

Approved 4-1-86
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./~~p.m.~~ on March 27, 1986 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Arden Ensley, Revisor of Statutes
Hank Avila, Legislative Research Department
Ben Barrett, Legislative Research Department
Louise Cunningham, Secretary

Conferees appearing before the committee:

Rep. Sprague
John Smith, Department of Revenue
Harley Duncan, Secretary, Department of Revenue
Charles Nicolay, Kansas Oil Marketers Association
Tom Whittaker, Kansas Motor Carriers Association
Lt. Bill Jacobs, Kansas Highway Patrol

HEARING AND ACTION ON H.B. 2814 - Suspension of driver's license for more than one year.

The Chairman asked the committee to reconsider the action of the previous day when the bill was recommended to not be passed. The author of the bill had not appeared before the committee to explain the bill and would appear today.

A motion was made by Sen. Francisco to reconsider the action on H.B. 2814. Motion was seconded by Sen. Martin. Motion carried.

Rep. Sprague said this bill was needed for clarification when a driver fails to answer a warrant for a traffic citation. The penalty section was left out through an oversight. If they had a ticket and failed to show up in court it would be an automatic suspension.

John Smith, Department of Revenue, said this is the way they are doing it now but there is some question about it. The bill is necessary for clarification. The language is implied but the bill would remove all doubt.

One member was concerned about young people who move around a great deal and do not always notify the Department of their change of address. They may never receive a notice and be driving with a suspended license. Mr. Smith said the notice is always sent to the address given them by the court. It should be the address given to the law enforcement officer at the time of the citation. This is considered to be the last known address.

Lt. Jacobs said he could not speak for all the officers but most of them do ask for a current address and do not just take it off of the driver's license, which may not be a current address.

A motion was made by Sen. Frey to strike the word "character" on line 36 of H.B. 2814. Motion was seconded by Sen. Martin. Motion carried.

A motion was made by Sen. Frey to recommend H.B. 2814 as amended favorable for passage. Motion was seconded by Sen. Martin. Motion carried.

HEARING AND ACTION ON H.B. 3029 - Interstate motor fuel use act.

Secretary Duncan said this bill was necessary because major motor carriers were working in different states and each state was different. The interstate fuel use tax reporting is a procedure for apportioning the motor fuel tax liability of an interstate motor carrier among the states

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 243-E, Statehouse, at 9:00 a.m./~~pm~~ on March 27, 1986

in which it operates based on the fuel consumed in each state. This bill would make the procedures uniform. If the states do not take care of the situation the Feds will do it. The National Conference of State Legislatures has endorsed this. A copy of Secretary Duncan's statement is attached. (Att. 1).

Tom Whittaker, Kansas Motor Carriers Association, said they support this bill and it would save money on auditing.

A motion was made by Sen. Thiessen and was seconded by Sen. Francisco to recommend H.B. 3029 favorable for passage. Motion carried.

HEARING ON H.B. 3030 - Motor-vehicle fuels tax, certain transactions.

Secretary Duncan said this bill would delete the requirement that to qualify for the handling allowance deduction the "principal" business of a distributor must be the marketing of motor fuel. Many distributors such as Kwick Shops do exactly what any other full-time fuel distributor does, but it is not their "principal" business.

The second change would require motor fuel to be taxed at the first distributor. A copy of his statement is attached. (Att. 2).

Secretary Duncan also requested the effective date be changed to allow for sufficient time to provide for smooth implementation of this bill.

Charles Nicolay, Kansas Marketers Association, said they have met with the Department of Revenue and agree with their concerns. They agree with the bill and said changing the effective date would be helpful to them.

Sen. Francisco said S.B. 294, dealing with LP gas which had been passed out of this committee was still in the House Committee and he made a motion to amend S.B. 294 into H.B. 3030. Motion was seconded by Sen. Norvell. Motion carried.

A motion was made by Sen. Hayden and was seconded by Sen. Francisco to change the effective date of H.B. 3030 to January 1, 1987. Motion carried.

A motion was made by Sen. Francisco and was seconded by Sen. Martin to recommend H.B. 3030 as amended, favorable for passage. Motion carried.

ACTION ON H.B. 2807 - Providing certain penalties for motor carriers.

The Chairman had received information from the Kansas Corporation Commission on where the violations had taken place against the Nebraska carrier discussed at the previous day's hearing on H.B. 2807. A copy of these locations is attached. (Att. 3).

A motion was made by Sen. Hayden and was seconded by Sen. Martin to recommend H.B. 2807 favorable for passage. Motion carried.

Meeting was adjourned at 9:50 a.m.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE


Date 3-27 Place 254-E Time 9:00

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Ron Calbert	Newton	United Transportation Union
Bill Green	Topeka	K.C.C.
Ken Baker	Topeka	Ks. Ethanol Assoc.
Lt. Bill Jacobs	Topeka	Kansas Highway Patrol
H. D. [unclear]	Topeka	Dept of Re
Ed De Soignie	Topeka	Ks. Dept. of Transp.
Tom Whitaker	Topeka	Ks Motor Carriers Assn

MEMORANDUM

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

FROM: Harley T. Duncan, Secretary
Kansas Department of Revenue 

RE: House Bill 3029

DATE: March 26, 1986

Thank you for the opportunity to appear before you today on HB 3029. The Department of Revenue supports enactment of this bill.

HB 3029 makes several changes in the interstate motor fuel use tax reporting laws of Kansas. As you are aware, interstate fuel use tax reporting is a procedure for apportioning the motor fuel tax liability of an interstate motor carrier among the states in which it operates based on the fuel consumed in each state. It is not an extra tax levied on interstate carriers, but instead is a procedure which attempts to apportion fuel tax liability according to road usage. In FY 1985, Kansas received net revenues from interstate fuel use tax reporting of \$6.4 million.

The bill before you today is the result of recommendations made by the National Governors' Association Working Group on Interstate Motor Carrier Issues. For the past 18 months this group has attempted to devise means by which the various states can simplify and standardize the taxation, registration and regulation of interstate motor carriers. The Working Group is seen as a means of giving the states an opportunity to ease the regulatory burden imposed on the interstate carrier industry by making their procedures more uniform before federal government intervention is proposed.

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The Working Group consists of state tax administrators, vehicle administrators and transportation officials as well as representatives of national associations of these state officials. We have also enlisted the assistance of the American Trucking Association, the Private Truck Council, independent owner-operators and several major national carriers to serve as industry advisers to the Working Group. The Tax Manager of Yellow Freight Systems served as an adviser to the motor fuel tax subgroup.

With over forty states requiring interstate fuel use tax reporting, uniformity of procedure and approach is obviously of benefit to the carrier that operates in a large number of jurisdictions. HB 3029 will bring the Kansas interstate fuel use tax reporting statute into conformity with the uniform form and procedures recommended by the NGA Working Group. Specifically, the bill will accomplish the following.

1. Change the size of busses covered by the act from those with a seating capacity of more than nine to those with a seating capacity of more than 20.
2. Delete from the list of covered vehicles those two axle vehicles registered for a gross weight of more than 12,000 pounds when used in combination with another vehicle. This will limit the coverage of trucks to those with more than two axles and road tractors or truck tractors. I have attached to my testimony the types of vehicles covered under other state fuel tax reporting statutes. You will note that the most common definition is that proposed in HB 3029 and that few, if any, states have provisions similar to ours.
3. Change the return filing date from the 25th day of the month following the end of the calendar quarter to the last day of that month.

4. Change from \$50 to \$100 the liability threshold below which a carrier may be allowed to file an annual, rather than quarterly, return. At five miles per gallon, the \$100 liability equates to less than 4,000 miles of in-state mileage.
5. Change from four to eight the number of quarters a carrier may carry over a tax credit before it is to be used or refunded.
6. Authorize the Secretary of Revenue to enter into agreements with other states for the administration of the fuel use tax reporting requirements.
7. Allow carriers the option of dividing tax remittance responsibilities between lessees and lessors differently than required by law if approved by the director of taxation.
8. Adds new language allowing us to file a tax warrant to collect unpaid taxes owed under the act.


A word about Item 6 above. This language (section 4 of the bill) will allow the Department to enter into a multi-state agreement to administer the Interstate Motor Fuel Use Tax Reporting on a base state concept. Under the base state concept, a Kansas-based carrier would be required to register only with Kansas and would pay its tax for all states who were parties to the agreement to Kansas. The Department would be responsible then for apportioning the tax among the states who were members of the agreement. This is similar in principle to the International Registration Plan for registering commercial vehicles.

The base state approach to interstate fuel tax reporting is seen as holding the possibility of significantly reducing the reporting and compliance burden imposed on the industry. The Department would enter into an agreement provided only that the procedures of the agreement were consistent with our law and that no significant additional administrative costs were imposed.

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MEMORANDUM

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

FROM: Harley T. Duncan
Secretary of Revenue 

RE: House Bill 3030

DATE: March 27, 1986

Thank you for the opportunity to appear before you today on House Bill 3030. The Department of Revenue supports enactment of this bill.

House Bill 3030 makes two changes in the motor fuel tax statutes. The changes affect only regular motor fuel or gasoline and do not alter the taxation of special fuel or LP gas.

First, the bill (lines 61-63) deletes a requirement of current law that to qualify for the handling allowance deduction, the **principal** business of a distributor must be the marketing of motor fuel. Certain distributors (e.g., Kwik Shops) are not engaged principally in the business of marketing motor fuel, but they do exactly what any other full-time fuel distributor does. That is, they pick up fuel from a pipeline or terminal and deliver it to outlets at which it will be sold at retail. Therefore, they should, in my mind, be eligible for the handling allowance. With the change, the handling allowance will still be available only to distributors and not to consumers who buy in large lots.

The Department only recently became aware of the situation created by current law and the fact that certain entities who may technically not be qualified are claiming the handling allowance. We

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decided, however, not to change our current practice until the Legislature had an opportunity to address the matter.

The second change (lines 69-71) strikes the current law provision which allows the ex-tax transfer of fuel from one distributor to another. With the change, the first licensed distributor who receives the fuel or to whom the fuel is consigned from the terminal will be responsible for collecting and remitting the tax. This change is recommended for two reasons.

First, it will simplify the administration of the motor fuel tax. The Department currently spends a considerable amount of time reconciling returns involving these transfers to insure that all fuel is taxed and that all tax is collected. This time can be spent more productively in other areas of fuel tax auditing. Second, the change will eliminate an opportunity that now exists for fuel to avoid taxation. Without the audits discussed earlier, a series of these transfers could be used to escape taxation.

Since we first requested this bill, we have continued to discuss the legislation with the oil marketing industry. Implementation of the bill will require some terminals and refineries to change the information provided on their bills of lading. To allow sufficient time and provide for the smoothest possible implementation of the bill, we would request that the effective date be changed from publication in the statute book to January 1, 1987.

Thank you for this opportunity. I would be glad to attempt to answer any questions.

Fines imposed between November 8, 1984 and June 3, 1985

DATE	COUNTY	VIOLATION	DISPOSITION	FINE/ COST	LOC.
11/8/84	Cheyenne	Overload (15,260 lbs)	Guilty	\$1,501.00 25.00	US 36
11/8/84	Cheyenne	Failure to clear open scales	Guilty	220.00 25.00	US 36
12/27/84	Wallace	Overload (7,400 lbs.)	Guilty	500.00 25.00	K 27 & US 40
1/8/85	Cheyenne	Overload (5,700 lbs.)	Bail Forfeited	399.00 25.00	Jct. K 27
1/18/85	Cheyenne	Failure to Clear Open scales	Bail Forfeited	225.00 25.00	K 161
1/18/85	Wallace	Overload (13,400 lbs.)	Bail Forfeited	2,010.00 25.00	US 36
4/17/85	Wallace	Overload (11,400 lbs.)	Bond Forfeited	1,140.00 25.00	K 27 & US 40
4/17/85	Wallace	Overload (11,400 lbs.)	Bond Forfeited	1,950.00 25.00	Jct. K 27
4/22/85	Sherman	Failure to clear Open Scales	Guilty	220.00 25.00	K 267
4/29/85	Sherman	Overload (14,400 lbs.)	Guilty	1,440.00 25.00	K 27
5/9/85	Rawlins	Overload (18,400 lbs.)	Guilty	1,840.00 25.00	Rawlins Cty. 39
5/24/85	Wallace	Overload (5,200 lbs.)	Bond Forfeited	364.00 25.00	K 27 & US 40
5/24/85	Wallace	Overload (11,300 lbs.)	Bond Forfeited	1,130.00 25.00	Jct. K 27 & US 40
6/3/85	Wallace	Overload (3,000 lbs.)	Guilty	225.00 25.00	Jct. K 27 & US 40 Jct.
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Total Fines				\$13,164.00	
Total Costs				350.00	
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Note: A show cause order was mailed on June 11, 1985.

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