



Kansas Corporation Commission - Transportation Division

Compliance Guidelines for the Kansas Farm Vehicle Driver Transporting Grain

In order to determine the applicability of the state and/or federal safety regulations you must remember, the Federal Motor Carrier Safety Administration (FMCSA) has jurisdiction over Commercial Drivers License (CDL), Controlled Substance & Alcohol Testing and Hazardous Materials (HM) in intrastate and interstate commerce.

Kansas farmers operating Commercial Motor Vehicle's (CMV) "wholly in intrastate commerce" are exempt from the state's safety regulations under K.S.A. 66-1,129 (c) (1) which states:

(c) Any rules and regulations of the commission, adopted pursuant to this section, shall not apply to the following, while engaged in the carriage of intrastate commerce in this state:

(1) The owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer (in or producer), or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment.

However: K.S.A. 66-1,129 (c) (1) does not exempt a farmer that transports grain to an elevator that loads the grain onto railcars or trucks for out-of-state shipment. The FMCSA has determined that the first move, field to elevator, could be the first leg of an interstate shipment. This ruling is consistent with the Title 49 C.F.R. Part 390.5 definition of interstate commerce.

With this in mind, grain transported by the producer to the local elevator, feedlot or flour mill that is processed or consumed in Kansas is considered intrastate commerce and meets the K.S.A. 66-1,129 (c) (1) exemption.

However, grain produced in Kansas that **does not** stay in Kansas, would be considered interstate or international commerce. This would include any portion of the shipment within Kansas.

Based on the federal interpretation that grain transported from the field to the local elevator is interstate commerce, how does this ruling impact the local farmer?

For the purposes of the Federal Motor Carrier Safety Regulations (49 CFR Parts 390 – 399), a **farm vehicle driver** means a person who drives only a commercial motor vehicle that is:

- Controlled and operated by a farmer as a private motor carrier of property;
- Being used to transport either agricultural products, or farm machinery, farm supplies, or both to or from a farm;
- Not being used in the operation of a for-hire motor carrier;
- Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded;
- Being used within 150 air-miles of the farmer's farm.

Farm vehicle drivers in interstate commerce are subject to federal safety regulations listed on the reverse side:

Check List for Farm Operations

- ✓ **Are you subject to Federal Motor Carrier Safety Regulations?**
- ✓ **Do you operate a Commercial Motor Vehicle (CMV) in interstate commerce?**
- ✓ **To view the federal regulations online go to www.fmcsa.dot.gov**

State and/or FMCSR	Straight Trucks	Combination Vehicle
Part 382 Part 40	Yes , drivers are subject to Substance and Alcohol testing if they operate a CDL motor vehicle in <u>intrastate</u> or <u>interstate</u> commerce beyond 150 miles from the farm	
Part 383	Yes , subject to a CDL beyond 150 miles from the farm	
Part 390	Yes , subject to DOT number and marking requirements	
Part 391	No , drivers that operate straight trucks are exempt from all driver qualification requirements	Yes , drivers must be physically qualified and carry a medical examiners certificate; Farmers operating <u>within the 150 air-mile radius</u> of the farm are exempt the following: 391.11(b)(1) (21 years old) (b)(6) (list of violations or certificate) (b)(8) (road test or copy of CDL) Subpart C (relating to disclosure of investigation into background and driving record Subpart D (road test) Subpart F (maintenance files and records)
Part 392	Yes , subject to emergency equipment, use of seat belts and all applicable parts related to driving of commercial motor vehicles	
Part 393	Yes , subject to all parts and accessories necessary for safe operation	
Part 395	Yes , subject beyond a 100 air-miles from the farm in <u>interstate</u> commerce	
Part 396	Yes , subject to inspection of motor vehicles in operation, periodic inspections, driver vehicle inspection reports and all applicable parts of inspection, repair and maintenance	
Part 397 and 100 - 185	Yes , an individual who drives a CMV transporting placardable types and quantities of hazardous materials (does not) meet the definition of a farm vehicle driver as defined in 390.5 and would be subject to all the applicable hazardous material regulations	