucks, semitrailer trucks and tractor-trailer units.** — No person shall operate on any highway, except such highways as may be designated by the secretary of transportation under the provisions of subsection (1) of KRS 189.222, any of the following trucks, trailers or vehicles:

(1) Any motor truck, semitrailer, trailer or vehicle which exceeds eleven and one half (11<sup>1</sup>/<sub>2</sub>) feet in height or ninety-six (96) inches in width, including any part of the body or load;

(2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26<sup>1</sup>/<sub>2</sub>) feet in length, including any part of the body or load;

(3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;

(4) Any truck, semitrailer truck or truck and trailer unit which exceeds eighteen thousand (18,000) pounds gross weight, including the load;

(5) Any truck, semitrailer truck or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600) pounds per inch of the combined width of the tires upon which such vehicle may be propelled, but in no event more than eighteen thousand (18,000) pounds. (Enact. Acts 1950, ch. 115, § 2; 1962, ch. 91, § 2.)

**189.222. Increased height, length and weight limits on designated highways.** — (1) The secretary of transportation in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length and gross weight prescribed in KRS 189.221, if in the opinion of said secretary, the increased heights, length and weight designated by him are justified by the strength, safety and durability of the designated highways, and said highways do not appear susceptible to unreasonable and unusual damage by reason of such increases and said secretary is authorized to establish reasonable classification of such roads and to fix a different maximum for each classification. Provided, however, that any increase in the height, length or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by such vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

- (a) Height, thirteen and one-half (13<sup>1</sup>/<sub>2</sub>) feet;
- (b) Length, truck tractors and semitrailers, fifty-five (55) feet; motor trucks, thirty-five (35) feet;
- (c) Length, truck tractor, semitrailer and trailer, sixty-five (65) feet;
- (d) A tolerance of not more than five percent (5%) shall be permitted before a carrier is deemed to have violated (b) of this subsection. In no event shall the maximum length exceed 65 feet;
- (e) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; fifty thousand (50,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall any single axle in any arrangement exceed twenty thousand (20,000) pounds or six hundred (600) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. In no event shall the total gross weight of the vehicle and load exceed eighty-two thousand (82,000) pounds;
- (f) A tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (e) of this subsection. In no event shall the gross weight exceed eighty-two thousand (82,000) pounds;
- (g) Truck tractor, semitrailer and trailer combinations and other vehicle combinations may be operated only on those parts of the state-maintained system which has been designated by the secretary of transportation by official order as safely allowing same.

(2) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of transportation by official order as safely allowing same, attain the following maximum lengths excluding the usual and ordinary bumper overhang of the transported vehicles;

- (a) Truck tractors and semitrailers, sixty (60) feet;
  - (b) Motor trucks and trailers, sixty-five (65) feet.
- (3) Vehicles engaged exclusively in the transportation of farm products and registered under KRS 186.050(4)(b) shall be excluded from the axle weight provisions and subject only to total gross weight provisions.
- (4) The secretary of transportation may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being

operated exclusively on roads or highways being constructed, reconstructed or repaired under contract with the department of transportation by the contractor or subcontractor, agent or employe thereof.

(5) Notwithstanding any other provisions of this chapter, in no event may the secretary of transportation authorize the operation of any motor vehicle or combination of motor vehicles, upon any part of the interstate and national defense highway system, which exceeds the following dimension and weights:

(a) Width, ninety-six (96) inches, including any part of the body or load;

(b) Weight, eighteen thousand (18,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-two thousand (32,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart or less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall any single axle in any arrangement exceed eighteen thousand (18,000) pounds or six hundred (600) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. In no event shall the total gross weight of the vehicle and load exceed seventy-three thousand two hundred eighty (73,280) pounds; provided, however, in the event any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in subdivisions (a) and (b) of this subsection, then the secretary of transportation may by official order increase the maximum weights and dimensions but in no event shall said increase weights and dimensions exceed those set out in this section. (Enact. Acts 1950, ch. 115, § 3; 1956 (2nd Ex. Sess.), ch. 1, § 2; 1958, ch. 70, § 29; 1960, ch. 254, § 2; 1962, ch. 108; 1964, ch. 95, § 3; 1966, ch. 261; 1972, ch. 150, § 1; 1974, ch. 368, § 1; 1980, ch. 39, § 3, effective July 15, 1980.)

**189.223. Measuring or weighing of vehicle by peace officer — Unloading of excess weight.** — Any peace officer having reason to believe that the height, length, width or weight of any motor truck, semitrailer truck, or trailer, is in excess of the maximum limits prescribed by KRS 189.221 and subsection (1) of 189.222 or permitted by any special permit issued under KRS 189.270 and in the possession of the operator, may measure it or weigh it either by portable or stationary scales, and may require it to be driven to the nearest scales, if such scales are within a distance of five (5) miles from the point at which the vehicle is first directed to stop. If the officer shall determine that the operation of the motor truck, semitrailer, or trailer, was unlawful, he shall require the operator of said motor truck, semitrailer truck, or trailer to unload such portion of the load as may be necessary to decrease the gross weight of the vehicle to the maximum gross weight permitted under the terms of KRS 189.221 and subsection (1) of 189.222 or of KRS 189.270, or he may, at the election of the operator, permit the operator to move the vehicle with its load to the nearest city or nearest court having jurisdiction, at which place the excess load shall be unloaded. The excess load shall be unloaded at the sole risk of the owner. The refusal of the operator to permit his motor truck, semitrailer truck, or trailer to be measured or weighed, or to proceed to a scales, or to unload the excess load, shall constitute a violation of KRS 189.221 to 189.228. (Enact. Acts 1950, ch. 115, § 4.)

**189.230. Reduction of load and speed limits.** — (1) The bureau, in respect to state and federal highways, and county judges/executive in respect to county highways, may prescribe, by notice as provided in subsection (2) of this section, load and speed limits lower than the limits prescribed in KRS 189.221 and subsection (3) of KRS 189.390, respectively, whenever in its judgment any highway may, by reason of its design, deterioration, rain or other natural causes, be damaged or destroyed by motor trucks or semitrailer trucks, if their gross weight or speed exceeds certain limits. The bureau or county judges/executive may, by like notice, regulate or prohibit the operation of motor trucks or semitrailer trucks on state highways or county roads for limited periods of specified days, or parts of days, if their load and speed exceed those limits, whenever, in its or their judgment, such regulations or prohibition is necessary, by reason of traffic density or intensive use by the traveling public, to provide for the public safety and convenience on the highway.

(2) The notice or the substance of it shall be posted at conspicuous places at the termini of and at all intermediate crossroads and road junctions with the section of the highway to which the notice applies. After such a notice has been posted, no person shall operate any motor truck or semitrailer truck contrary to its provisions. (2739g-91: amend. Acts 1958, ch. 126, § 23; 1974, ch. 74, Art. IV, § 20(1); 1978, ch. 384, § 335, effective June 17, 1978.)

**189.270. Special permits to exceed limits.** — (1) The bureau may prescribe, by orders of general application, rules and regulations for the issuance by it of permits for the operation of motor vehicles and housetrailer whose gross weight including load, height, width or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the bureau for stated periods, special purposes and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the bureau may, in its discretion, require. The bureau shall require, as a condition to the issuance of the permit, that the applicant pay a reasonable fee, to be fixed by it, and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles and housetrailer in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the bureau may require, in his possession.

(2) No person shall operate any motor vehicle or housetrailer in violation of the terms of the permit. (2739g-92: amend. Acts 1942, ch. 118, § 1(c); 1974, ch. 74, Art. IV, § 20(1); 1976, ch. 173, § 3.)

**189.271. Special permit for hauling industrial materials — Overweight vehicles.** — (1) Notwithstanding any other provision of laws, the bureau of vehicle regulation may issue special permits to the owners, operators or lessees of motor vehicles for the purpose of hauling industrial materials whose gross weight, including vehicle and load, exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. A separate permit shall be required for each vehicle. Such permits shall be issued for specified materials only and shall designate the portions of the state primary road system over which such vehicle may operate pursuant to the permit. Such permit shall be issued for

a stated period of time not to exceed one (1) year and shall be upon such terms and conditions as the bureau may, in its discretion, require in the public interest. The bureau shall require, as a condition to the issuance of the permit, that the applicant pay a reasonable fee, to be fixed by the bureau, and shall require that an applicant convicted under provisions of KRS 189.990 (2) (a) two (2) or more times within a five-year period give bond, with approved surety, in an amount not to exceed six thousand dollars (\$6,000) for each vehicle to indemnify the Commonwealth of Kentucky against damage to highways or bridges resulting from the operation of any motor vehicle under the authorization of such permit. The operation of any motor vehicle in accordance with the terms of any such permit shall not constitute a violation of this chapter, if the operator has the permit, or a copy of it, authenticated as the bureau may require, in his possession.

(2) The bureau shall not issue a permit under this section for a vehicle whose gross weight, including vehicle and load, exceeds the maximum gross weight as provided in KRS 189.222.

(3) No person shall operate a motor vehicle in violation of the terms and conditions of any permit issued by the bureau pursuant to this section.

(4) As used in this section, industrial materials shall mean all cargo, whether divisible or indivisible, which a motor vehicle transports in the usual and ordinary course of business and shall specifically include, but not be limited to, minerals or natural resources transported by a motor vehicle.

(5) The bureau is hereby empowered to:

(a) Exercise general supervision of the administering and enforcement of this section.

(b) Adopt rules and regulations with respect to the issuance of a permit, including, but not limited to, rules and regulations concerning the duration of permits and weight limits for various types of vehicles, materials and highways.

(c) Adopt rules and regulations with respect to the amount, terms and conditions of the bond and the sufficiency of the surety of such bond required by this section.

(d) Issue, continue in effect, revoke, modify or deny, under such conditions as the bureau may prescribe, permits provided for under this section. (Enact. Acts 1974, ch. 258, § 4; 1978, ch. 232, § 1, effective June 17, 1978.)

**189.990. Penalties.** — (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars (\$20.00) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars (\$11.00) nor more than thirty dollars (\$30.00). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2¢) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is 3,000 pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars (\$60.00) nor more than five hundred dollars (\$500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the bureau of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars (\$15.00) nor more than fifty dollars (\$50.00) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15.00).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35.00) nor more than two hundred dollars (\$200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15.00) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00).

(9) (a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500); for the second offense, a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) and imprisoned for not less than thirty (30) days nor more than twelve (12) months.

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35.00) nor more than one hundred dollars (\$100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars (\$35.00) nor more than one hundred dollars (\$100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars (\$30.00) nor more than one hundred dollars (\$100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars (\$20.00) nor more than twenty-five dollars (\$25.00).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars (\$35.00) nor more than one hundred dollars (\$100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars (\$35.00) nor more than five hundred dollars (\$500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars (\$60.00) nor more than one thousand dollars (\$1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157(2).

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100). A person who operates a bicycle

without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300). (1376r-2, 1376r-10, 2739g-34a, 2739g-34b, 2739g-46a, 2739g-53b, 2739g-65, 2739-69ee, 2739g-93, 2739i-2, 2896a-15, 4345, 4345a-6, 4346, 4346a-5, 4348, 4353b-4: amend. Acts 1946, ch. 96; 1948, ch. 171, § 2; 1950, ch. 48, § 4; 1950, ch. 96, § 2; 1950, ch. 97, §§ 2, 3; 1950, ch. 115, § 9; 1952, ch. 206, § 1; 1956, ch. 23, § 1; 1956, ch. 35, § 2; 1956, ch. 125, § 3; 1970, ch. 92, § 60; 1972, ch. 128, § 2; 1972, ch. 203, § 38; 1972, ch. 299, § 2(4); 1974, ch. 101, § 7; 1974, ch. 217, § 2; 1974, ch. 258, § 5; 1974, ch. 335, § 2; 1974, ch. 345, § 1(3); 1976 (Ex. Sess.), ch. 36, § 2, effective January 2, 1978; 1978, ch. 46, § 11, effective June 17, 1978; 1978, ch. 101, § 4, effective June 17, 1978; 1978, ch. 384, § 54, effective June 17, 1978; 1979 (Ex. Sess.), ch. 7, § 5, effective July 1, 1979; 1980, ch. 49, § 5, effective July 15, 1980; 1980, ch. 305, § 2, effective July 15, 1980.)

**\*350.060. Permit—Application—Map—Transportation plan—Proof of public liability insurance coverage—Fee—Bond—Mining two acres or less—Permit renewal—Termination.—**(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the department a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the department may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the department and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The department for natural resources and environmental protection shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight-month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.

(3) Any permit validly issued by the department under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States Secretary of the Interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an

application for a permit with the department within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered. The department shall not accept interim permit applications after August 1, 1980 or after December 1, 1980 if the United States Secretary of the Interior has not approved the Commonwealth's permanent regulatory program by September 3, 1980. The department shall receive and act on all substantially complete permit applications tendered to it on or before August 1, 1980 or December 1, 1980, whichever date is applicable, under the interim program. [Effective March 21, 1980.]

(4) No permit or revision application shall be approved unless the application affirmatively demonstrates and the department finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(5) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) if known, ten percent (10%) or more of any class of stock of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(h) A listing of any and all violations of this chapter, P.L. 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three-year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work;

(6) The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating;

(7) The application for a permit shall be accompanied by copies, in numbers satisfactory to the department, of a United States geological survey topographic map or such other map acceptable to the department on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(8) The application for a permit shall be accompanied by copies, in numbers satisfactory to the department, of an enlarged United States geological survey topographic map or such other map acceptable to the department meeting the requirements of the subsections below. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) below;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining and the boundaries of surface properties and names of owners on the affected area and adjacent to any part of the affected area;

(d) Be of a scale of 1:24,000 or larger;

(e) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(f) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(g) Show the date on which the map was prepared, the north point and the quadrangle name; and

(h) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(9) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the minesite, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the minesite and surrounding areas so that an assessment can be made by the department of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(10) All certifications required by this chapter to be made by professional engineers shall state that the information or documentation contained in the application is correct, and shows that to the best of his or her knowledge and belief all the information required by the applicable laws and regulations of this state is included. The certification shall be signed and notarized. The department may reject any document or map as incomplete if its accuracy is not so attested. The certification shall be done in the form prescribed by the department.

(11) The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the department of transportation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges. All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.

(12) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto.

(13) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the department for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the department. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(14) A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed two hundred fifty dollars (\$250) plus a fee set by regulation but not to exceed fifty dollars (\$50) for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued. The operator shall file with the department a bond payable to the Commonwealth of Kentucky with surety satisfactory to the department in the penal sum to be determined by the department for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars (\$10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the department. In determining the amount of the bond the department shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the department in the event of forfeiture. The department shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. Where a surface coal mining operation affects two (2) acres or less and the circumstances are such as to warrant an exception, the department, in its discretion, may reduce the amount of the bond for a particular operation to less than the required minimum.

(15) Surface coal mining and reclamation operations which affect two (2) acres or less shall be exempt from the requirements of this chapter, except that the department shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in no event shall the department require that the highwalls left by such operations be eliminated. In no event shall the bond be more than one thousand dollars (\$1,000) per acre. The department shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days. All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted and permits granted pursuant to this subsection. The department shall enforce this subsection consistent with KRS Chapter 350 except that the department shall not issue orders requiring the cessation of operations for mere failure to abate a violation.

(16) The department shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent

with this section. The department shall recognize the distinct differences between the surface effects of underground mining and surface coal mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the department shall require that the areas overlaying underground workings not affected by the operation be permitted only for purposes of subsidence control and shall not be subject to the payment of acreage fees or bond requirements of subsection (13) of this section.

(17) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the department are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the department might require; or

(e) Any additional revised or updated information required by the department has not been provided; prior to the approval of any renewal of permit the department shall provide notice to the appropriate public authorities.

(18) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(19) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(20) Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the department may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated. (Enact. Acts 1954, ch. 8, § 6; 1956 (1st Ex. Sess.), ch. 7, Art. VII, § 6; 1960, ch. 143, § 4; 1962, ch. 105, § 4; 1964, ch. 61, § 3; 1966, ch. 4, § 7; 1972, ch. 270, § 3; 1972 (1st Ex. Sess.), ch. 3, § 65; 1974, ch. 69, § 1; 1974, ch. 74, Art. III, § 13(7); 1974, ch. 258, § 1; 1974, ch. 373, § 2; 1976, ch. 291, § 1; 1978, ch. 330, § 23, effective May 3, 1978; 1978, ch. 332, § 4, effective June 17, 1978; 1980, ch. 62, § 5; 1980, ch. 377, § 1.)

**603 KAR 5:066. Weight limits for trucks.**

RELATES TO: KRS 189.222  
PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 189.222 authorizes the Secretary of Transportation to establish reasonable weight limits for trucks using the state maintained highway system. This regulation prescribes the maximum weight limits for each classification of roads in accordance with amended state and federal laws.

Section 1. General: The Secretary of Transportation, in respect to highways which are a part of the State Maintained System, by Official Order, has determined that an increase to the maximum gross weight prescribed in KRS 189.221, on designated highways or portions thereof, is justified by the strength, safety, and durability of the designated highways, and said highways do not appear susceptible to unreasonable and unusual damage by reason of such increases and said secretary is authorized to establish reasonable classification of such roads and to fix a different maximum for each classification. Provided, however, that any increase shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the weights as specified hereinafter.

Section 2. Definitions: (1) Trucking Highways. All state maintained roads are assigned a maximum allowable gross weight as follows:

(a) Class "AAA" designates a maximum allowable gross weight of 80,000 pounds.

(b) Class "AA" designates a maximum allowable gross weight of 62,000 pounds.

(c) Class "A" designates a maximum allowable gross weight of 44,000 pounds.

(2) Truck Types. For the purpose of posting bridges at the site and for listing bridge weight restrictions in these regulations, the following truck types have been established:

(a) Type 1: This is a truck consisting of two (2) single axles.

(b) Type 2: This is a truck consisting of one (1) single axle and one (1) tandem axle.

(c) Type 3: This a truck consisting of one (1) single axle and one (1) tri-axle.

(d) Type 4: This covers trucks with three (3) single axles or two (2) single axles and one (1) tandem axle or one (1) single axle and two (2) tandem axles or any other truck and trailer combination.

Section 3. The maximum weight for trucks using Class "AAA" highways, except the Interstate and National Defense Highways System, shall be as follows:

(1) Gross weight, including load, not to exceed 80,000 pounds. Gross axle weight for a single axle not to exceed 20,000 pounds (with axles less than forty-two (42) inches apart to be considered as a single axle).

(2) Gross weight not to exceed 34,000 pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart, 50,000 pounds on three (3) axles in tandem arrangement which are spaced forty-two (42) inches or more apart but less than 120 inches apart or

as determined by formula in subsection (3) below. In no event shall any single axle in any arrangement exceed 20,000 pounds.

(3) Tire weight: The weight transmitted to the pavement shall not exceed 600 pounds per inch of aggregate width of all tires.

(4) On structures of Class "AAA" highways which have a posted load limit of less than 80,000 pounds, the posted limit shall not be exceeded.

Section 4. The maximum weight for trucks using Class "AAA" highways which are a part of the Interstate or National Defense System shall be as follows:

(1) Gross weight, including load, not to exceed 80,000 pounds. Gross axle weight for a single axle not to exceed 20,000 pounds (with axles less than forty-two (42) inches apart to be considered as a single axle).

(2) Gross weight not to exceed 34,000 pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; 50,400 pounds on three (3) axles in tandem arrangement which are spaced forty-two (42) inches or more apart but less than 120 inches apart, or as determined by formula in subsection (3) below, whichever is greater. In no event shall any single axle in any arrangement exceed 20,000 pounds.

(3) The maximum gross weight for a truck consisting of two (2) single axles which exceeds 37,800 pounds gross weight, and for a truck consisting of one (1) single axle and one (1) tandem axle which exceeds 52,500 pounds gross weight, or for a truck which consists of three (3) single axles which exceeds 56,700 pounds gross weight, and for a truck consisting of one (1) single axle and one (1) tri-axle which exceeds 69,300 pounds gross weight, and for a truck consisting of two (2) single axles and one (1) tandem axle which exceeds 71,400 pounds gross weight, or for any truck with any combination of axles which exceeds 73,280 pounds gross weight shall be determined by the following formula:

$$W = 500 \left( \frac{LN}{N - 1} + 12N + 36 \right)$$

Where W equals gross weight, L equals distance between extreme axles of the group of consecutive axles under consideration and N equals the number of axles in the group, except that two (2) consecutive sets of tandem axles may carry 34,000 pounds each, providing that the distance between the first and last axles of such consecutive sets of axles is thirty-six (36) feet or more. In no event shall any axle in any arrangement exceed 20,000 pounds nor the gross weight exceed 80,000 pounds.

(4) Tire weight: The weight transmitted to the pavement shall not exceed 600 pounds per inch of aggregate width of all tires.

(5) On structures of Class "AAA" highways which have a posted load limit of less than 80,000 pounds, the posted limit shall not be exceeded.

(6) There shall be no tolerances allowed on gross weight, axle weight, or combinations of axle weights on vehicles operating over a Class "AAA" highway which is a part of the Interstate or National Defense Highway System.

Section 5. The maximum weight for trucks using Class "AA" highways shall be as follows:

(1) Gross weight, including load, not to exceed 62,000 pounds.

(2) Gross axle weight for a single axle not to exceed 20,000 pounds (with axles less than forty-two (42) inches apart to be considered as a single axle).

(3) Gross weight not to exceed 34,000 pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; 50,000 pounds on three (3) axles in tandem arrangement which are spaced forty-two (42) inches or more apart but less than 120 inches apart. In no event shall any single axle in any arrangement exceed 20,000 pounds.

(4) Tire weight: The weight transmitted to the pavement shall not exceed 600 pounds per inch of aggregate width of all tires.

(5) On structures on Class "AA" highways which have a posted load limit of less than 62,000 pounds, the posted limit shall not be exceeded.

Section 6. The maximum weight for trucks using Class "A" highways shall be as follows:

(1) Gross weight, including load, not to exceed 44,000 pounds.

(2) Gross axle weight for a single axle not to exceed 20,000 pounds (with axles less than forty-two (42) inches apart to be considered as a single axle).

(3) Gross weight not to exceed 34,000 pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart.

(4) Tire weight: The weight transmitted to the pavement shall not exceed 600 pounds per inch of aggregate width of all tires.

(5) On structures on Class "A" Highways which have a posted load limit of less than 44,000 pounds, the posted limit shall not be exceeded.

Section 7. There shall be no tolerance allowed on gross weight, however, a tolerance of not more than five (5) percent shall be allowed on axle weight on highways which are not a part of the Interstate or National Defense Highway System.

Section 8. As long as any highway remains a part of the State Primary Road System, as defined by regulation 603 KAR 3:030, it is intended that the classification of highways constitutes a designation by the Secretary of Transportation as contemplated by KRS 189.280, and city ordinances which impose less stringent limits shall not apply to such state maintained highways, including bridges, unless specific relinquishment of this responsibility to a city is made by the Secretary of Transportation. (2 Ky.R. 312; am. 3 Ky.R. 3; eff. 7-7-76.)

### 603 KAR 5:070. Truck dimension limits.

RELATES TO: KRS 189.222

PURSUANT TO: KRS 13.082, 189.222(1)

NECESSITY AND FUNCTION: KRS 189.222 authorizes the Secretary of the Department of Transportation to establish reasonable size limits for trucks using the State Primary Road System. This regulation is adopted to fix the maximum dimensions for all classes of highways.

Section 1. The maximum dimensions for trucks using all class highways shall be as follows:

(1) Height: Including body and load, not to exceed thirteen (13) feet and six (6) inches.

(2) Width: Including body and load, not to exceed eight (8) feet.

(3) Length: (a) Motor truck (single unit), including any part of the body or load, not to exceed thirty-five (35) feet.

(b) Truck tractors and semi-trailers, including any part of the body or load, not to exceed fifty-five (55) feet, except for truck tractors and semi-trailer units exclusively engaged in the transportation of motor vehicles the usual and ordinary bumper overhang of the transported vehicles is excluded in the measurement of the fifty-five (55) feet.

(4) A tolerance of not more than five (5) percent shall be permitted on length before a carrier is deemed to be in violation of this section.

Section 2. Unless otherwise provided herein; truck tractors, semi-trailers and trailers, or motor trucks and trailers may be operated in combinations not exceeding sixty-five (65) feet over the following highways:

(1) The Toll Road System.

(2) The Interstate Highway System.

(3) All other four (4) lane highways not a part of subsections (1) and (2) of this section.

(4) The following sections of highways not listed in subsections (1), (2) and (3) of this section: KY 15 from Campton to Whitesburg; US 23 from Ohio River Bridge at Portsmouth to Pikeville; US 25E from Pineville to Virginia State Line; US 27 from Lexington to Nicholasville and from Stanford to Burnside; US 31E from Glasgow to Tennessee Line; KY 52 from Richmond to Irvine; KY 55 from Campbellsville to Columbia; US 62 from Eddyville to Paducah; US 68 from Bowling Green to Russellville; KY 90 from I-65 to Glasgow; KY 114 from Salyersville to Prestonsburg; US 119 from Pineville to Harlan; US 127 from I-75 near Glencoe to Owenton and from Jct. KY 151 to Danville; US 150 from Bardstown to Springfield and from Danville to Stanford; and KY 151 from I-64 to Jct. with US 127; and KY 245 from I-65 to US 62 at Bardstown.

(5) An operator will not be deemed to be in violation of this order if operating within ten (10) miles of the above roads, upon connector roads, provided the connector roads have a surface width of at least twenty (20) feet.

(6) Roads within fifteen (15) miles of the following border entry points: Ohio River Bridge, Cairo, Illinois; Ohio River Bridge, Paducah; Ohio River Bridge, Hender-

son; Ohio River Bridge, Owensboro; Ohio River Bridge, South Portsmouth; and Ohio River Bridge, Ashland.

Section 3. Truck tractors and semi-trailers engaged in the transportation of tobacco, unmanufactured tobacco products on motor vehicles not exceeding sixty (60) feet, excluding normal bumper overhang, may be operated upon any designated AAA or AA highway.

Section 4. As long as any highway remains a part of the state primary road system, the classification of highways by this regulation constitutes a designation by the Commissioner of the Bureau of Highways as contemplated by KRS 189.280, and city ordinances which impose less stringent limits shall not apply to such state maintained highways, including bridges, unless specific relinquishment of this responsibility to a city is made by the Commissioner of the Bureau of Highways. (HIWA-TC-B2; A2; AA2; AAA4; 1 Ky. R. 817; eff. 5-14-75; Am. 2 Ky.R. 193; eff. 12-10-75.)

#### **693 KAR 5:075. Overload and over-dimension permits.**

RELATES TO: KRS 189.222

PURSUANT TO: KRS 13.082, 174.050, 189.270

NECESSITY AND FUNCTION: KRS 189.270 authorizes the Secretary of the Department of Transportation to issue permits for the movement of loads exceeding legal weights and dimensions. This regulation establishes permit fees and determines requirements necessary in the interest of highway safety.

Section 1. Special permits to permit the movement of gross weights and gross dimensions in excess of the weights and dimensions specified by statutes and regulations will be issued by the Department of Transportation, Permit Section, Division of Motor Carriers, Frankfort, Kentucky, when, in the discretion of the department, such movement is necessary to provide transportation for specified cargo in the interest of the health, welfare and economy of the people. Each such permit shall be limited to designated portions of the state primary road system and stated periods of time. A separate permit will be required for each vehicle involved in such movement. The fee for these permits shall be fifteen dollars (\$15) each.

Section 2. Applications for overload and overdimension permits shall be made to the Department of Transportation, Permit Section, Division of Motor Carriers, Frankfort, Kentucky 40601. The application shall state the purpose of the movements for which a permit is requested, the portion of the state primary road system to be used, the cargo to be hauled, the period of time needed to complete the movement, and the identity of the vehicles to be used.

Section 3. Permits are valid during daylight hours only from Monday through Saturday noon, except for those periods before, during, and after the following holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day. In connection with these holidays, travel is not permitted from noon the preceding day until daylight of the next permissible day. If the holiday occurs on Sunday the restricted period will extend from noon of the preceding Friday to daylight the following Tuesday. If satisfactory

proof of an emergency is furnished the Department of Transportation, Permit Section, Division of Motor Carriers, Frankfort, Kentucky, the Permit Section may authorize moves during the restricted hours. The term "daylight hours" means the period from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset, but it does not include such period or part thereof when atmospheric conditions render visibility lower than is ordinarily the case during such daylight hours.

Section 4. The Department of Transportation reserves the right to deny a permit for any movement which may cause damage to departmental property or may be detrimental to public safety. (HIWA-TC-P1; 1 Ky.R. 817; eff. 5-14-75.)



JOHN Y. BROWN, JR.  
GOVERNOR

EXECUTIVE ORDER

80-125

February 19, 1980

Secretary of State  
Frankfort  
Kentucky

RELATING TO REORGANIZATION

Department of Justice  
Bureau of State Police

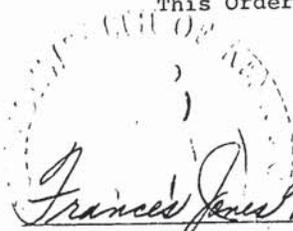
WHEREAS, Executive Order 80-84 transferred three divisions within the Department of Transportation which have law enforcement-related functions to the Bureau of State Police; and

WHEREAS, studies by the Bureau of State Police, Department of Justice, clearly indicate that greater economy will result and that vital services will be maintained through the consolidation of these specific functions within the Bureau of State Police:

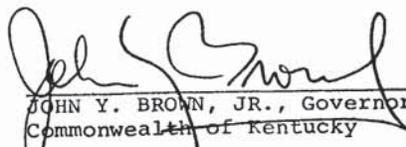
NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by KRS 12.025(1), do hereby direct the following reorganization:

1. There is hereby created within the Department of Justice, Bureau of State Police, a Division of Security and Compliance.
2. The Divisions of Water Enforcement, Highway Enforcement, and Park Rangers are hereby abolished.
3. All personnel, functions, responsibilities, and assets of the former Divisions of Water Enforcement, Highway Enforcement, and Park Rangers are transferred to the Division of Security and Compliance.
4. The Secretary of Finance and the Commissioner of Personnel shall take all necessary steps to effectuate this Order.

This Order shall be effective March 1, 1980.

  
*Frances Jones Mills*

FRANCES JONES MILLS  
Secretary of State

  
JOHN Y. BROWN, JR., Governor  
Commonwealth of Kentucky



JOHN Y. BROWN, JR.  
GOVERNOR

EXECUTIVE ORDER

80-84

February 1, 1980

Secretary of State  
Frankfort  
Kentucky

R E L A T I N G   T O   R E O R G A N I Z A T I O N

Transferring Transportation and Parks Law Enforcement  
Functions to the Bureau of State Police

WHEREAS, the consolidation of various police functions within the Bureau of State Police insures a coordinated law enforcement effort, improved efficiency and training, and cost effectiveness; and

WHEREAS, state government police functions are now fragmented with the Departments of Transportation and Parks performing various law enforcement activities; and

WHEREAS, it is my determination, after consultation with the Secretary of Transportation, Secretary of Development and Commissioner of State Police, that highway and water safety enforcement functions within the Department of Transportation and park security functions within the Department of Parks should be transferred to the Bureau of State Police, Department of Justice:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by KRS 12.025(1), do hereby order and direct the following reorganization:

1. The Division of Highway Enforcement, Bureau of Vehicle Regulation, Department of Transportation, is hereby transferred to the Bureau of State Police, Department of Justice. All personnel equipment and funds budgeted to the Division, including General Fund, Road Fund and federal money, are hereby transferred from the Bureau of Vehicle Regulation to the Bureau of State Police.



**JOHN Y. BROWN, JR.**  
**GOVERNOR**

**EXECUTIVE ORDER**

80-84

February 1, 1980

**Secretary of State**  
Frankfort  
Kentucky

Page two

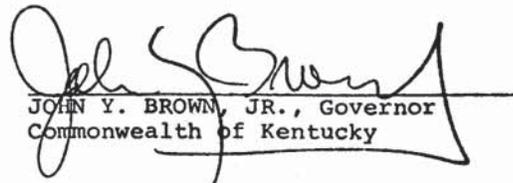
2. The Division of Water Safety Enforcement, Bureau of Vehicle Regulation, Department of Transportation, is hereby transferred to the Bureau of State Police, Department of Justice. All personnel, funds and equipment allocated to the Division are hereby transferred from the Bureau of Vehicle Regulation to the Bureau of State Police.

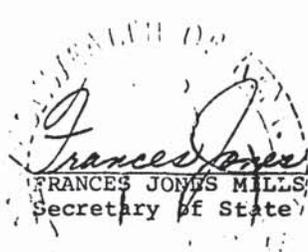
3. The Division of Rangers, Department of Parks, is hereby transferred to the Bureau of State Police, Department of Justice. All personnel, funds and equipment allocated to the Division are hereby transferred from the Department of Parks to the Bureau of State Police, Department of Justice.

4. The Division of Hearings, Bureau of Vehicle Regulation, is hereby transferred to the Office of General Counsel, Department of Transportation. This action returns the Division to its location prior to Executive Order 74-483, ratified by Section 88 of House Bill 499, the 1976 Reorganization Act.

5. The Secretary of Finance and the Commissioner of Personnel shall take all necessary steps to implement this Order.

This Order shall be effective February 1, 1980.

  
JOHN Y. BROWN, JR., Governor  
Commonwealth of Kentucky

  
  
FRANCES JONES MILLS  
Secretary of State





