

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS

The meeting was called to order by Senator Dan Thiessen at
Chairperson

1:30 a.m./p.m. on Monday, March 25, 1985 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Gordon Self, Office of the Revisor of Statutes
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Bud Grant - Kansas Chamber of Commerce and Industry
Francis Kastner - Dir, of Governmental Affairs-Ks. Food Dealers Association
Jim Yonally - National Federation of Independent Business
Representative Burt DeBaun
Joyce Lacey - School Bus Contractor-U.S.D. #456
Richard Wadleigh - Manager, Crescent Bus Service
Dennis Newton - R. W. Harmon & Sons-School Bus Contractor
Larry Wolgast - Secretary-Department of Human Resources

The Chairman called the meeting to order at 1:35 p.m.

SB 2443: An Act providing for licensure and regulation of certain transient merchants; prohibiting certain acts and providing penalties for violations.

Bud Grant We feel transient merchants in the State of Kansas is a problem, and the time is now to look at these problems. Some of the transient merchants, we feel, misrepresent themselves and it is very hard to collect the taxes on these merchants, and the State of Kansas is losing annually, because of this problem. Say a merchant comes to Topeka and sits up a table with meat or hand painted pictures in a parking lot and leaves after selling his merchandise and he has not had a license to sell and he has not paid any taxes. This certainly is not fair to the Retailers in this State.

Senator Werts How does the County Treasurer arrive at taxes?

Bud Grant I don't know, maybe by getting inventory of the merchandise when the merchant applies for license. I don't know how they compute that. This bill would affect only the transient merchants, who sit up over night or on a short term basis.

Francis Kastner We have received numerous complaints from grocers operating along the Nebraska border because of refrigerated trucks setting up in a Kansas town selling dairy products at a much lower price than the supermarkets in that town, and the same with trucks coming into the City, selling frozen shrimp and other seafood and we found there was nothing we could do about it, as long as the trucks had the proper license from the local Health Department, had scales that were supposedly weighing correctly and filed their sales tax, they could legally sell their products. HB 2443 at least addresses part of the problem, requiring a \$250 license fee and a resident agent. No local merchant can compete with such a fee. These transient merchants compete with us but do not support the local community. We believe the Legislature should take a much tougher stance on transient merchants by increasing the fee or decreasing their length of stay from 90 days to 7 days. (Attachment A)

Jim Yonally We have found that 43% of the transient merchants that do business in Kansas do not have a license and do not pay taxes on the business they do here, relating to Agriculture in Kansas. They do not pay like the resident merchants do, and we urge this committee to support HB 2443.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS,
room 529-S, Statehouse, at 1:30 ~~xxx~~ p.m. on Monday, March 25, 1985.

HB 2556: An Act concerning the employment security law; relating to disqualification for benefits.

Representative Burt DeBaun There are 42 school bus contract operators in the State of Kansas or approximately 14% of the total, balance operated by USD'S. The operators are usally housewives, part time farmers and semi retired people, who only want part time work, and these operators are currently covered by the employment security law, and can draw unemployment compensation during the Christmas holidays, spring break and the summer months. If these buses were owned by the USD'S, they would not be covered by the employment security law, and could not draw benefits. Until October of 1983, we were prohibited by Federal Law from changing this situation. However, the 98th session of Congress passed a social security amendment act PL-98-21 that permitted States to amend statutes so that people who provide services to educational institutions could be treated in the same manner as school employees as it would apply to unemployment compensation. When these employees take these positions they know it is seasonal work, and these employees are a drain on the employment security, and other businesses are taking up the slack.

I feel we need this legislation in fairness to the contract operators, the school districts and the ultimate taxpayers, and I ask this committee to give favorable consideration of HB 2556. (Attachment B)

Joyce Lacey My husband and I are school bus contractors for U.S.D. #456. There are approximately 50-55 school bus contractors in the State of Kansas who employ 900-1000 bus drivers. We mostly employ housewives and retired people, and these are people who only want part time seasonal work, and if offered an 8 hour a day job, they would turn it down. Housewives are some of our best drivers and I wouldn't want to lose them, however, these same drivers are drawing unemployment compensation benefits for vacations, holidays and spring breaks.

Our contribution rate of 6.4% is the highest rate assigned to employers and this is just another expense that is hurting the small businessman. Sooner or later, this expense is going to have to be passed on to the school district which in time is going to come back to the State of Kansas.

I urge this committee to vote in favor of HB 2556. (Attachment C)

Chairman Thiessen If this bill would pass, do you think you would have trouble getting drivers?

Joyce Lacey I don't think so. Maybe for spite.

Richard Wadleigh We are Transportation Contractor for USD #501 in Topeka, KS. We operate a fleet of 85 school vehicles and employ 81 drivers. We have been transporting school children for over 20 years. We lay off our drivers for the summer and the majority apply for and receive unemployment compensation and since we will need them back for the next school term, the unemployment office does not require them to look for employment.

Crescent Bus Service does some limited charter work during the summer and we simply call our layed off drivers in rotation and ask if they would like to have a run. Each summer it is getting harder and harder to get them to take these runs for us and the unemployment office reduces the amount they would make from their unemployment checks. I asked one of my drivers just last week if he would run a nine week run this summer and his answer was no, because he would rather draw unemployment. My conclusion is that we are using tax money to pay people not to work and I don't believe the Kansas Legislature enacted unemployment compensation laws and amended those laws over the years for that reason, and I feel if this committee were to enact HB 2566, it could save several small contractors from going out of business and do a great service to all the citizens of the State of Kansas. (Attachment D)

Dennis Newton It is our feeling that the law pertaining to contracted school bus drivers should be consistent with the law governing school district employed drivers.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS,
room 529-S, Statehouse, at 1:30 ~~xxx~~ p.m. on Monday, March 25, 1985

Our Company currently has contracts with several school districts and our 1984 figures show that in 1984 about 63% of our drivers filed for and received unemployment compensation during the summer months. We feel that the law relative to a contract operation should parallel that of a school district, with both exempting this type of compensation or both permitting it, but one way or the other. (Attachment E)

Larry Wolgast This bill HB 2556 relates to private for profit employers who contract with educational institutions and who employ bus drivers for the purpose of transporting students to and from school and to other educational institutional activities. The activities could be transporting senior citizens, Boy Scouts, Girl Scouts, YMCA, etc., and we feel there are 2 areas in HB 2566 that could be a problem. 1. Administrative problem for Department of Human Resources. 2. Reasonable assurance-suppose private contractor tells them they have a job (3 months) elapse and then state no job, people are out 3 or more months of unemployment. (Attachment F)

Wayne Maichel As usual, I am here to testify against parts of this bill. I am against money for profit, and I don't think this is good for school bus drivers, who need to work and need a job.

Chairman Thiessen adjourned the meeting at 2:35 p.m.

3-25-85
ATT. 11
Senate Labor
Industry &
Small Business



Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

March 25, 1985

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DIRECTOR OF GOVERNMENTAL AFFAIRS

FRANCES KASTNER

RE: HB 2443

EXECUTIVE DIRECTOR
JIM SHEEHAN
Shawnee Mission

I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership consists of wholesalers, distributors and retailers of food products throughout Kansas.

Over the years we have received numerous complaints from grocers operating along the Nebraska border because of refrigerated trucks setting up in a Kansas town selling dairy products at a much lower price than the supermarkets in that town. We found there was nothing we could do about it.

The same held true with the trucks coming into this city, selling frozen shrimp and other seafood.

We found that as long as the trucks had the proper license from the local health department, had scales that were supposedly weighing correctly and filed their sales tax, there was nothing we could do about it.

This bill addresses at least part of the problem by requiring a \$250 license fee and a resident agent. We do NOT feel that the license fee is nearly high enough, or if the \$250 is the fee you agree to, then surely SEVEN days would be long enough. In that length of time they would have to go restock their supplies anyway and leave their location. No local merchant can compete with such a \$250 fee and operate 90 days.

Those transient merchants compete with us, but do not support the local community by hiring employees or pay the property tax, business or equipment tax etc. we have to pay.

Although this may keep out some of the transient merchants, in it's present form it does not address the problems we have been having with either dairy products or shrimp being sold from the back of trucks. The exemption for agricultural products on lines 51 and 52 appears broad enough to even include the shrimp trucks, according to the House Judiciary Committee.

We believe the Legislature should take a much tougher stance on transients merchants by increasing the \$250 fee, or decreasing the 90 days to 7 days.

STATE OF KANSAS

3-25-85
ATT: B
*Senate Rules,
Industry &
COMMITTEE ASSIGNMENTS*
MEMBER INSURANCE
LABOR AND INDUSTRY
LOCAL GOVERNMENT
Small Business

BURT DEBAUN
REPRESENTATIVE, THIRTEENTH DISTRICT
OSAGE AND PART
OF LYON COUNTY
726 S 9TH
OSAGE CITY, KANSAS 66523



TOPEKA

HOUSE OF
REPRESENTATIVES

MR CHAIRMAN - MEMBERS OF THE COMMITTEE:

I APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE YOU ON HB 2556.
HOUSE BILL 2556 CONCERNS THE EMPLOYMENT SECURITY LAW AS IT WOULD APPLY
TO PART TIME SCHOOL BUS OPERATORS, EMPLOYED BY "CONTACT SCHOOL BUS
OPERATORS".

THERE ARE 42 SCHOOL BUS CONTRACT OPERATORS IN THE STATE OF KANSAS
OR APPROXIMATELY 14% OF THE TOTAL. BALANCE OPERATED BY USD'S.

THESE 42 CONTRACT OPERATORS EMPLOY APPROXIMATELY 1,131 OPERATORS.
THESE OPERATORS ARE HIRED ON AN HOURLY BASIS AND AS PART TIME. THEY
USUALLY WORK 1½ TO 3½ HOURS PER DAY DEPENDING UPON THE LENGTH OF THEIR
ROUTE AND THEY WORK NINE MONTHS A YEAR.

THESE OPERATORS ARE USUALLY HOUSEWIVES, PART TIME FARMERS, AND SEMI-
RETIRED PEOPLE. THEY APPRECIATE THE FACT THAT THEY ARE NOT FULL TIME AND
USE THEIR TIME OFF IN THE SUMMER TO BE WITH FAMILY - FISH - FARM. IN-
ASMUCH AS THIS IS A PRIVATE TAX PAYING ENTERPRISE, THESE OPERATORS ARE
CURRENTLY COVERED BY THE EMPLOYMENT SECURITY LAW AND CAN DRAW UNEMPLOYMENT
COMPENSATION DURING THE CHRISTMAS HOLIDAYS, SPRING BREAK, AS WELL AS THREE
MONTHS DURING THE SUMMER.

IF THEY WERE OPERATING BUSES OWNED BY THE SCHOOL SYSTEM, THEY WOULD
NOT BE COVERED BY THE EMPLOYMENT SECURITY LAW AND COULD NOT DRAW UNEMPLOYMENT
FUNDS.

BASED ON THE RESULTS OF ONE CONTRACT CARRIER WHO EMPLOYEES FOUR

Senate Lbr., Ind. &
Small Bus. 3-25-85
Attachment B

RIVERS, THE ESTIMATED ANNUAL TOTAL COST TO THE EMPLOYMENT FUND FOR 1,131 DRIVERS WOULD BE \$728,364.00. I BELIEVE THIS ESTIMATE IS ON THE LOW SIDE BECAUSE IT IS BASED ON SALARIES FROM A RURAL AREA.

UNTIL OCTOBER OF 1983 WE WERE PROHIBITED BY FEDERAL LAW FROM CHANGING THIS SITUATION. HOWEVER THE 98TH SESSION OF CONGRESS PASSED A SOCIAL SECURITY AMENDMENTS ACT PL-98-21 THAT PERMITTED STATES TO AMEND STATUTES SO THAT PEOPLE WHO PROVIDE SERVICES TO EDUCATIONAL INSTITUTIONS COULD BE TREATED IN THE SAME MANNER AS SCHOOL EMPLOYEES AS IT WOULD APPLY TO UNEMPLOYMENT COMPENSATION.

I FEEL THAT WE NEED THIS LEGISLATION IN FAIRNESS TO THE CONTRACT OPERATORS - THE SCHOOL DISTRICTS AND THE ULTIMATE TAXPAYERS.

THIS GROUP OF EMPLOYEES KNOW THIS IS PART TIME, SEASONAL WORK WHEN THEY TAKE THE JOB.

MANY OF THE OPERATORS HAVE A HIGH TAX RATE ON EMPLOYMENT SECURITY - QUITE OFTEN THEY ARE EITHER A NEGATIVE ACCOUNT OR A VERY LOW BALANCE ACCOUNT -- SO RATHER THAN HELP WITH THE OVERALL SECURITY FUND - THEY ARE A DRAIN ON IT WITH OTHER BUSINESSES IN THE STATE BEING ASKED TO TAKE UP THE SLACK.

THIS BILL PASSED THE HOUSE 3/13/85 ON FINAL ACTION 78 TO 46.

I WOULD APPRECIATE YOUR FAVORABLE CONSIDERATION OF HB2556.

Burt DeBaun

3-25-85
ATT
Senate Labor
Industry &
Small Business

Senate Labor, Industry, and
Small Business Committee

Chairman Senator Dan Thiessen

RE: House Bill 2556

Chairman Thiessen, and members of the committee, I want to thank you for the opportunity to appear before you this afternoon.

I'm Joyce Lacey. My husband and I are school bus contractors for U.S.D. #456. We support House Bill 2556. This bill would disallow claims of unemployment for school bus drivers - a change that we believe definately needs to be made.

There are approximately 50-55 school bus contractors in the state of Kansas who employ 900-1000 bus drivers.

My husband and I are a small contractor as are many of the contractors. We contract 6 routes plus activity trips. To be able to do this, we employ 4 drivers. We have employed retired people, and housewives mostly. Right now all our drivers are housewives. These are housewives who want a part-time job to earn a little extra money and still be home with there children when they are home (such as during summer, holiday vacations, etc.). They drive their route in the moring, are home all day (unless they happen to drive a kindergarten route at noon), and are home about the same time in the afternoon as their children. This is exactly what they want. If I offered them a 8 hour a day job, they'd turn it down. And I can tell you from talking to other contractors in the state, this is the same thing they're all finding. To be honest, these housewives are some of our best drivers and I wouldn't want to lose them. However, these same drivers are drawing unemployment compensation for these

Senate Lbr., Ind. &
Sm. Bus. 3-25-85
Attachment C

holiday vacations, summer vacations, and spring breaks. They are getting paid to stay home for the time they want to be home anyway.

I did some calculating on our 4 employees salaries and the hours they drive. The average salary for 1984 was \$2,750.72 (a little over \$300.00 a month) The average number of hours spent driving was 418 hours. These figures include regular routes plus any activity trips the drivers may have taken.

I can't speak for all contractors, but our drivers have to do absolutely nothing to the upkeep and maintaince of the buses. We keep them clean and maintained and we inspect them everyday before they pull out. All the drivers have do is drive.

The figure in the above I'd like for you to look at is the 418 hours. That is for the whole year of 1984! For people who work a normal 40 hour week, that is only 10 weeks and 3 days of work. And our employees are drawing unemployment compensation for that! I don't agree with it! They know when they are hired that they are going to work only a couple of hours a day for only 9 months a year.

We receive an Experience Rating Notice from the Department of Human Resources every December telling us what our contribution rate to the unemployment fund will be for the following year. The notice we received in December 1984 showed "Contributions Paid In" by us for prior years and up to and including June 30, 1984, as \$6,634.90. It also showed "Benefits charged" to our account as \$12,223.77 up to that same date. Our account balance, therefore, is a minus \$5,588.87. Hence, our contribution rate of 6.4% is the highest rate assigned to employers. This is just another expense that is hurting the small businessman. As school bus contractors, this expense is sooner or

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later going to have to be passed on to the school district which in time is going to come back to the state. So its an expense that in the end is costing us all.

You can see what a draining effect just 4 part-time employees are having on the unemployment fund. With 900-1000 part-time school bus drivers in the state drawing on the fund, I can see why there has been concern about the ability of the fund to continue supplying unemployment assistance to those that really need it and really deserve it.

For these reasons, I urge you to vote in favor of House Bill 2556.

I thank you for your time and attention.



Joyce Lacey
B. & J. Garage, Inc.
Bus Contractor for U.D.S. #456
Melvern, Kansas 66510

3-25-85
ATT D
Senate Lbr.
Industry &
Small Business

March 25, 1985

My name is Richard Wadleigh. I'm the manager of Crescent Bus Service, 200 East 21st Street here in Topeka. We are the transportation contractor for USD #501. We operate a fleet of eighty-five school vehicles and employ eighty-one drivers. We have been in the business of transporting school children for over twenty years.

Each year in May, the end of school, we lay off all of our drivers for the summer. The majority of them apply for and receive unemployment compensation. Since they have a job driving a school vehicle and will be needed back at work in September when school starts the unemployment office does not require them to look for employment.

Crescent Bus Service does some limited charter work during the summer as well as some summer school runs for USD #501. In years gone by we simply call our layed off drivers in rotation and ask if they would like to run some of these runs. The driver that takes a run would then report any earnings that week to the unemployment office and their unemployment check would be reduced by the amount of pay they received. Each summer it has grown harder and harder to get any driver to take these runs as they are going to get paid anyway even if they don't work. I asked one of my drivers just last week if he would run a nine week run this summer that we do for the Topeka Parks and Recreation department. His answer was no. He would rather draw his unemployment. The only conclusion I can draw from this is that we are using tax money to pay people not to work. I can't believe that the Kansas legislature enacted unemployment compensation laws and ammended those laws over the years for that reason.

Most of our drivers do not attempt to find employment in the summer. A lot of them that do find a summer job arrange to get paid in cash which they don't report so

they may draw unemployment anyway.

The last several years of high unemployment have seriously depleted the unemployment fund in Kansas. The end result is that all employers have had to pay higher unemployment insurance rates with surcharges in several past years.

School transportation contractors make up a relatively small segment of small businesses in the state of Kansas, but we must all remember that the small businesses create the majority of the new jobs in this country. When new jobs are created it benefits all of us because it broadens the tax base. So if you enact this bill into law it could save several small contractors from going out of business, and do a great service to all the citizens of the state of Kansas.



3-25-85
ATT E
Senate Labor
Industry &
Small Business

TESTIMONY ON HOUSE BILL NO. 2556
by DENNIS NEWTON
March 25, 1985

R.W. Harmon & Sons, school bus contractor in Kansas, supports the amended version of K.S.A. 44-706, as addressed in House Bill No. 2556, which disqualifies school bus drivers employed by private contractors from collecting unemployment benefits. It is our feeling that the law pertaining to contracted school bus drivers should be consistent with the law governing school district employed drivers.

Our company currently has contracts with several school districts, operating both small and large fleets. It varies from contract to contract, but our figures show that in 1984 about 63 % of our drivers filed for and received unemployment compensation during the summer months. An individual, whether hired by a school district or a contractor, is employed under similar driver contracts with like salary schedules. We feel that the law relative to a contract operation should parallel that of a school district, with both exempting this type of compensation or both permitting it.

Senate Lbr., Ind. & Sm. Bus.
3-25-85 Attachment E

3-25-85
ATT F
Senate Labor
Industry &
Small Business

Comments on HB 2556 K.S.A. 44-706(p)

This relates to private for profit employers (private contractors) who contract with educational institutions and who employ bus drivers for the purpose of transporting students to and from school and to other educational institutional activities. This amendment denies unemployment insurance benefits to the bus drivers since the wages earned from these private contractors cannot be used for the purpose of establishing a claim for benefits. The wages they are paid as a bus driver while transporting individuals to other than educational institution-related activities can be used to pay benefits and do not cause a denial of benefits. These activities could be transporting senior citizens, Boy Scouts, Girl Scouts, YMCA, etc. This may cause considerable payroll problems for the private contractor, and administrative problems for the Department of Human Resources, since it will be very difficult to segregate the wages paid for these non-educational related activities.

- 1) Administrative problem for Department of Human Resources
- 2) Reasonable assurance - Suppose private contractor tells them they have a job (3 months) elapse - and then state no job - people are out three or more months of unemployment.

Senate Lbr., Ind. &
Sm. Bus. 3-25-85
Attachment F