
Nebraska State Legislative Board

Brotherhood of Locomotive Engineers and Trainmen IBT Rail Conference

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Nebraska Public Service Commission
1200 N Street, Suite 300
Lincoln, NE 68508

RE: Comments Regarding Rule and Regulation No. 182

Dear Commissioners:

On Behalf of the Nebraska State Legislative Board of the Brotherhood of Locomotive Engineers and Trainmen (NESLB-BLET) I am offering the following comments to the 4th set of proposed rules for Title 291 Chapter 3, Motor Carrier Rules and Regulations.

The proposed change to 006.02A, for the Railroad Employees I represent, is appreciated and needed. While I'm sure the Railroad Companies that testify will oppose the rule change, remember during past testimony, that the Carriers the Railroads utilize are required to indemnify the Railroads for \$5 million for liability. The Railroads have the luxury of requiring these Carriers to protect their interests; however my members are required to be in these vehicles because the Railroads direct us to. The \$5 million coverage for liability of the Contract Carrier may protect us for fault of the driver, but not when an accident is caused by a 3rd party.

Uninsured/Underinsured coverage is not just a Nebraska issue; my organization is trying to increase this in every state. Also the Federal Motor Carrier Safety Administration also has proposed rulemaking to increase liability coverage. While looking at the reason for the proposed rulemaking for the **FMCSA**, I am going to add some of the research done on their behalf by the **DOT's John A. Volpe Transportation Systems Center (Volpe)**, I believe this supports our position for the need to increase UI/UI coverage.

Research on Minimum Levels of Financial Responsibility (Volpe Excerpts)

Costs for severe and critical injury crashes can easily exceed \$1 million. The analysis reveals that two categories of injury crash (severe and critical) yield damages of more than \$1 million.

Insurance premiums have declined in real terms since the 1980s. The analysis revealed the stability of insurance rates over the last three decades.

Current insurance limits do not adequately cover catastrophic crashes, mainly because of increased medical costs. Since 1985, when the current minimum levels were established, the real value of insurance coverage has decreased. Because medical costs have increased significantly, insurance coverage at the statutory minimum levels does not cover as much of the cost of a catastrophic crash as it once did. From 1985 to 2013, the medical consumer price index (CPI) increased at a significantly higher rate than the core CPI (4.9 percent annually for medical care, compared to 2.8 percent for core). Thus, had minimum financial responsibility levels kept pace with core CPI or medical CPI, by 2013, these minimum levels would have been higher.

As we continue to request higher UI/UI coverage, keep in mind that this is just to cover our members from the increased cost of health care that will have to come out of their own pockets due to an accident that was no fault of their own. And the Railroad Employees don't have the same ability to request a \$5 million indemnification as the Companies that employ the Carriers. It will also be somewhat disturbing for a Railroad Company to oppose a rule change that could both protect their Employees and their own risk of potential litigation.

I'm sure there will be opposition to the increase by the Carriers of Railroad Crews, however they are a specialized service in this State and negotiate their own contracts and compensation from the Railroad Companies, unlike taxi service that has their rates regulated by the PSC. The increase of UI/UI will also provide their drivers protection and coverage they also need. I still believe that the Carriers that transport Railroad Employees should be classified different than other contract carriers in the State due to nature of their contracts, routes, and needing a specific permit.

Section 006.11, as written, gives a carrier the ability to qualify as a self-insurer if they meet the financial requirements of liability as required in 003.03. We have some concerns that a strict reading of this section would allow a Railroad Crew Carrier to self-insure without also meeting the financial requirements of Section 006.02a requiring uninsured/underinsured coverage which exceeds state minimums. Please consider revising the language of Section 006.11 to require a showing of financial ability to meet the UI/UI limits of liability. Adding that requirement would keep the Carriers in compliance with the entire proposed rule.

As far as the other proposed changes, I fully support the change in 005.02 to change the physical examination to 2 years instead of 4, that will help protect all parties involved by ensuring drivers are fit and safe.

In reference to 005.06 I would request that a trip log be required to be kept by the driver and with the driver in his vehicle. The members I represent should have the ability to review the log book to ensure the driver of the vehicle they are in is in compliance of the HOS requirements as stated in 005.045, and this would also give the Commission the ability to ensure the electronic record keeping is accurate and true.

I would like to thank the Commission for their efforts to rewrite, simplify, and update this Rule to reflect the changes in the industry.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Pfeifer". The signature is written in a cursive style with a long horizontal stroke at the end.

Pat Pfeifer
Chairman NESLB-BLET