



Minnesota Department of Transportation

Transportation Building
395 John Ireland Boulevard
Saint Paul, Minnesota 55155-1899

09 - 0071

January 15, 2009

Sen. Steve Murphy, Chair
Senate Transportation Committee
75 Rev. Dr. Martin Luther King Jr. Blvd., Room 325
Saint Paul, MN 55155

Sen. Michael Jungbauer, Ranking Minority Member
Senate Transportation Committee
100 Rev. Dr. Martin Luther King Jr. Blvd., Room 121
Saint Paul, MN 55155

Rep. Bernie Lieder, Chair
House Transportation Finance and Policy Division
100 Rev. Dr. Martin Luther King Jr. Blvd., Room 423
Saint Paul, MN 55155

Rep. Mike Beard, Ranking Minority Member
House Transportation Finance and Policy Division
100 Rev. Dr. Martin Luther King Jr. Blvd., Room 207
Saint Paul, MN 55155

Rep. Frank Hornstein, Chair
House Transportation & Transit Policy & Oversight Div.
100 Rev. Dr. Martin Luther King Jr. Blvd., Room 437
Saint Paul, MN 55155

Rep. Dean Urdahl, Ranking Minority Member
House Transportation & Transit Policy & Oversight Div.
100 Rev. Dr. Martin Luther King Jr. Blvd., Room 237
Saint Paul, MN 55155

Dear Senators and Representatives:

Enclosed with this letter is a report concerning complaints made to the Minnesota Department of Transportation ("Mn/DOT") against special transportation service providers. Minnesota Statutes (2008), section 174.30, subdivision 9, was amended by Laws 2008, chapter 287, article 1, section 73, to require the Commissioner of Transportation to submit this report, which identifies each complaint received and investigated by Mn/DOT between July 1, 2008, and December 31, 2008. The report includes descriptions of findings made and steps taken for the resolution of the complaints.

The next report of special transportation service complaints will be submitted to the Legislature by January 15, 2011.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas K. Sorel'.

Thomas K. Sorel
Commissioner of Transportation

Encl.

cc: Mark Ritchie, Minnesota Secretary of State
Albin Mathiowetz, Chief Clerk of the Minnesota House of Representatives
Minnesota Legislative Reference Library



Report to the Legislature Regarding Special Transportation Service Complaints

January 15, 2009

**Minnesota Department of Transportation
395 John Ireland Boulevard
Saint Paul, MN 55155**

This report has been prepared as required by Minnesota Statutes (2008), section 174.30, subdivision 9, paragraph (b), which provides: “By January 15, 2009, and in every subsequent odd-numbered year by January 15, the commissioner shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over transportation policy and finance. The report must identify each complaint investigated by the commissioner under paragraph (a) [‘The commissioner shall investigate all complaints over which the commissioner has jurisdiction regarding special transportation service providers regulated under this section’]; including, but not limited to, any findings and steps taken for resolution of the complaint.”

The cost of preparing this report was approximately \$200.

This report concerns complaints made to the Minnesota Department of Transportation (“Mn/DOT”) against special transportation service providers. Minnesota Statutes (2008), section 174.30, subdivision 9, was amended by Laws 2008, chapter 287, article 1, section 73, to require the Commissioner of Transportation to submit this report. Mn/DOT regulates providers of special transportation service, which is defined in Minnesota Statutes, section 174.29, subdivision 1, as “motor vehicle transportation provided on a regular basis by a public or private entity or person that is designed exclusively or primarily to serve individuals who are elderly or disabled and who are unable to use regular means of transportation but do not require ambulance service...” Mn/DOT commercial vehicle enforcement staff regularly audits special transportation service providers and also investigates complaints made to the department over which the agency has jurisdiction.

Since the effective date of the new reporting requirement, July 1, 2008, Mn/DOT has handled three complaints regarding special transportation service providers. Two of these complaints were generated internally at Mn/DOT, as concerns about compliance arose in the course of the agency’s usual regulatory work. Only one complaint during this period was made by a member of the public. Minnesota Statutes, section 174.30, subdivision 9, paragraph (c), provides that names of complainants and their complaint letters are classified as confidential or protected nonpublic data.

As required by Minnesota Statutes, section 174.30, subdivision 9, what follows are descriptions of findings made and steps taken for the resolution of the three complaints.

Amy Johnson Transportation, LLC

An internal Mn/DOT complaint was logged on September 16, 2008, alleging that special transportation service provider Amy Johnson Transportation, LLC, of St. Paul, MN, had used four vehicles in service after inspection decals had expired and before required annual inspections were performed and new decals were issued. On October 27, 2008, Mn/DOT conducted an audit of the provider’s operations and documented violations of Minnesota Rules, part 8840.5400, subpart 1, which prohibits the use of a vehicle in special transportation service unless it has been inspected at least annually in compliance with part 8840.5700 and Minnesota Statutes, section 299A.14, and displays a valid decal as required by Minnesota Statutes, section 174.30, subdivision 4. The provider had continued to operate four vehicles for which inspection decals had expired at the end of July 2008, and did not renew them until September 26, 2008. The provider’s transportation manager received the findings, as well as requirements and recommendations, on October 27, 2008. The provider was given fifteen days to send a letter to Mn/DOT describing action taken in response to the review to ensure that it was in compliance with regulations. On October 30, 2008, the provider sent a letter stating that the lapsed vehicle inspection decals had been corrected on September 26, 2008, and that the provider was currently operating in compliance with operating standards. Mn/DOT also used its authority under Minnesota Statutes, section 174.30, subdivision 8, to issue an administrative penalty order for the violation of special transportation service operating standards. On January 9, 2008, Mn/DOT

issued an administrative penalty order for \$1,000 to Amy Johnson Transportation, LLC, for the violations outlined above.

Northern Access Transportation, Inc.

A special transportation service complaint was logged on November 14, 2008, alleging that Northern Access Transportation, Inc., of Duluth, MN, was using drivers that did not meet qualification standards. On November 21, 2008, a Mn/DOT investigator made an unannounced visit to the provider's facility and examined driver records. A comprehensive review of driver qualification files showed that the provider employs twenty-four drivers. Two rule violations were noted among those drivers, both for using a driver not medically examined and certified within the previous twenty-four months, as required by Minnesota Rules, part 8840.5900, subparts 5 and 16. One driver's medical certificate had expired on September 6, 2008, and another's had expired on November 10, 2007. In both cases, the expired medical certificates had been issued for less than the usual two years, and incorrect expiration dates had apparently been inadvertently entered onto the provider's tracking spreadsheet. The provider agreed to immediately stop using the two drivers until they updated their medical certificates. On November 21, 2008, copies of new medical examiner's certificates were submitted to Mn/DOT, showing that both drivers are medically qualified. Because the violations were not widespread and because the provider took immediate steps to remedy them, no further enforcement action was taken. The provider will be scheduled for a full special transportation service audit of its operations when its operating certification comes due for renewal in June 2009.

Anytime Transportation, Inc.

A special transportation service complaint was logged on November 13, 2008, when Mn/DOT staff was assigned to perform a follow-up special transportation service audit of Anytime Transportation, Inc., of Elk River, MN. As a relatively new special transportation service provider, Anytime Transportation underwent a ninety-day audit in June 2008, soon after it received its certificate to operate. At that time, certain rule violations were discovered and the president of the provider was instructed on how to correct them. The follow-up audit, however, found that certain violations had not been remedied. First, the provider had failed to obtain and review driving and criminal background records on the two drivers it had been using, in violation of Minnesota Rules, Part 8840.5900, subpart 14. Second, a check of the drivers' driving records showed that one driver was disqualified from driving in special transportation service because of a disqualifying conviction under Minnesota Rules, part 8840.5900, subpart 11. The provider's use of the disqualified driver is a violation of Minnesota Rules, part 8840.5900, subpart 16. The provider was once again instructed on the rules, and because of the serious nature of the violations and the fact that the provider had failed to correct them after the first audit, Mn/DOT used its authority under Minnesota Statutes, section 174.30, subdivision 8, to issue an administrative penalty order. On January 9, 2008, Mn/DOT issued an administrative penalty order for \$1,000 to Anytime Transportation, Inc., for the violations outlined above.