

Executive Branch Ethics Commission  
**ADVISORY OPINION 07-43**  
December 14, 2007

**RE:** May agency allow sworn officer to own and operate limousine business?

**DECISION:** Yes, if officer has no involvement in the regulation of the business.

This opinion is issued in response to your November 29, 2007 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 14, 2007 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. The Department of Kentucky Vehicle Enforcement ("KVE"), within the Justice and Public Safety Cabinet, is responsible for the regulation and enforcement of the highway transportation commercial vehicle industry in Kentucky. KVE works in conjunction with the Federal Motor Carrier Safety Administration, United States Department of Transportation, which issues safety regulations that govern the commercial trucking industry nationwide. The Commonwealth of Kentucky has adopted these safety regulations which apply to both interstate and intrastate carriers, as well as compensated and private carriers.

A sworn officer employed by KVE has requested approval to own and operate a private limousine service for compensation. You are seeking an advisory opinion as to whether the officer's ownership and operation of such a private limousine service will present a conflict with his official duty for the Commonwealth.

KRS 11A.020(1)(a) provides:

- (1) No public servant, by himself or through others, shall knowingly:
  - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

Further, KRS 11A.040(3) provides:

- (3) A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with

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himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

From the information that you have provided, it appears that a limousine service that does not transport more than 15 passengers beyond a 75 air-mile radius at one time is exempt from the Federal Motor Carrier Safety Administration's Code of Federal Regulations that KVE has adopted applicable to the commercial vehicle industry. Thus, although KRS 281.600 authorizes the KVE to regulate motor carriers and adopt any federal motor carrier safety regulations, it does not appear that such regulations specifically govern the motor vehicles that a limousine service would be operating.

Further, it appears that the Transportation Cabinet is responsible for granting final authority for a certificate for the officer to operate the limousine service, and thus KVE does not exercise regulatory authority over such a business. The Commission believes that the sworn officer's ownership and operation of a private limousine service will not present a conflict with his duties for the Commonwealth, and thus KVE is not prohibited by the Executive Branch Code of Ethics from allowing the officer to own and operate a limousine service for compensation provided neither he nor anyone under his supervision is involved in any matters concerning the regulation of such a service and no other conflicts exist.

If the Commission has incorrectly interpreted the information that you have provided and KVE does regulate limousine services in some way, the Commission refers you to previously issued Advisory Opinions 95-41 and 00-20 (copies of which are enclosed) that provide guidance regarding an employee's ownership in a business that is regulated by the agency for which the employee works. Guidance from these opinions provide that an employee may have ownership in such a business provided the employee is not directly involved in matters concerning the company in which he has ownership and provided the employee does not work in the division responsible for the direct regulation of the company.

Another opinion that may be helpful is Advisory Opinion 03-13 (a copy of which is enclosed) regarding inspectors who own businesses that are inspected by their employing boards.

Sincerely,

**EXECUTIVE BRANCH ETHICS COMMISSION**

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By Vice Chair: E. Patrick Moores

Enclosures: Advisory Opinion 95-41  
Advisory Opinion 00-20  
Advisory Opinion 03-13