

Approved 2-25-86  
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at  
Chairperson

9:00 a.m./~~xxxx~~ on February 19, 1986 in room 254-E of the Capitol.

All members were present ~~except~~.  
Sen. Walker was excused.

Committee staff present:

Fred Carman, Revisor  
Ben Barrett, Legislative Research Department  
Louise Cunningham, Secretary

Conferees appearing before the committee:

Sen. Daniels  
Larry Knoche, Kansas Department of Health and Environment  
Ed DeSoignie, Department of Transportation  
Tom Whittaker, Kansas Motor Carriers Association  
Max Foster, Kansas State Department of Agriculture  
Bill Green, Kansas Corporation Commission  
Capt. Hornbaker, Kansas Highway Patrol  
Ed Redmon, Topeka, Kansas State Fire Marshal  
Leon Mannell, Kansas Division of Emergency Preparedness  
Bob Elliott, KCC  
Steven Wiechman, Automotive Dismantlers and Recyclers Association

On the Minutes of February 11, 1986 an error was made in listing Gail Stout, Independence, as City Manager. He is a member of the Chamber of Commerce. On a motion from Sen. Francisco and a second from Sen. Martin the Minutes of February 11, 1986, as corrected, were approved. Motion carried.

HEARING ON S.B. 554 - Transportation of hazardous materials act.

Sen. Daniels said this bill was the result of working for three years on different phases and sorting out with agencies the problems we have in Kansas dealing with transporting hazardous material. She said seven agencies were involved and explained briefly their function. She went through the bill and explained each section to the committee.

Larry Knoche, Department of Health and Environment, appeared in support of the bill. A copy of a statement from Barbara J. Sabol, Secretary of Kansas Department of Health and Environment dated February 19, 1986 is attached. (Att. 1).

Ed DeSoignie, KDOT, said the Department supports this bill. A copy of his statement is attached. (Att. 2).

Tom Whittaker, Kansas Motor Carriers Association, also appeared in support of the bill but he had two amendments, one would change the definition of "hazardous material" and the other would provide for the reporting of meaningful information to the KCC and would eliminate duplicate reporting of lesser incidents. A copy of his statement is attached. (Att. 3).

Max Foster, Department of Agriculture, said he was appearing on behalf of Harland Prittle, Secretary, Department of Agriculture, and they were in support of this bill.

Bill Green, KCC, had some amendments to the bill which would help clarify the bill. They did support S.B. 554. A copy of his statement is attached. (Att. 4). He felt the bill as written leaves out the pipelines and there should be a penalty provision. He was asked to recommend a penalty but said in the interim studies there was no recommendation of a penalty

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,  
room 254-E, Statehouse, at 9:00 a.m./~~PHIXON~~ February 19, 1986.

because they did not know what it should be. The committee was provided with penalties in surrounding states, and there are federal penalties.

Capt. Hornbaker said the Highway Patrol supports S.B. 554 and also supports the amendments offered by the Motor Carriers Association.

State Fire Marshal Redmon said he appeared in support of the bill.

Leon Mannell, Attorney General's office, said they supported the bill and also the Motor Carriers Association amendments.

It was brought out that Bill Green did not support the amendments of the Kansas Motor Carriers Association but did not have anything specific to recommend. He felt there was a better way to define hazardous material. He said he would get suggested amendments to the committee.

Bob Elliott, KCC, said they were trying to work out an agreement on the federal and state level and get a clarification on this area.

Fred Carman said this bill would make changes and repeal sections and would have to be placed in their proper places in the statute books. They could be put in a new chapter. A policy issue has been raised by KCC that if you want to reach all modes of transportation the exact language should be put down.

Staff was directed to prepare a bill with balloon amendments as suggested and bring it back to the committee so they could decide on each amendment.

The Chairman told the committee that the authors of the Southeast Kansas road were anxious to move the bill and did not feel that other sections of the state should be put into this bill. They would support additional studies in other areas of the state but felt, because of the tremendous amount of activity already done in this area, the bill should stand on its own.

Sen. Norvell said he had visited with staff and was having an amendment to include the road to run to Great Bend and then to Hays. He would like the committee to wait until he got his amendment before any action was taken.

Fred Carman said an amendment was being prepared by Ways and Means which was needed for the bill. It was clean-up language and would provide the \$250,000.

A motion was made by Sen. Martin and was seconded by Sen. Thiessen to adopt these amendments. Motion carried.

Steven Wiechman, Automotive Dismantlers and Recyclers Association, had a request for a committee bill which would include "all vehicle dealers" rather than "all new vehicles" in a bill dealing with proof in insurance. A motion was made by Sen. Hayden and was seconded by Sen. Norvell to recommend the bill as a committee bill. Motion carried.

Meeting was adjourned at 10:00 a.m.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 2-19 Place 254-E Time 9:00

Hearing on S. B. 554 - Hazardous Waste

GUEST LIST

| NAME             | ADDRESS        | ORGANIZATION                |
|------------------|----------------|-----------------------------|
| Larry Knoche     | Topeka         | Kans. Dept. Health & Env.   |
| Leon H. Mannell  | Topeka         | KS Div. of Emergency Prep   |
| JOHN E. COSLETT  | TOPEKA         | STATE FIRE MARSHAL DEPT     |
| Max A. Foster    | TOPEKA         | Ks. State Board of Ag.      |
| Ron Calbert      | Newton         | United Transportation Union |
| JERRY LAWRENCE   | TOPEKA         | K.G. & E.                   |
| DICK COMPTON     | HAYS           | MIDWEST ENERGY, INC.        |
| Ray D. Shankel   | Shawnee        | K.C.P. & L. CO.             |
| David Donhake    | TOPEKA         | K.H.P.                      |
| Richard Schlegel | Marshallan, KS | ABATE                       |
| Tom Whitaker     | Topeka         | Ks Motor Carriers Assn      |
| Bruce Graham     | Topeka         | Ks Motor Carriers Assn      |
| Ed Robinson      | )              | Ks State Fire Marshal       |

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON SB 554

PRESENTED TO Senate Transportation and Utilities Committee on 2-19-86

This is the official position taken by the Kansas Department of Health and Environment on SB 554.

BACKGROUND INFORMATION:

SB 554 pertains to transportation of hazardous materials and to the advance planning to be made by the Division of Emergency Preparedness to deal with a disaster caused by a release of the material to the environment. The Kansas Corporation Commission will draft regulations to control actual transportation practices used while transporting hazardous materials.

STRENGTHS:

The plans which are being made by the Division of Emergency Preparedness will be very beneficial to this office during actual hazardous materials incidents. Having the available manpower resources as well as other available resources from the public and private sectors to deal with such a disaster would streamline the response to an actual emergency.

WEAKNESSES:

The disaster plans, once established, should be reviewed periodically to determine if the plans still provide adequate protection. Disaster plans must be modified as industry and population changes occur.

The Department's responsibility to deal with the pollution resulting from such a disaster was not directly addressed. This coordination between the Division of Emergency Preparedness and the Department is done under a Memorandum of Agreement at this time.

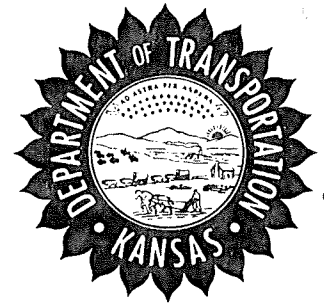
DEPARTMENT'S POSITION:

Senate Bill 554 will not have any significant financial effect nor will it increase the Department's responsibility regarding hazardous materials incidents. The Department supports the passage of this bill.

Presented by: Barbara J. Sabol, Secretary  
Kansas Department of  
Health and Environment

AT.T. ①  
S.T+U 2/19/86

# KANSAS DEPARTMENT OF TRANSPORTATION



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

February 19, 1986

MEMORANDUM TO: The Honorable Bill Morris, Chairman  
Senate Committee on Transportation and Utilities

FROM: Edward R. DeSoignie *ERD*  
Policy Coordinator

REGARDING: Senate Bill 554

Senate Bill 554 establishes the Motor Carrier Transportation of Hazardous Materials Act. The Act requires the Kansas Corporation Commission to adopt rules and regulations concerning the transportation of hazardous materials which are consistent with federal regulations and requirements. The Commission is mandated to adopt such regulations in consultation with the Secretary of Health and Environment, the Secretary of Transportation, the Superintendent of the Kansas Highway Patrol, the State Fire Marshal, the Secretary of the State Board of Agriculture, and the Adjutant General.

The Act further requires state agencies to notify the Division of Emergency Preparedness of the Adjutant General's Office and the Kansas Corporation Commission concerning accidents involving transportation of hazardous materials. The legislation would require the Department to provide such accident information to the above agencies. The bill would not impact the Department's operations over and above the Fiscal Year 1987 Governor's budget recommendation for the Department of Transportation.

The Department is supportive of efforts to increase the safety of hazardous material transportation on highways in the state and requests favorable consideration of Senate Bill 554. Thank you.

*ATT. (2)  
S. T&U 2/19/86*

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

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Supporting the intent of Senate Bill No. 554  
relating to the transportation of hazardous  
materials.

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Presented to the Senate Transportation & Utilities  
Committee, Senator Bill Morris, Chairman; Statehouse,  
Topeka, Wednesday, February 19, 1986.

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MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Tom Whitaker, Governmental Relations Director of the Kansas Motor Carriers Association. I appear here this morning representing the 1,550 member-firms of the Association and the highway transportation industry.

Our Association supports the intent of Senate Bill No. 554. The proposal, as we understand it, is structured to coordinate the authority for the adoption of rules and regulations pertaining to the transportation of hazardous materials and to set in motion a framework by which information concerning accidents involving the transportation of hazardous materials may be compiled.

The Kansas Motor Carriers Association continues to support legislation at the state level relating to the transportation of hazardous materials so long as such legislation is consistent with federal guidelines adopted by the U.S. Secretary of Transportation concerning such transportation.

We respectfully request that this Committee adopt two amendments that our industry feels will clarify the intent of Senate Bill 554.

ATT.  
S.T+U 2/19/86 (3)

The first amendment would strike lines 35 through 42 of the bill and substitute the following language:

"Hazardous material" means a substance or material which has been determined under 49 code of federal regulations part 172.101 by the U.S. Secretary of Transportation to be capable of posing an unreasonable risk to health, safety and property when transported in commerce, and which has been so designated, and any hazardous waste or substance as defined in subsection (f) of K.S.A. 65-3430, and amendments thereto.

We sincerely believe that the adoption of this amendment clearly will identify those materials that are designated as hazardous materials. Further, this amendment will enable those who must comply with the rules and regulations governing the transportation of hazardous materials to have access to an accurate, consistent list of such materials.

As we stated earlier, the proposed legislation is designed to set in motion a framework by which information concerning accidents involving the transportation of hazardous materials may be compiled. Lines 90 through 93 of Senate Bill No. 554 require the Division of Emergency Preparedness to establish an information system under which state agencies notify the Division of Emergency Preparedness of accidents involving the transportation of hazardous materials. Further, lines 94 through 96 of the bill require the Division to notify the state corporation commission of such accidents.

The motor carrier industry suggests that Senate Bill 554 be further amended in paragraph (m) beginning on line 94. The amendment would read:

(m) to give notification to the state corporation commission of the state of Kansas of accidents involving the transportation of hazardous materials by vehicles required to be placarded under 49 code of federal regulations part 172.504.

This amendment would provide for the reporting of meaningful information to the Corporation Commission and would eliminate duplicate reporting of lesser incidents involving hazardous materials.

With these amendments, the Kansas Motor Carriers Association fully supports passage of Senate Bill No. 554. The bill continues legislative policy adopted in Senate Bill 21 during the 1985 session which provides uniformity with federal regulations governing the safety requirements for the transportation of hazardous materials.

We thank you for the opportunity to offer testimony to the Committee today. I will be pleased to respond to any questions you may have.

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JOHN CARLIN  
MICHAEL LENNEN  
MARGALEE WRIGHT  
KEITH R. HENLEY  
JUDITH A. McCONNELL  
BRIAN J. MOLINE

Governor  
Chairman  
Commissioner  
Commissioner  
Executive Secretary  
General Counsel

State Corporation Commission

Fourth Floor, State Office Bldg.  
Ph. 913/296-3355  
TOPEKA, KANSAS 66612-1571

STATEMENT PRESENTED ON S.B. 554 TO THE SENATE TRANSPORTATION  
AND UTILITIES COMMITTEE ON FEBRUARY 19, 1986 BY THE  
STATE CORPORATION COMMISSION OF KANSAS

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM BILL GREEN, ADMINISTRATOR OF THE TRANSPORTATION DIVISION OF THE STATE CORPORATION COMMISSION, I APPEAR HERE TODAY ON BEHALF OF THE COMMISSION IN SUPPORT OF S.B. 554.

AS A GENERAL STATEMENT REGARDING THIS BILL, I WOULD STATE THAT S.B. 554 NEITHER GRANTS ANY ADDITIONAL JURISDICTION TO THE COMMISSION NOR DOES IT TAKE ANY POWERS AWAY FROM THE COMMISSION. WHAT IT DOES IS PLACE THE REGULATORY AUTHORITY OF THE COMMISSION FOR THE TRANSPORTATION OF HAZARDOUS MATERIALS UNDER ONE ACT. THE COMMISSION DOES NOT OBJECT TO SUCH AN ACT WHICH WOULD CLARIFY AND UNIFY ITS STATUTORY AUTHORITY.

I HAVE SOME COMMENTS AS TO SPECIFIC SECTIONS OF THE BILL.

LINES 0043 THROUGH 0047 REQUIRES THE COMMISSION TO CONSULT WITH SEVERAL STATE AGENCIES IN THE DEVELOPMENT OF REGULATIONS UNDER THIS ACT. THE COMMISSION HAS IN THE PAST AS A PRACTICE CONSULTED WITH THESE AGENCIES IN THE DEVELOPMENT OF THE HAZARDOUS MATERIALS REGULATIONS. THE COMMISSION HOWEVER, BELIEVES IT WOULD BE HELPFUL TO FORMALIZE THE REQUIREMENT TO CONSULT WITH OTHER STATE AGENCIES TO INSURE THE REGULATIONS ARE CORRECT AND PROPERLY PRESENTED BOTH AT HEARING AND WHEN FILED WITH THE REVISOR'S OFFICE.

ATT. (4)  
S.T.U 2/19/85

ON LINES 0048 THROUGH 0050 REFERENCE IS MADE TO THE STATE'S PARTICIPATION IN THE MOTOR CARRIER SAFETY ASSISTANCE PROGRAM. LAST LEGISLATIVE SESSION THE LEGISLATURE AUTHORIZED TWO STATE AGENCIES TO PARTICIPATE IN THIS PROGRAM. THE DECISION TO PARTICIPATE IN THE PROGRAM FOLLOWED A STUDY OF THIS MATTER BY THE INTERIM COMMITTEE ON TRANSPORTATION DURING THE SUMMER OF 1984. I WOULD FURTHER COMMENT THAT REFERENCE TO THIS PROGRAM HAS BEEN DELETED ON LINES 0123 THROUGH LINE 0126 BECAUSE IT IS REFERENCED ON LINES 0048 THROUGH 0050.

LINES 0091 THROUGH 0093 PROVIDES CLARIFICATION TO THE EXISTING STATUTES ON THE INFORMATION SYSTEM MAINTAINED BY THE DIVISION OF EMERGENCY PREPAREDNESS AND FURTHER ON LINE 0094 THROUGH LINE 0096 REQUIRES THIS AGENCY PROVIDE THE COMMISSION INFORMATION ON HAZARDOUS MATERIALS ACCIDENTS. THIS INFORMATION WOULD BE HELPFUL TO THE COMMISSION IN IDENTIFYING MOTOR CARRIERS WHO HAVE A PATTERN AND APPEAR TO BE INVOLVED IN HAZARDOUS MATERIALS ACCIDENTS.

LINES 0111 THROUGH 0112 ESTABLISHES THE AGE OF OPERATORS OF PUBLIC MOTOR CARRIERS AND OTHER CARRIERS RESPECTIVELY AS 18 YEARS OF AGE AND 16 YEARS OF AGE. ALTHOUGH THE COMMISSION HAS NO RECOMMENDATION REGARDING THE APPROPRIATE AGE, I BELIEVE IT IS WORTH WHILE TO NOTE THAT THE FEDERAL SAFETY REGULATIONS (49CFR, 391.11 (B), (1)) REQUIRES AN OPERATOR OF A MOTOR VEHICLE BE 21 YEARS OF AGE.

FINALLY, I WOULD OFFER SEVERAL AMENDMENTS WHICH I BELIEVE WOULD BE HELPFUL IN CLARIFYING THE BILL.

IT IS THE COMMISSION'S UNDERSTANDING THAT THE PRINCIPLE CONCERN OF THE

SPONSORS OF THIS LEGISLATION WAS TO ESTABLISH A TRANSPORTATION OF HAZARDOUS MATERIALS ACT, WHICH WOULD ADDRESS ALL MODES OF TRANSPORTATION. I WOULD, THEREFORE, SUGGEST THAT THE WORDS "MOTOR CARRIER" WHICH APPEAR ON LINE 0023 BE DELETED. WITH THESE WORDS DELETED THE BILL WOULD THEN APPLY TO ALL MODES OF TRANSPORTATION.

THE HAZARDOUS MATERIALS DEFINITION WHICH APPEARS ON LINES 0035 THROUGH LINES 0038 IS VERY SPECIFIC. THIS REFERENCE TO THE FEDERAL REGULATIONS WOULD ENCOMPASS ONLY RAILROADS AND MOTOR CARRIERS AND NOT TO ALL MODES OF TRANSPORTATION OF HAZARDOUS MATERIALS.

LAST OF ALL, BUT PROBABLY MOST IMPORTANT IS THE ABSENCE OF ANY ENFORCEMENT PROVISIONS FOR VIOLATIONS OF THIS NEW BILL. THE COMMISSION WOULD RECOMMEND THAT SOME TYPE OF PENALTY PROVISION BE ADDED.

AT THIS TIME, SHOULD YOU HAVE ANY QUESTIONS, I WILL ATTEMPT TO ANSWER THEM.

2/19/86