

Approved August 4, 1989
Date

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rex Crowell at
Chairperson

1:30 ~~a.m.~~/p.m. on March 20, 1989 in room 519-S of the Capitol.

All members were present ~~except~~.

Committee staff present:

Bruce Kinzie, Revisor of Statutes
Hank Avila, Legislative Research
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Mr. Kent Jackson, Kansas Department of Transportation
Ms. Robyn Euler, Kansas Department of Revenue
Mr. Tom Whitaker, Kansas Motor Carriers
Mr. Don Garner, Amalgamated Transit Union

The meeting was called to order by Chairman Crowell and the first order of business was a hearing on SB-236 concerning the federal uniform assistance and real properties acquisition policies act.

Mr. Kent Jackson, Kansas Department of Transportation, testified in support of SB-236. (See Attachment 1)

The hearing on SB-236 ended.

The next order of business was a hearing on Substitute for SB-250 enacting the Kansas Uniform Commercial Drivers' License Act.

Ms. Robyn C. Euler, Kansas Department of Revenue, testified in support of Substitute for SB-250, and showed a video concerning the bill. (See Attachment 2)

Mr. Tom Whitaker, Kansas Motor Carriers Association, testified in support of Substitute for SB-250. (See Attachment 3)

Mr. Don Garner, Amalgamated Transit Union, Local No. 1360, Topeka, Kansas, testified in support of Substitute for SB-250. (See Attachment 4)

Hank Avila briefed the Committee on Substitute for SB-250, and reviewed commercial driver testing and licensing standards. (See Attachment 5)

Written testimony from Mr. Paul Fleener, Kansas Farm Bureau, in support of Substitute for SB-250 was passed among Committee members. (See Attachment 6)

The hearing on Substitute for SB-250 was concluded.

The meeting was adjourned at 2:15 p.m.


Rex Crowell, Chairman

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
Roger W BARR	Topeka	T.C.U.
Pam Pearson	Lilienthal	A.C.U.
Cindy Kelly	Topeka	KASB
Jan Foster	Sedon	Close-Up Ks.
Jill Foster	Sedan	"
Eric Medill	Sedan	"
Gene Johnson	Ks A.S.A. Assn	Ks A.S.A. Assn
Don G. Gamm	1165 Medford Topeka 66604	ATU
James E. Lee	408 MacVicker ^{Apt 9} 66608	SEK
Tom Whitaker	Topeka	Ks Motor Carriers Assn.
John W. Smith	Topeka	K. D. O. R. Pivofvel
LT. BILL JACOBS	TOPEKA	K.H.P.
SANDRA DEXTER	TOPEKA	DEPT OF REV.
Mark W. Hays	"	"
ED SCHMIDT	"	COSTAL CORP
Kent Gunn	Lawrence	KDOT
Joseph Krahn	Topeka	KDOT

STATEMENT
OF THE
KANSAS DEPARTMENT OF TRANSPORTATION ON
SENATE BILL 236 - CONCERNING THE
FEDERAL UNIFORM ASSISTANCE AND
REAL PROPERTIES ACQUISITION POLICIES ACT

S.B. 236 amends K.S.A. 58-3501 in order to comply with the Uniform Relocation Act Amendments of 1987, Pub. L. No. 100-17, 101 Stat. 246 (1987). The Federal Highway Administration has informed state governments that state compliance with the amendments to the Uniform Act is necessary in order to receive federal funds on projects involving the acquisition of real property interests. K.S.A. 68-401 and K.S.A. 68-404 (j) and (k), when read together, allow the Secretary of Transportation to comply with the 1987 amendments. However, since other state agencies which receive federal funds may not have the statutory authority to comply with the 1987 amendments, and since any misunderstanding by the federal government could delay federal funds for Kansas projects, the Kansas Department of Transportation strongly recommends passage of Senate Bill 236.

Euler

MEMORANDUM

TO: THE HONORABLE REX CROWELL, CHAIRMAN
HOUSE COMMITTEE ON
TRANSPORTATION AND UTILITIES

FROM: ROBYN C. EULER
COMMERCIAL DRIVER LICENSE ATTORNEY

DATE: MARCH 20, 1989

SUBJECT: SUBSTITUTE FOR SENATE BILL 250

I appreciate the opportunity to appear before you today in support of the legislation requested by the Department of Revenue. Substitute Senate Bill 250 concerns commercial driver licenses.

BACKGROUND

The Commercial Motor Vehicle Safety Act of 1986 was passed by Congress and signed into law by the President of the United States in October of 1986.

The Act is designed to remove unsafe and unqualified drivers from the nations highways by making it illegal for commercial drivers to have more than one license and by establishing national standards for testing and issuance of a commercial driver license. States are required to implement a commercial driver license program that includes: (1) Testing and disqualification requirements that meet Federal Department of Transportation standards; (2) vehicle classification and licensing criteria equivalent to that established by Department of Transportation; and (3) a

Att. 2

blood alcohol level for commercial vehicle operators that conforms to the Department of Transportation established level. States are also required to participate in the driver information clearinghouse which will allow licensing entities to electronically share driver records.



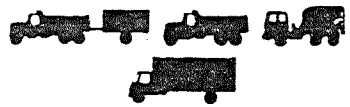
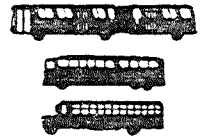




Failure to implement this legislation will result in loss of highway funds.

RECOMMENDATION

The Department of Revenue urges this Committee to give its support to Senate Bill 250.

Thank you.

FIGURE 1. VEHICLE GROUPS (FMCSR 383.91) AND ASSOCIATED CDL TESTS

GROUP	VEHICLE DESCRIPTION	TRUCKS	BUSES	KNOWLEDGE TESTS REQUIRED	SKILLS TESTS REQUIRED
A	Any combination of vehicles with a GCWR of 26,001 or more pounds provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds			<ul style="list-style-type: none"> o General Knowledge o Air Brakes o Combination Vehicles 	<ul style="list-style-type: none"> o Pre-trip Inspection o Basic Control Skills o Road Test
B	Any single vehicle with a GVWR of 26,001 or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR			<ul style="list-style-type: none"> o General Knowledge o Air Brakes (if so equipped)* 	<ul style="list-style-type: none"> o Pre-trip Inspection o Basic Control Skills o Road Test
C	Any single vehicle less than 26,001 pounds GVWR, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR. Applies only to vehicles placarded for hazardous materials or designed to transport 16 or more passengers, including driver			<ul style="list-style-type: none"> o General Knowledge o Air Brakes (if so equipped)* o Hazardous Materials (if applicable) o Passenger Transport (if applicable) 	<ul style="list-style-type: none"> o Road Test
D	ENDORSEMENTS				
T	Combination vehicles with double or triple trailers			<ul style="list-style-type: none"> o Doubles/triples Test 	Skills tests applicable to class of vehicle brought in for testing
N	Any vehicle intended for hauling liquids in bulk			<ul style="list-style-type: none"> o Tank Vehicle Test 	
P	Any vehicle designed to transport 16 or more passengers, including the driver			<ul style="list-style-type: none"> o Passenger Transport Test 	
H	Any vehicle used to transport hazardous materials in placardable amounts			<ul style="list-style-type: none"> o Hazardous Materials Test 	
X	Any tank vehicle used to transport placardable amounts of liquids in bulk			<ul style="list-style-type: none"> o Tank Vehicle Test o Hazardous Materials Test 	

* If vehicle used for testing is not equipped with air brakes, license must show an air brakes RESTRICTION.

Whitaker

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STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

Concerning enactment of the Kansas Uniform
Commercial Drivers' License Act.

Presented to the House Transportation
Committee, Rep. Rex Crowell, Chairman;
Statehouse, Topeka, Monday, March 20,
1989.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Tom Whitaker, Governmental Relations Director of the Kansas Motor Carriers Association with offices in Topeka. I am here today along with Mary E. Turkington, the Association's Executive Director, representing our member firms and the highway transportation industry in support of the enactment of the Kansas Uniform Commercial Drivers' License Act.

KMCA strongly supports a unified effort by the federal government, the states and the industry to establish a commercial drivers' licensing system that assures that unqualified persons cannot obtain a commercial drivers' license, and that unsafe commercial drivers who are engaging in unsafe driving practices can be identified through their license record and have their driving privilege suspended or revoked.

The highway transportation industry supports strengthening driver licensing and testing standards. No industry is more concerned with the safe operation of all motor vehicles.

Senate Bill 250 is a complex legislative proposal. Our industry worked with the Special Sub-Committee of the Senate Transportation & Utilities Committee to work through some of the major questions with respect to definitions and application of the proposed sections of the legislation. The work product of that Committee is the bill before you.

We do not propose a section by section analysis of the proposal here today.

We believe that every effort should be made to minimize the imposition of unnecessary burdens on licensing agencies and persons seeking to be licensed. To that end, we support provisions which will "grandfather" qualified persons currently employed as commercial drivers so that they do not have to undergo driving skill tests for license renewal. We also support testing by qualified third parties.

We would be pleased to work further with the Department, with this Committee and with any other interested enforcement or regulatory group to develop the best work product current FHWA guidelines provide.

Our industry strongly supports the concept of the Commercial Drivers' License proposal and we will be pleased to bring to this issue the best information and assistance we possibly can provide.

Thank you, Mr. Chairman and members of the Committee, for the opportunity to bring these comments to you. I will be pleased to attempt to answer questions at this time.

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Amalgamated Transit Union
Local No. 1360
TOPEKA, KANSAS



Garner
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Senate Bill No. 250

Introduction:

My name is Don L. Garner. I work for TMTA as a bus operator, I have been with them for two years. I *AM* also the recording secretary of the Amalgated Transit Union Local 1360. Before TMTA I was a owner/operator with Midwestern out of Ft.. Scott, Ks.. I was with them for six years. Before them I was with Arizona Tank Lines as a truck driver hauling Hazardous liquids. I was with them for two years. Before them I worked for a general contractor in California as a truck driver for about five years. Before that I drove log truck for about six years in Arizona and California both. I have said all of this to show my qualifications in the field of trucking. I am in favor of making sure that the professional driver on the road is truly qualified to be out there trucking. I am very concerned about what happens to this once honorable profession.

Thank You

Don L. Garner
Don L. Garner

1165 Medford

Topeka, Ks.

66604

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Page 1 New Section 3 (a) 1,2,3,4,

This Section exempts farmers under certain conditions. I have read through this Bill and I can find no part of it that the farmers could not comply with. You feel that these new laws are required to keep our highways safe for all that use them, including the farmers. Most farmers that have trucks that require a special license, have had them long enough to gain sufficient skills to pass a road test. If not able to pass a road test do you want them on the highway? The written test? The best teacher against accidents is a working knowledge of what you are doing. If they can not pass a written test, do you want them on your highways? The testing for the appropriate license will make sure that the driver will have the knowledge to do the "TRUCKING" the right way. Another concern is the 150 mile limit, and being able to cross over into another state, if need be, without being outside of the law. If the farmers had the proper class of license then they would not have to worry about being illegal. I feel that in the long run that it would be in their best interest if they were included with the drivers affected by this Bill.

Page 7 New Section 9 (b) line 256

Grandfathering: I have had a class 1 license from 1967 until now. There have been a few times that I have gotten off of the road for a year or so and then gone back to it. The way I read this Bill I will not be able to keep my class 1 license because I am not driving Semi-truck and trailer at this time. I feel



that you could find a way that the over the road drivers that have a good driving record would be able to keep our class 1 license. This is a skill that you do not lose in just a few years.

Page 8 New Section 9 (c) line 297

I feel that everyone that administers the driving skills test should have a working knowledge of the type of vehicle that the applicant is being tested in.

Page 10 New Section 11 (c) line 358 New Section 15 line 414
In the Senate Committee meeting the fact it will cost about \$6.00 to get this information from the National computer. Who will have to pay this fee?

Page 10 New Section 11 (e) line 366

If a person has to renew his license between now and April 1, 1992, will his license fee be prorated?

Page 12 New Section 16 line 423 and New Section 18 line 455
These are a couple of places that the reference is made that the Secretary of revenue may adopt rules and regulations establishing guidelines, including conditions, under which a disqualification for life under subsection C may be reduced to a period of not less than 10 years. My question is? Who will determine guilt? The Courts or the Secretary?

Page 13 New Section 18 (f) line 464

Here and several other places the words "Serious Traffic Violations" have been used. Who will determine what a serious traffic violation is? Will there be a list or a guide line of violations

Amalgamated Transit Union
Local No. 1360
TOPEKA, KANSAS

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published?

Page 25 Section 26 (e) line 304

Here are the fees that will be charged for the different classes of licenses. For the job that I now have this is what the cost will be to me. Line 307 \$12.00 for class B commercial, plus line 307 \$10.00 for passenger handling endorsement, plus air brake endorsement, no charge, plus a \$3.00 fee for examination; which is a total charge of \$25.00 to be licensed to drive a city bus. The same license in a state that already is in compliance with the Federal Regulation will only cost you \$10.00. Why should it cost us so much more? I was told in the Senate Committee meetings that the reason that it is so much more is because of the added cost of setting up the new testing. I feel that it is to get extra revenue, because of what I read in Section 33 line 498 through 515. I have attached a copy of a application with their fees on it for comparison.

I thank you very much for letting me voice my concerns and ideas on this Bill which will affect the whole trucking industry in this great nation. One thing that I do ask that do is to take a good hard look at some of the drastic changes. In closing may I be so bold as to remind you of one thing, We are a Government of the people, by the people, and for the people.

Thank You

Don L. Garner



FOR DMV USE ONLY	
B/D DOC	_____
VERIFIED BY	_____

Application for a Commercial Driver License and/or Endorsements

(Print carefully using ink or ball point pen.)

- **DATE OF BIRTH:** If first time applying, present evidence such as a birth certificate (*original or certified copy*) or other legal document acceptable to the department.
- **SOCIAL SECURITY ACCOUNT NUMBER:** If first time applicant for a Commercial Driver License and/or Endorsement(s), provide the Department with your social security account number.
- **DISABILITY OR IMPAIRMENT:** If you require assistance for the written or oral test or to complete this form, please ask a DMV employee for assistance.

Original Commercial Driver License including any endorsements	\$10
F Renewal Commercial Driver License including any endorsements (and no Drive Test required)	\$10
E Duplicate Commercial Driver License	\$10
E Endorsements only	\$10
S Remove restrictions requiring a drive test (air brakes/automatic transmission)	\$10
Drive Test (Retest)	NO FEE

(Check applicable Class, Endorsement and Transaction)

LICENSE CLASS:

A - Combination of vehicles

B - Single vehicles weighing 26,001 lbs. or more, or a bus designed for carrying more than 10 persons including the driver

C - Single vehicles weighing 26,000 lbs. or less hauling hazardous materials

M - Motorcycle (noncommercial operation)

Yes No Is the vehicle equipped with air brakes?

ENDORSEMENT:

Passenger Transportation

Double/Triples

Tank Vehicle

Hazardous Materials

TRANSACTION:

Original

Renewal

Instruction Permit

Name Change

Duplicate (*Check one of the following*)

Lost Stolen Mutilated (*must be surrendered*)

NOTE: If a driving test is necessary, it must be conducted in the type of motor vehicle you expect to operate, or the license cannot be issued.

CA DRIVER LICENSE OR I.D. CARD # (IF ANY)	SOCIAL SECURITY #	SEX <input type="checkbox"/> M <input type="checkbox"/> F	COLOR HAIR	COLOR EYES
FULL NAME (FIRST) (MIDDLE) (LAST)	HEIGHT	WEIGHT	BIRTHDATE (Month/Day/Year)	
MAILING ADDRESS APT. #	RESIDENCE ADDRESS (IF DIFFERENT FROM MAILING ADDRESS.)			
CITY STATE ZIP CODE	CITY STATE ZIP CODE			

ANSWER THE FOLLOWING QUESTIONS:

A. Will you be an organ donor? <input type="checkbox"/> YES <input type="checkbox"/> NO (A donor card and sticker will be mailed with all driver licenses and identification cards.)	C. Have you applied for a Calif. Driver License or Commercial Driver License or I.D. card under a different name within the past 7 years? <input type="checkbox"/> YES <input type="checkbox"/> NO
B. Have you applied for or been issued any of the following: 1. California Driver License <input type="checkbox"/> YES <input type="checkbox"/> NO 2. California Instruction Permit <input type="checkbox"/> YES <input type="checkbox"/> NO 3. California Identification Card <input type="checkbox"/> YES <input type="checkbox"/> NO 4. Commercial Driver License (any state) <input type="checkbox"/> YES <input type="checkbox"/> NO	D. If "yes" answered to B or C, write year of expiration: _____ If yes, print other name: _____

Answer Yes or No to questions 1-5.

(1) Are you wearing contact lenses?

THE ANSWER TO ITEMS (2) AND (3) BELOW IS FOR THE CONFIDENTIAL USE OF THE DEPARTMENT OF MOTOR VEHICLES

(2) Within the last three (3) years have you:
a) Experienced a lapse of consciousness?

b) Had any disease, disorder, or disability which affected your ability to exercise reasonable and ordinary control in operating a motor vehicle?

If yes, briefly explain

(3) Are you addicted to narcotics and/or alcohol or a habitual user of any drugs rendering you incapable of driving safely?

(4) Have you had your driving privilege or a license canceled, refused, suspended or revoked in the past two years?

If yes, briefly explain

(5) Have you held a driver license in another state or country?

If yes, complete the following: _____ STATE OR COUNTRY _____ LICENSE NO. _____ EXPIRATION DATE _____

(6) I will be operating the following type(s) of vehicle(s): _____

I hereby certify, under penalty of perjury, that all statements on this application are true, and that my birthdate is as shown on this application. (Making a false statement on this application is punishable by imprisonment, fine or both.)

EXECUTED AT (CITY)	(STATE)	ON (DATE)	SIGNATURE OF APPLICANT	DAYTIME TELEPHONE NUMBER
			X	() 4-5

COMMERCIAL DRIVER TESTING AND LICENSING STANDARDS
(Summary of the July 21, 1988 Final Rule)

General Summary:

- It has been illegal since July 1, 1987, for an operator of a commercial motor vehicles to have more than one license, except for those States that have an occupational license requirement. This exception will not be valid after 12/31/89.
- The Testing and Licensing Standards include:
 - Commercial driver licensing and testing procedures to be used by the States;
 - The knowledge, skills, and abilities which drivers of different types of CMV's must possess; and
 - The information to be included on the commercial driver's license (CDL).
- Standards become effective on August 22, 1988. Drivers, however, have until April 1, 1992 to pass the knowledge & skills tests and get their new CDL.
- States must implement all aspects of the CDL program by October 1, 1993.
- Waiver requests submitted by several interested groups, including the drivers of farm vehicles and the drivers of firefighting equipment, will be addressed in a separate action.

Vehicle Groups:

- Group A - (Combination Vehicle) Any combination of vehicles with a gross combination weight rating of 26,001 or more pounds provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.
- Group B - (Heavy Straight Truck) Any single vehicle with a GVWR of 26,001 or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR.
- Group C - (Small Vehicle) Any single unit vehicle less than 26001 pounds GVWR, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR. Any size vehicle placarded for hazardous materials or designed to transport 16 or more persons, including the driver.

- A vehicle which meets any one of these descriptions, and is used in interstate or intrastate commerce is covered by the Rule. Since commerce is defined very broadly in the 1986 Act, all vehicles are covered, except those vehicles used for personal or recreational purposes.

Vehicle Endorsements:

- T - Double/Triple Trailers.
(Knowledge test only)
- P - Passenger.
(Knowledge & Skills tests)
- N - Tank Vehicle.
(Knowledge Test only)
- H - Hazardous Materials.
(Knowledge test only)
- X - Combination of Tank Vehicle and Hazardous Materials.
- "Air Brake" (Treated as a Restriction)
(Knowledge & Skills tests)
- Additional codes used by the States must be explained on CDL.

Grandfathering Provision:

- States may waive the skills test only.
- Applicant must be currently licensed at time of application.
- States may accept:
 - an applicant's driving record and previous passage of an acceptable skills test; OR
 - an applicant's driving record in combination with certain driving experience.
- An applicant must certify that, during the two-year period immediately prior to applying for a CDL he/she:
 - Has not had more than one license;
 - has not had any license suspended, revoked, or canceled;
 - Has not had any violation of State or local law relating to motor vehicle traffic control arising in connection with any traffic accident, and has no record of an accident in which he/she was at fault.

- An applicant must provide evidence and certify that:
 - He/she is regularly employed in a job requiring operation of a CMV, and that either:
 - 1) He/she has previously taken a behind-the-wheel skills test in a representative vehicle; or
 - 2) He/she has operated a representative vehicle, for at least 2 years immediately preceding application for a CDL.

Third Party Testing:

- Other States, employers, training facilities, Governmental departments and agencies, and private institutions are some entities that can serve as third party testers.
- Tests must be the same as those given by the State.
- Examiners must meet same qualifications as State examiners.
- States must conduct an on-site inspection at least once a year.
- At least annually, State employees must evaluate the programs by taking third party tests as if they were test applicants, or by testing a sample of drivers tested by the third party and then comparing pass/fail rates.
- The State's agreement must allow FHWA and the State to conduct random examinations, inspections, and audits without prior notice.

Knowledge and Skills Tests:

- States will develop their own tests which must be at least as stringent as the Federal standards.
- States shall determine specific methods of scoring the tests.
- Basic knowledge test must contain at least 30 questions.
- To pass, applicants must correctly answer at least 80 percent of the questions on the knowledge test. For the skills test, applicants must successfully perform all the skills listed in Sec. 383.113.
- The skills test will be conducted entirely in actual road conditions or in a combination of road and off-street conditions.
- The skills test must be taken in a vehicle representative of the type of vehicle that the applicant operates or expects to operate.

Commercial Driver's License document:

- *All CDL's must contain the following information:*
 - *The prominent statement that the license is a "Commercial Driver's License" or "CDL";*
 - *The driver's full name, signature, and mailing address;*
 - *The driver's date of birth, sex, and height*
 - *Color photograph of the driver;*
 - *The driver's State license number;*
 - *The name of the State which issued the license;*
 - *The date of issuance and the date of the expiration of the license;*
 - *The group(s) of vehicles that driver is authorized to drive;*
 - *Notation of the "air brake" restriction, if issued;*
 - *The endorsement(s) for which the driver has qualified;*
 - *If the CDL is a Nonresident CDL, it must contain the prominent statement that the license is a "Nonresident Commercial Driver's License" or "Nonresident CDL".*
- *Codes for additional groupings, endorsements, or restrictions must be fully explained on the license.*
- *The social security number is provided to the CDLIS, but does not need to be printed on the license document.*
- *States shall make the CDL tamperproof to the extent practicable.*
- *Learner's Permits issued by the States are considered to be valid CDL's for purposes of behind-the-wheel training on public highways. If a State decides to issue learner's permits, it must require learner permit holders to be accompanied by someone with a valid CDL appropriate for that vehicle. Learner's permits may only be issued for limited time periods.*



PUBLIC POLICY STATEMENT

HOUSE TRANSPORTATION COMMITTEE

RE: Sub. for S.B. 250 -- enacting the Kansas Uniform Commercial Drivers' License Act

March 20, 1989
Topeka, Kansas

Presented by:
Paul E. Fleener, Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and Members of the Committee:

My name is Paul E. Fleener. I am the Director of Public Affairs for Kansas Farm Bureau. We want to express our appreciation to the Chairman and Committee Members for examining our statement on **Sub. for S.B. 250**, the legislation designed to bring Kansas into compliance with, and designed to implement the federal Commercial Motor Vehicle Safety Act of 1986.

We recognize Kansas must comply with the federal legislation on commercial drivers' licenses, or the highway funds of this state could be in jeopardy. The time has come for compliance.

We were before the Senate Transportation and Utilities Committee when legislation to bring Kansas into compliance with the Motor Vehicle Safety Act of 1986 was discussed last year. We asked the Sen. Committee to withhold consideration of that bill last year so that we might respond fully and completely to the proposed rules advanced through the Federal Register by the Federal Highway Administration (FHWA), USDOT. We were, very frankly, seeking from DOT an exemption for farm vehicles and the drivers of those vehicles.

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Section 12013 of the Act provides the Secretary (USDOT) with authority to waive any class of drivers or vehicles from any or all of the provisions of the Act or the implementing regulations, if the Secretary determines the waiver is not contrary to the public interest and does not diminish the safe operation of commercial vehicles.

In response to the notice published in the Federal Register in April, 1988, there were more than 1,700 comments regarding the CDL and waivers from the licensing and other provisions of the Act. FHWA indicated the majority of those were from individual farmers or firefighters supporting the waiver. FHWA also received more than 140 letters from members of Congress expressing support for the waivers for these two groups. We are pleased to report that our Kansas Congressional Delegation was unanimous in supporting our efforts to obtain waivers for farmers and the vehicles they drive in their farming operation.

Sub. for S.B. 250 carries out what USDOT and the Federal Highway Administration determined would be the final disposition of the waiver issue. In regard to farmers, the Secretary determined it would not be contrary to the public interest to allow states, at their discretion, to waive certain farmers from the requirements of the CDL program. Absent such waiver, which is incorporated in Sub for S.B. 250, all farmer operators of vehicles over 26,000 pounds would be subject to the CDL program. The waiver is listed in New Section 3 as an exemption for farm trucks or truck tractors registered as such in Kansas (KSA 8-143) which are used to transport either agricultural products, farm machinery, farm supplies, or both to or from a farm. The

exemption is also granted for vehicles not used in the operation of a common or contract motor carrier, are used within 150 miles of the person's farm. In our reading of the waiver, there is no distinction between intrastate and interstate travel for the farm truck/truck tractor. It is simply 150 miles.

Attached to our statement is a copy of the FHWA notice of final disposition contained in 49 CFR, Parts 383 and 391. The waiver and exemption provisions were set forth on September 19, 1988.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 383 and 391

[FHWA Docket No. 88-8]

RIN 2125-AB68

COMMERCIAL DRIVER'S LICENSE PROGRAM; WAIVERS; NOTICE OF FINAL DISPOSITION

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of final disposition.

SUMMARY: A variety of parties requested exemptions from the commercial driver testing and licensing standards (49 CFR 383), and other provisions of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. L. 99-570, 100 Stat. 3207-170). The specific waiver requests considered were for drivers of six different groups:

- (1) Farm vehicles;
- (2) Firefighting equipment;
- (3) Military vehicles;
- (4) Transit buses;
- (5) Certain vehicles used by railway companies; and
- (6) Public utility vehicles.

The FHWA has decided that it is not contrary to the public interest to grant waivers to firefighters and certain farmers from the Federal commercial driver's license regulations (49 CFR Part 383). The effect of this action is to allow States the option to exclude these groups in State implementation of the Federal regulations.

The FHWA also finds that it not contrary to the public interest to waive non-civilian operators of military equipment owned or operated by the Department of Defense (DoD), including the National Guard, from the requirements of 49 CFR Part 383. For the other groups, (transit buses, certain railway vehicles and public utility vehicles) the FHWA has determined that waivers from the requirements will not be granted, at this time, so as to lessen the possibility of diminishing commercial vehicle safety and assuring that the public interest continues to be served.

EFFECTIVE DATE: (Upon the date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Ms. Jill L. Hochman, Office of Motor Carrier Standards, (202) 366-4001; or Mr. Paul L. Brennan, Office of the Chief Counsel, HCC-20, (202) 366-1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

BACKGROUND:

The Commercial Driver's License (CDL) program was established by the Commercial Motor Vehicle Safety Act of 1986 (Act). The Act requires that the driver of a commercial motor vehicle (1) have a single driver's license, (2) be tested for the knowledge and skills needed to drive a commercial motor vehicle, and (3) be disqualified from driving a commercial vehicle if the driver commits certain criminal or traffic violations.

The provisions of the Act apply both to interstate and intrastate drivers involved in trade, traffic, and transportation.

The Act includes many persons and vehicles, particularly those in intrastate commerce, not previously covered by Federal Motor Carrier Safety Regulations (FMCSRs).

Waiver Procedures

Section 12013 of the Act provides the Secretary with the authority to waive any class of drivers or vehicles from any or all of the provisions of the Act or the implementing regulations, if the Secretary determines that the waiver is not contrary to the public interest and does not diminish the safe operation of commercial vehicles. Under Federal regulations (49 CFR 383.7), a person may petition the Federal Highway Administrator for a waiver. The Administrator may deny the petition if it is determined to be without merit. If the Administrator determines that the petition may have merit, the FHWA will publish a notice in the Federal Register to provide opportunity for comment. After analyzing the comments, the Administrator may grant or deny the waiver. The FHWA will then publish a notice of its decision on the petition in the Federal Register.

Response to Notice

In response to the notice published in the Federal Register on April 14, 1988 (53 FR 12504), the FHWA received over 1,700 comments regarding commercial driver's license waivers. The majority were from individual farmers or firefighters supporting the waiver. Over 140 letters from members of the Congress also expressed support for waivers for these two groups. Most of the information presented referred to the issue of whether or not the public interest would be served by allowing waivers.

Farmers - The FHWA has determined that it is not contrary to the public interest to allow States, at their discretion, to waive certain farmers from the requirements of the CDL program. Absent a waiver, all farmer operators of commercial vehicles of over 26,000 pounds and of vehicles carrying hazardous material in amounts sufficient to be placarded would be subject to the CDL program. Based on the farm vehicle operations safety data available to FHWA at this time, comments to the docket, and the potential burdens imposed on the farmers, FHWA believes that a waiver for farmers involved in small scale farm to market transportation movements is appropriate. The FHWA believes that it is contrary to public interest to waive long haul farm vehicle movements, as well as persons that provide for-hire trucking services to the farm community.

To ensure that any waiver is focused on legitimate farm to market operations by farmers, the group of farm vehicle operators the State may waive is limited to those operators of a farm vehicle which is:

- controlled and operated by a farmer;
- used to transport either agricultural products, farm machinery, farm supplies or both to or from a farm;
- not used in the operations of a common or contract motor carrier; and
- used within 150 miles of the person's farm.

This limited exemption will provide States with the flexibility to address the concern of farmers, yet retain the safety enhancements included in the Act and implementing regulations for commercial motor vehicles drivers.

In response to the petitions and the subsequent notice, over 700 comments were submitted from either individual farmers or groups, such as the American Farm Bureau, which represent farmers. Of these, the vast majority were in favor of waiving farmers from the CDL requirements and believe that farm operations are generally different from typical "over the road" business. They note that farm vehicles are used for shorter, more localized trips and farm vehicles are used seasonally. Also, farm vehicles are usually driven by family members or seasonal employees who drive only incidentally, i.e., to pick-up and deliver supplies, or during the harvest season, to farming. The FHWA traditionally has recognized these differences in farm operations and has included exceptions in the Federal Motor Carrier Safety Regulations for certain farm operations.

In response to the petitions requesting waivers for farmers, the FHWA, in cooperation with the Department of Agriculture (DOA), requested the University of Michigan Transportation Research Institute (UMTRI) to examine the data relating to farm truck safety. The UMTRI study developed farm and non-farm safety estimates for vehicles in weight classes of 10,000 pounds Gross Vehicle Weight Ratings (GVWR) and higher. These estimates were developed using the information in the Census Bureau's Transportation Inventory and Use Survey (TIUS) along with samples of the original TIUS vehicle registration data from R. L. Polk Company, information developed by UMTRI through their own surveys and data in the Trucks Involved in Fatal Accidents File (TIFA), and recent UMTRI nationwide studies of truck operations.

The UMTRI estimates show that farmers constitute a very small proportion of fatal truck accidents and are significantly under-involved in such accidents for the vehicle weight classes for which data is readily available., i.e., classes of 10,000 pounds GVWR and higher. For example, in 1982 (the most recent year the TIUS is available), fatal farm accident involvement for various vehicle weight classes compared to fatal non-farm accident involvement as follows:

Involvements in Fatal Accidents
(Fatalities per hundred million miles traveled - 1982)

	<u>FARM VEHICLES</u>	<u>NON-FARM VEHICLES</u>
Vehicles above 10,000 pounds GVWR	2.95	6.64
Vehicles above 26,000 pounds GVWR	2.81	7.25

Thus, the accident rate for farm vehicles in 1982 was less than one half of the rate for non-farm vehicles. The FHWA has no information which would indicate a change in these accident rates for more recent years. (The FHWA will continue to monitor and re-evaluate data and information related to farm vehicle safety to determine whether the waiver for such operation continues to be justified on a safety basis.)

Data available from the Research and Special Programs Administration's Hazardous Materials Information System indicates that there have been no fatalities reported by farmers related to light or heavy vehicles, which carry hazardous materials. Also, the 1982 farm vehicle fatal accident involvement rate is about the same

as that for passenger vehicles. Thus, the FHWA believes that farm vehicle operations, both for small and heavy vehicles, have a better safety record than average non-farm commercial motor vehicle operations. The FHWA concludes that a waiver of this group would not result in a reduction in the safe operation of a commercial motor vehicle. The FHWA will continue to monitor the data to ensure that the waiver continues to be warranted from a safety standpoint. More specifically, the FHWA will re-evaluate farm vehicle accident rates when the 1987 TIUS data becomes available. That data collection is now underway, and processing should be completed by early 1990.

Several commenters suggested that inclusion of farmers in the CDL system may impede the overall effectiveness of the CDL program or overburden many States' administrative processes. The National Transportation Safety Board (NTSB) also recognized the potential problem of adding farmers to the CDL program in its comments to the docket. The NTSB stated:

"If the presence of a large number of farmers in the commercial driver's license system (CDL) causes the testing and licensing standards to be less stringent, then the overall safety impact could be reduced."

The FHWA estimates that there may be 1.1 million farm vehicles included in the definition of a commercial motor vehicle. Of these, only 178,000 vehicles are believed to be heavy vehicles above 26,000 pounds GVWR. The majority of the farm vehicles included in the definition are pick-up trucks or other light weight trucks (under 26,001 pounds GVWR) which are used to transport pesticides, fertilizers, or other products integral to farming; but which are

defined as hazardous materials. Based on this number of vehicles, the FHWA estimates that there may be as many as 1.8 to 3.0 million drivers that may from time to time operate a vehicle meeting the definition of a commercial motor vehicle.

The FHWA believes that the imposition of the CDL program on the entire farm community, even spread over the next four years, could be contrary to the public interest. As indicated at the time of the request for comments on the CDL waivers, the Department indicated that it wanted to take a reasonable common-sense approach in implementing the CDL legislation. Thus, the FHWA endorses an exemption that would be allowed for short haul farm to market movements. The waiver would not be available to operators of farm vehicles who operate over long distances, operate to further a commercial enterprise, or operate under contract or for-hire for farm cooperatives or other farm groups. Such operators drive for a living and do not drive only incidentally to farming.

Firefighters and Operators of Emergency Equipment- Over 900 comments were from groups or individuals who addressed waivers for firefighters. Of these, most supported a waiver and stated that firefighters, especially volunteers, would find the financial burden imposed by the commercial driver license requirements onerous. Most firefighting organizations have extensive initial training as well as retraining requirements for their equipment operators.

Therefore, the FHWA believes it not contrary to the public interest to waive operators of firefighting and other emergency equipment from the requirements of the Act. Drivers who operate emergency or fire equipment which is necessary to the preservation

of life or property or the execution of emergency governmental functions perform under emergency conditions and are not subject to normal traffic regulation. These vehicles are equipped with audible and visual signals and are operated by a person in the employ of a volunteer or paid fire organization. Emergency equipment such as a fire truck, hook and ladder truck, foam or water transporter or other vehicles used only in response to emergencies are included.

Military Personnel - FHWA has determined that military vehicles when operated by military personnel in pursuit of military purposes are beyond the intended coverage of the Act. Virtually all states currently make no effort to regulate operators of military vehicles, and FHWA finds no public interest or safety benefit to be gained by requiring such state regulations at present. The DoD administers the Defense Traffic Safety Program which assures adequate training and supervision of military drivers.

Although the FHWA does not collect data for civilian versus non-civilian accidents, the DoD provided some information in its docket submission. These data show that during 1987 approximately 10,500 DoD vehicles of commercial design (i.e., vehicles which would meet the definition of a commercial motor vehicle) traveled 52 million miles on and off military installations. These vehicles were involved in 3 fatal accidents.

The FHWA believes that commercial vehicle safety will not be diminished if all non-civilian operators of equipment owned or operated by the Department of Defense are waived from the Act's requirements. This waiver applies to any active duty military personnel, and members of the reserves and national guard on active

duty including personnel on full time national guard duty, personnel on part-time training and national guard military technicians (civilians who are required to wear military uniforms and are subject to the code of military justice).

Transit Operators, Railroad Employees, Public Utility Employees and Other Groups - The information available to the FHWA at this time indicates that these commercial motor vehicle operations are conducted by a wide variety of business entities, which are subject to varying degrees of regulation by Federal, State, and local authorities. These groups do not specifically deal with the protection of life and property. Moreover, these groups operate a large number of vehicles nationwide under all types of conditions (i.e., in urban, suburban, and rural areas; on highways and other roads; with varying speeds and traffic congestion; and in all weather conditions and at all times of day). For example, transit buses carry millions of passengers each day with the ever present threat of an accident involving a high loss of life. Public utility and railroad employees both operate large or hazardous material laden vehicles both day and night throughout the year, sometimes under the most adverse weather conditions. Finally, these vehicles are operated by drivers who tend to be highly trained to provide other services and who may receive extensive job safety training, but who oftentimes have limited opportunities to acquire knowledge of, and develop skills for, the safe operation of commercial motor vehicles. Accordingly, the FHWA is unable to conclude that granting waivers to these groups at this time will not be contrary to the

public interest or will not diminish the safe operations of commercial motor vehicles.

Further, many of the commenters requested waivers because of misunderstandings about the requirements of the CDL program. Some of the major areas of confusion that were reflected in the comments to the docket relate to the price of the CDL, age requirements to obtain a CDL and the inter-relationship(s) between the new CDL requirements and the more traditional Federal requirements found in Parts 390-399. With respect to the price for a CDL, many commenters believe the CDL will cost \$450.00. Under Part 383, each State will establish its own fee structure. One State, which currently has a classified licensing and testing system in place that is very similar to the types of licensing and testing required under the CDL program, charges between \$38.00 and \$42.00 for a license which is good for four years. The FHWA does not expect that a \$450.00 fee or an almost 10-fold increase in the price of a similar license is likely. With respect to the minimum age to obtain a CDL, many commenters believe all CDL holders need to be 21 years of age under Part 383. However, drivers who do not operate in interstate commerce and even certain interstate farm vehicle drivers do not have to be 21 years old unless that is the minimum age their State requires. Finally, many commenters seem to believe that CDL holders need to keep log books or that vehicles operated by a CDL holder automatically become subject to the Federal vehicle inspection requirements. Under the CDL program, this is not the case unless the driver or the vehicle is already subject to such requirements. Thus, the FHWA believes that when such groups gain a complete

understanding of the requirements as included in the Final Rule issued on July 21, 1988, many of their concerns may be resolved.

When the promulgation of all requirements of the Act is completed, FHWA intends to amend the regulation to reflect these waivers.

AUTHORITY: Title XII of Pub. L. 99-570, 100 Stat. 3207 170; 49 U.S.C. 3102; 49 U.S.C. App. 2505; 49 CFR 1.48.

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