

Before the House Standing Committee on Insurance

Saturday, March 21, 2015

Neutral Testimony
On House Bill 2286
Room 281-N

Submitted by Mike Hoeme, Director, Transportation Division
On Behalf of the Staff of the Kansas Corporation Commission

Chair Schwab, Vice Chair Bruchman, Ranking Minority Member Houston and members of the Committee, thank you for the opportunity to appear before your committee today on behalf of the staff of the Kansas Corporation Commission (Commission). My name is Mike Hoeme, and I am the Director of the Transportation Division.

The Transportation Division appreciates new, innovative businesses like the Transportation Network Companies (TNC) and the dilemma they face with the limited or inconsistent statutory and regulatory requirements specific to a TNC. HB 2286 describes the TNC services as providing passenger service for a fare between points chosen by the passenger and prearranged with a TNC driver through the use of a TNC digital network or software application. It also states that the TNC does not own any of the automobiles used to provide the service. Rather, they are privately owned by each TNC driver. HB 2286 states the TNCs do not consider themselves a taxicab, for-hire vehicle or street hail service.

Currently, Kansas law recognizes taxi, limousine and bus services as public motor carriers of passengers. The TNC drivers would fall into the same category based on the services provided. However, our current statutory scheme provides certain exemptions from the Commission's operating authority and safety regulations. Last year, House Sub for SB 273 exempted all public motor carriers operating commercial motor vehicles (CMV) designed to transport 15 passengers or less, including the driver, from the Commission's authority and safety regulations. However, due to serious consumer protection concerns the legislature asked the Commission's Transportation Division to form a Task Force to work through the concerns of the legislature. SB 21 is the work product of the Task Force, and based on the team's recommendations, places the public motor carriers of 15 passengers or less back under the Commission's operating authority and safety regulations.

In Kansas, the public motor carriers of passengers must operate a motor vehicle that meets the definition of a CMV before they are required to comply with the Commission's operating authority and safety regulations. The Commission's Administrative Regulation 82-4-1 defines a CMV as"

- (1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
- (2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
- (3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- (4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

Because the TNC drivers operate their personal automobile while performing these services, and based on the automobile's design and manufacturer rating of either four or five passengers including the driver, the Commission's economic and safety regulations would not apply because TNCs do not operate CMVs. Thus, under current statutes, the Commission does not have jurisdiction to require operating authority (i.e., liability insurance) or safety compliance for either the TNC or drivers operating for TNCs.

However, this bill tasks the state corporation commission with adopting all rules and regulations specifically necessary to enforce the provisions of this act. Moreover, the bill only provides the commission with a \$5,000 annual permit fee. The bill puts a good number of requirements on TNC's, such as drug testing, vehicle inspections and criminal background checks, to name a few. The commission would then have the responsibility to ensure that TNC's adhere to these requirements. HB 2286 would require significant commission resources to regulate, and thus, Staff is concerned that the commission does not currently have these resources. Staff is aware that in Colorado's Senate Bill 14-125, the TNCs pay start-up costs and permit fees sufficient to cover the cost of two (2) full-time employees specifically tasked with regulating the TNCs. We, too, need additional budget authority and FTE authorization.

Thank you for the opportunity to provide testimony today, and I will be available to answer questions at the appropriate time.