

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

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

9:02 a.m./~~p.m.~~ on January 31, 1989 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Hank Avila, Legislative Research Department
Ben Barrett, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Louise Cunningham, Committee Secretary

Conferees appearing before the committee:

Alan F. Alderson, Kansas County Treasurers Association
Pat Barnes, Kansas Motor Car Dealers Association
Terry Humphrey, Kansas Manufactured Housing Association
Lt. Bill Jacobs, Kansas Highway Patrol
Al Maxwell, Transportation Division Administrator, KCC

Alan F. Alderson, Kansas County Treasurers Association, requested a bill for a fee increase at the time of registering or renewing the registration of a motor vehicle. This increase would be from the present \$1.00 to \$3.00. A copy of his statement and proposed bill is attached. (Attachment 1).

A motion was made by Sen. Francisco and was seconded by Sen. Hayden to introduce the proposed bill as a committee bill. Motion carried.

Pat Barnes, Kansas Motor Car Dealers Association, requested a change in the Dealer's Licensing Act which would increase bonding to provide a source of recovery in the event dealers' licensing laws were violated. He also wanted changes regarding Sunday closings.

A motion was made by Sen. Francisco and was seconded by Sen. Hayden to introduce the recommended changes as a committee bill.

There was discussion that perhaps it would be better to introduce the changes as two separate bills.

Sen. Hayden withdrew his second of the motion and Sen. Francisco made a motion to introduce the proposed changes as two separate bills. Motion was seconded by Sen. Hayden. Motion carried.

Terry Humphrey, Kansas Manufactured Housing Association, had a request for a committee bill which would eliminate a \$2.00 license plate fee when a manufactured house is used as permanent housing. A copy of her statement is attached. (Attachment 2).

A motion was made by Sen. Sallee and was seconded by Sen. Rock to introduce the proposed request as a committee bill. Motion carried.

Lt. Bill Jacobs, Kansas Highway Patrol, requested a committee bill which would authorize special flashing head lamps on emergency vehicles. A copy of the proposed bill is attached. (Attachment 3).

A motion was made by Sen. Thiessen and was seconded by Sen. Hayden to introduce the proposed legislation as a committee bill. Motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:02 a.m./~~p.m.~~ on January 31, 19 89

Al Maxwell, KCC, had proposed amendments to K.S.A. 66-1,112c which are technical "clean-up" amendments dealing with motor carriers. A copy of his statement and the proposed amendments are attached. (Attachment 4).

A motion was made by Sen. Rock and was seconded by Sen. Francisco to introduce the proposed amendments as a committee bill. Motion carried.

A motion was made by Sen. Hayden and was seconded by Sen. Thiessen to approve the Minutes of January 19, 25 and 26. Motion carried.

Meeting was adjourned at 9:35 a.m.

ALDERSON, ALDERSON & MONTGOMERY

ATTORNEYS AT LAW

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JOHN E. JANDERA

JOSEPH M. WEILER

MEMORANDUM

TO: SENATE COMMITTEE ON TRANSPORTATION & UTILITIES
FROM: ALAN F. ALDERSON, ATTORNEY FOR THE KANSAS COUNTY
TREASURERS ASSOCIATION
RE: REQUEST FOR INTRODUCTION OF BILL INCREASING REGISTRATION
SERVICE FEE AND COMPENSATION
DATE: JANUARY 31, 1989

During the 1985 Legislative Session, the service fee payable at the time of registering or renewing the registration of a motor vehicle was increased from 50¢ to \$1.00. At that time, the County Treasurers Association assured this Committee that County Treasurers would make this increase, which is used to pay expenses of the office and additional compensation, last for four years.

For a number of reasons which will be presented at the hearing on our proposed bill, the County Treasurers are asking for an increase in the service fee from \$1.00 to \$3.00. This additional money would be deposited in the special fund used to defray office expenses and pay additional compensation to the county treasurer for performing the registration and title functions for the State.

The only other thing the bill would do is increase the County Treasurer's compensation from \$360 per thousand registrations to \$520 per thousand and increase the cap on that compensation from \$3,600 to \$5,200.

I would be happy to try to answer any questions you might have.

ATT. 1

T&U

2/2/89

SENATE BILL NO. _____

By Senate Committee on Transportation and Utilities

AN ACT concerning vehicle registration fees; amending K.S.A. 1988 Supp. 1-145 and 8-145d, and repealing the existing sections.

BE IT ENACTED . . .

Section 1. K.S.A. 1988 Supp. 8-145 is hereby amended to read as follows: 8-145. (a) All registration and certificates of title fees shall be paid to the county treasurer of the county in which the applicant for registration resides or has an office or principal place of business within this state, and the county treasurer shall issue a receipt in triplicate, on blanks furnished by the division of vehicles, one copy of which shall be filed in the county treasurer's office, one copy shall be delivered to the applicant, and the original copy shall be forwarded to the director of vehicles.

(b) The county treasurer shall deposit \$.75 of each license application, \$.75 out of each application for transfer of license plate and \$2 out of each application for a certificate of title, collected by such treasurer under this act, in a special fund, which fund is hereby appropriated for the use of the county treasurer in paying for necessary help and expenses incidental to the administration of duties in accordance with the provisions of this law and extra compensation to the county treasurer for the services performed in administering the provisions of this act, which compensation shall be in addition to any other compensation provided by any other law, except that the county treasurer shall receive as additional compensation for administering the motor vehicle title and registration laws and fees, a sum computed as follows: The county treasurer shall, during the month of December, determine the amount to be retained for extra compensation not to exceed \$250 applicable to the calendar year 1985, [and] \$360 annually commencing in 1986 and \$520 commencing in 1989, for each 1,000 total vehicle registrations or fraction thereof, but in no case shall said compensation under this provision exceed \$2,400 for the calendar year 1985, [nor] \$3,600 for calendar year 1986, nor \$5,200 for calendar year 1989 or any calendar year thereafter. If

more than one person shall hold the office of county treasurer during any one calendar year, such compensation shall be prorated among such persons in proportion to the number of weeks served. The total amount of compensation paid the treasurer together with the amounts expended in paying for other necessary help and expenses incidental to the administration of the duties of the county treasurer in accordance with the provisions of this act, shall not exceed the amount deposited in such special fund. Any balance remaining in such fund at the close of any calendar year shall be withdrawn and credited to the general fund of the county prior to June 1 of the following calendar year.

(c) The county treasurer shall remit the remainder of all such fees collected, together with the original copy of all applications, to the secretary of revenue to be deposited with the state treasurer and credited to the state highway fund.

Section 2. K.S.A. 1987 Supp. 8-145d is hereby amended to read as follows: 8-145d. In addition to the annual vehicle registration fees prescribed by K.S.A. 8-143, 8-143b, 8-143c, 8-143g, 8-143h, 8-143i, 8-167, 8-172 and 8-195 and amendments to any of such sections any applicant for vehicle registration or renewal thereof for registration periods beginning after December 31, 1985, shall pay a service fee in the amount of [\$1] \$3 to the county treasurer at the time of making such application for registration or renewal thereof. The county treasurer shall deposit all amounts received under this section in the special fund created pursuant to K.S.A. 8-145 and amendments thereto, and such amounts shall be used by the county treasurer for all purposes for which such fund has been appropriated by law, and such additional amounts are hereby appropriated as other amounts deposited in such fund.

Section 3. K.S.A. 1988 Supp. 8-145 and 8-145d are repealed.

Section 4. This act shall take effect and be in force from and after its publication in the statute book.

2

KANSAS MANUFACTURED HOUSING ASSOCIATION

TESTIMONY BEFORE THE SENATE
TRANSPORTATION AND UTILITIES
COMMITTEE

TO: Senator Bill Morris, Chairman
and Members of the Committee

FROM: Terry Humphrey, Executive Director
Kansas Manufactured Housing Association

DATE: January 31, 1989

Mr. Chairman and members of the committee, I am Terry Humphrey Executive Director of the Kansas Manufactured Housing Association (KMHA), a trade association representing all facets of the manufactured housing industry.

Today I come before you to request the introduction of a Committee Bill to repeal the requirement of nonhighway registration of manufactured homes in K.S.A. 1988 Supplement 8-135 and 8-143.

Presently, an owner of a manufactured home living in a manufactured home rental community, is required to register the home and purchase a \$2.00 nonhighway license plate. Then the license plate must be posted in a conspicuous place on the home.

Historically it was necessary to register and tag mobile homes when they were smaller, pulled behind a automobile, and designed for a transient mode of living. Also at that time, registration was necessary to record the home on the personal property tax rolls. However today, modern manufactured homes are designed to be permanent housing and typically the home is only moved once from the sales center to the home site. Also today, manufactured homes are placed on the tax rolls when the home is titled.

In recent years the KMHA has been working to modernize laws that pertain to manufactured housing, so that our housing can attain its rightful position in the housing market. And, by repealing these statutes we are one step closer to that goal.

Additionally, while researching this proposal I did contact the Department of Motor Vehicles and the Kansas County Treasurers Association to see if there was a problem with this proposal and neither group could see one. Therefore, I respectfully request the introduction of a Committee Bill to achieve this goal. Thank you.

ATT. 2
T&U
2/2/89

31

**KANSAS HIGHWAY PATROL
LEGISLATIVE PROPOSAL
January 31, 1989**

The Kansas Highway Patrol respectfully requests that K. S. A. 8-1720 and 8-1725 be amended to read as follows:

K. S. A. 8-1720. (a) Every authorized emergency vehicle, in addition to any other equipment required by this act, shall be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two (2) alternately flashing red lights located at the same level and to the rear two (2) alternately flashing red lights located at the same level, or in lieu thereof, any such authorized emergency vehicle shall be equipped with at least one rotating or oscillating light, which shall be mounted as high as practicable on such vehicle and which shall display to the front and rear of such vehicle a flashing red light or alternate flashes of red and white lights in combination. All lights required or authorized by this subsection shall have sufficient intensity to be visible at five hundred (500) feet in normal sunlight. *Every authorized emergency vehicle may, but need not, be equipped with head lamps which alternately flash from high to low beam or simultaneously flash from high to low beam.*

(b) A police vehicle when used as an authorized emergency vehicle may, but need not, be equipped with *head lamps which alternately flash from high to low beam or simultaneously flash from high to low beam, or flashing red lights specified herein, but any flashing lights, including rotating or oscillating lights, used on a police vehicle, other than the flashing lights specified in K. S. A. 8-1722, or alternately flashing head lamps, or simultaneously flashing head lamps,* shall be red in color.

ATT. 3
T&U
2/2/89

K. S. A. 8-1725. When a motor vehicle is being operated on a highway or shoulder adjacent thereto during the times specified in K. S. A. 8-1703 and amendments thereto, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(a) When the driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in subsection (a) (2) of K. S. A. 8-1724 and amendments thereto or subsection (b) (2) of K. S. A. 8-1805 and amendments thereto shall be dimmed to avoid glare at all times, regardless of road contour or loading.

(b) When the driver of a vehicle approaches another vehicle from the rear, within 300 feet, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this article other than the uppermost distribution of light specified in subsection (a) (1) of K. S. A. 8-1724 and amendments thereto, or subsection (b) (1) of K. S. A. 8-1805 and amendments thereto.

(c) The requirements in paragraphs (a) and (b) do not apply to authorized emergency vehicles displaying alternately flashing or simultaneously flashing head lamps as provided in K. S. A. 8-1720.

STATEMENT
BY THE
KANSAS CORPORATION COMMISSION

Pertaining to the introduction of proposed amendments to K.S.A. 66-1,112c and K.S.A. 66-1,118 for consideration as committee bills.

Presented to the Senate Transportation and Utilities Committee, Senator Bill Morris, Chairman; Statehouse, Topeka, January 30, 1989.

Mr. Chairman and Members of the Committee:

My name is Al Maxwell. I am the Transportation Division Administrator for the Kansas Corporation Commission (KCC). I am here today representing the Commission to request this committee to consider as committee bills proposed changes to 2 existing statutes dealing with motor carriers.

I. Proposed amendments to K.S.A. 66-1,112c

First, the KCC proposes amendments to K.S.A. 66-1,112c. These amendments are viewed as technical "Clean-up" changes; existing laws would be enforced. As the statute currently reads there are a number of separate topics in K.S.A. 66-1,112c (d). These revisions would separate these topics from unrelated topics so they are more readable. The first paragraph of K.S.A. 66-1,112c (d) would remain the same. The first sentence of the second paragraph of K.S.A. 66-1,112c (d) would become K.S.A. 66-1,112c (e). The remaining part of K.S.A. 66-1,112c (d) would be moved and would become K.S.A. 66-1,112j. A bill draft (marked as Exhibit A) is attached for your review. Also, attached for your convenience is a copy of the existing statute (marked as Exhibit A-1). Passage of this legislation would have no fiscal implications with respect to Commission operations.

ATT. 4
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II. Proposed Amendment to K.S.A. 66-1,118

Second, the KCC proposes changes to K.S.A. 66-1,118 which would ease the requirements associated with transfer of motor carrier authority. The proposed legislation would allow for a transfer of authority upon demonstration that the applicant is "fit, willing and able" to carry out the service. This standard is consistent with other motor carrier statutes. A bill draft (marked as Exhibit B) is attached for your review. Also, attached for your convenience is a copy of the existing statute (marked Exhibit B-1). Passage of this legislation would have no fiscal implications with respect to Commission operations.

I have visited with members of the Kansas Motor Carriers Association staff concerning the proposed changes to these statutes. They are not opposed to such changes.

Again, the Commission requests that the committee favorably adopt both proposals as committee bills.

I'd like to thank you for the opportunity to appear before you.

If there are any questions, I would be happy to try to answer them.

K.S.A. 66-1,112c is hereby amended to read:

66-1,112c. Permit transferable, when; notice and hearing; abandonment, notice; revocation or suspension of permit certificate or interstate license, when; notice and hearing. No contract carrier permit issued under the authority of this act shall be construed, to be either a franchise or irrevocable, but if a permit shall have been regularly issued, and the holder thereof is complying with the applicable provisions of this act, the holder may transfer or assign such permit in the following instances, subject to the approval of the commission given after a hearing thereon has been held, and which hearing shall have been noticed in like manner as provided in K.S.A. 66-1,112b:

(a) Where an individual or partnership transfers to a corporation for the purpose of incorporating his own or the partnership's business, when the transferor or former members of the partnership are to be the owners of a majority of the stock of the corporation;

(b) where a partnership dissolves and all of the permit rights are transferred, either by an agreement, a will, or operation of law, to one or more of the partners or his legatees or heirs, or to a new partnership, of which one or more of the partners were members of the former partnership or heirs or legatees of a deceased partner;

(c) where an individual transfers permit rights to a partnership of which he is one of the partners;

(d) where the holder of a permit dies, such permit rights may be transferred to the surviving spouse, or decedent's children provided that application to transfer such permit shall be filed with the corporation commission within one (1) year from the date of death of the holder, and pending such transfer, said operating rights authorized by said permit may be operated by the surviving spouse, children or the personal representative of said holder.

(e) Every contract motor carrier of property or passengers who shall cease operation and abandon his rights under the permits issued shall notify the commission within thirty (30) days of such cessation or abandonment. The commission may at any time, upon showing of failure to comply with the provisions of the motor carrier law or other laws of the state relating to motor carriers, or failure to comply with the motor carrier rules and regulations of the commission, or the rules and regulations of the state property valuation department or the department of revenue relating to taxation of motor carriers, or of the port of entry board relating to motor carriers, suspend or completely revoke any permit, certificate or interstate license upon five (5) days' notice to the grantee thereof and an opportunity to be heard.

K.S.A. 66-1,1,112j is hereby added to the Kansas Statutes Annotated.

K.S.A. 66-1,112j. Failure by Motor Carriers to abide by laws; suspension, revocation of license; notice to licensee. The commission may at any time, upon showing of failure to comply with the provisions of the motor carrier law or other laws of the state relating to motor carriers, or failure to comply with the motor carrier rules and regulations of the commission, or the rules and regulations of the state property valuation department or the department of revenue relating to taxation of motor carriers, or of the port of entry board relating to motor carriers, suspend or completely revoke any permit, certificate or interstate license upon five (5) days' notice to the grantee thereof and an opportunity to be heard.

REGULATION OF MOTOR CARRIERS

66-1,112d

History: L. 1933, ch. 229, § 5; L. 1981, ch. 259, § 2; L. 1982, ch. 275, § 1; L. 1983, ch. 223, § 1; April 14.

Law Review and Bar Journal References:

"Practice and Procedure Before the State Corporation Commission," Fred B. Adam, 41 J.B.A.K. 199, 202 (1972).

"Motor Carrier Cases Before the State Corporation Commission," Larry E. Gregg, 48 J.B.A.K. 107, 111 (1979).

CASE ANNOTATIONS

1. Railroad desiring to transact common motor carrier business must obtain certificate of necessity and convenience; "purpose of this act" discussed. *Baldwin v. State Corporation Comm.*, 143 K. 580, 585, 587, 56 P.2d 453.

2. Mentioned; restricted permit violated by private carrier; insurer not relieved of liability. *Briggs v. Burk*, 172 K. 375, 378, 239 P.2d 981.

3. Procedure and standards prescribed as prerequisites to granting contract carrier permits stated and applied; commission's findings upheld; permits properly granted. *Class I Rail Carriers v. State Corporation Commission*, 191 K. 201, 204, 206, 207, 209, 380 P.2d 396.

4. Burden is upon applicant for contract carrier permit to prove that unfair competition is not present. *Darnell Truck Service v. State Corporation Commission*, 194 K. 96, 101, 397 P.2d 385.

5. Allegations that statutes could not be applied to plaintiffs' business did not justify convening three-judge court; question of fact. *Bartlett & Co., Grain v. State Corp. Com'n of Kansas*, 223 F.Supp. 975, 977, 978, 981.

66-1,112c. Permit transferable, when; notice and hearing; abandonment, notice; revocation or suspension of permit certificate or interstate license, when; notice and hearing. No contract carrier permit issued under the authority of this act shall be construed to be either a franchise or irrevocable, but if a permit shall have been regularly issued, and the holder thereof is complying with the applicable provisions of this act, the holder may transfer or assign such permit in the following instances, subject to the approval of the commission given after a hearing thereon has been held, and which hearing shall have been noticed in like manner as provided in K.S.A. 66-1,112b:

(a) Where an individual or partnership transfers to a corporation for the purpose of incorporating his own or the partnership's business, when the transferor or former members of the partnership are to be the owners of a majority of the stock of the corporation;

(b) where a partnership dissolves and all of the permit rights are transferred, either by an agreement, a will, or operation of law,

to one or more of the partners or his legatees or heirs, or to a new partnership, of which one or more of the partners were members of the former partnership or heirs or legatees of a deceased partner;

(c) where an individual transfers permit rights to a partnership of which he is one of the partners;

(d) where the holder of a permit dies, such permit rights may be transferred to the surviving spouse, or decedent's children provided that application to transfer such permit shall be filed with the corporation commission within one (1) year from the date of death of the holder, and pending such transfer, said operating rights authorized by said permit may be operated by the surviving spouse, children or the personal representative of said holder.

Every contract motor carrier of property or passengers who shall cease operation and abandon his rights under the permits issued shall notify the commission within thirty (30) days of such cessation or abandonment. The commission may at any time, upon showing of failure to comply with the provisions of the motor carrier law or other laws of the state relating to motor carriers, or failure to comply with the motor carrier rules and regulations of the commission, or the rules and regulations of the state property valuation department or the department of revenue relating to taxation of motor carriers, or of the port of entry board relating to motor carriers, suspend or completely revoke any permit, certificate or interstate license upon five (5) days' notice to the grantee thereof and an opportunity to be heard.

History: L. 1933, ch. 229, § 6; L. 1949, ch. 336, § 1; L. 1959, ch. 258, § 4; L. 1967, ch. 350, § 1; July 1.

Law Review and Bar Journal References:

"Motor Carrier Cases Before the State Corporation Commission," Larry E. Gregg, 48 J.B.A.K. 107, 109 (1979).

CASE ANNOTATIONS

1. Procedure and standards prescribed as prerequisites to granting contract carrier permits stated and applied; commission's findings upheld; permits properly granted. *Class I Rail Carriers v. State Corporation Commission*, 191 K. 201, 205, 206, 380 P.2d 396.

66-1,112d. Declaration of public interest. It is hereby declared that the business of contract motor carriers is affected with the public interest, and that the safety

K.S.A. 66-1,118 is hereby amended to read:

Assignment or transfer of certificate; approval of commission; application; notice and hearing; findings; merger of authorities.

(a) A certificate of public convenience and necessity issued under the provisions of the motor carrier act or any portion of the authority conferred thereby may be assigned or transferred, but not without the consent of the commission. Applications for transfer of any certificate of public convenience and necessity or any portion of the authority conferred thereby shall be filed jointly by the assignor and the assignee, and shall be subject to the same provisions as to public hearings and notices as the original application for certificates of public convenience and necessity, and the commission may issue the transfer, as prayed for, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted such terms and conditions as in its judgment the public convenience and necessity may require. Approval of the proposed transportation, either in whole or in part, ~~may~~ shall be given after notice and hearing only upon finding by the commission that ~~such transportation will be consistent with the public interest and will not unduly restrict competition, and that the applicant is fit, willing, and able to properly perform the proposed service~~ the applicant is fit, willing and able to perform such service, except that if the commission finds that evidence shows that the proposed service is inconsistent with the public convenience and necessity, the commission shall not approve the transfer.

(b) On and after January 1, 1960, no person shall be permitted to hold a certificate as a common carrier of property if he is also the holder of a permit as a contract carrier which authorizes the transportation of any of the same kind of property wholly or partially over the same route, or within any of the same territory as is authorized by said common carrier certificate. If, as a result of a transfer proceeding, a common carrier is granted additional authority, the two authorities shall be merged, and a single authority only reissued, unless the commission finds that such merger is contrary to public convenience and necessity. If, prior to the effective date of this act a common carrier has acquired additional rights as a result of a transfer of authority, the commission may require such carrier, after reasonable notice and hearing unless waived by the carrier, to consolidate his operations, and thereafter the authorities shall be merged and a single certificate of authority issued to said carrier.

REGULATION OF MOTOR CARRIERS

66-1,118

History: L. 1959, ch. 258, § 7; Jan. 1, 1960.

Research and Practice Aids:

"Practice and Procedure Before the State Corporation Commission," Fred B. Adam, 41 J.B.A.K. 199, 201 (1972).

66-1,116. Public motor carriers operating as common carriers of interstate commerce must furnish certain information. It shall be unlawful for a public motor carrier of property or of passengers, a contract motor carrier of property or of passengers, or a private motor carrier of property, to operate in interstate commerce within this state, without having furnished the corporation commission, in writing, full information concerning:

(a) The ownership, financial condition and equipment to be used and the physical property of the applicant;

(b) the complete route over which the applicant desires to operate;

(c) the proposed rates, schedule or schedules, and/or timecards of the carrier;

(d) such other information as the commission may request covering observance of state police regulations and the payments of the fees for the use of the highways, and upon receipt of such information and the payments of fees the commission may issue such interstate carrier a license: *Provided*, That this act shall apply to all persons and motor vehicles engaged in interstate commerce only to the extent permitted by the constitution and laws of the United States.

History: L. 1931, ch. 236, § 9; L. 1933, ch. 229, § 11; July 1.

Law Review and Bar Journal References:

"Motor Carrier Cases Before the State Corporation Commission," Larry E. Gregg, 48 J.B.A.K. 107, 108 (1979).

CASE ANNOTATIONS

1. Evidence defendant in damage action was contract carrier held properly admitted. *Sponable v. Thomas*, 139 K. 710, 715, 33 P.2d 721.

2. Nonliability of insurer of interstate carrier licensed and insured hereunder discussed. *Harrison v. Travelers Mutual Cas. Co.*, 156 K. 492, 494, 134 P.2d 681.

3. Orders of administrative agencies to be reasonable must be supported by substantial evidence. *Darnell Truck Service v. State Corporation Commission*, 194 K. 96, 97, 397 P.2d 385.

4. Mentioned; summary judgment not available to interpret certificate of convenience and necessity. *Pelican Transfer & Storage v. State Corporation Commission*, 195 K. 76, 79, 402 P.2d 762.

5. Allegations that statutes could not be applied to plaintiffs' business did not justify convening three-

judge court: question of fact. *Bartlett & Co., Grain v. State Corp. Com'n of Kansas*, 223 F.Supp. 975, 977, 978, 981.

6. A certificate, prior to commission approval of transfer, constitutes at least a contingent liability and is subject to garnishment. *Kirby v. United States*, 329 F.2d 735, 737.

66-1,117. Forms of application; hearings before attorney for commission. The corporation commission shall prescribe forms of applications for certificates, permits, and licenses for the use of prospective applicants and shall make regulations for the filing thereof. The commission may designate one of its attorneys to take evidence at the hearing of any application for a certificate of license and submit findings of fact to the commission.

History: L. 1931, ch. 236, § 10; L. 1959, ch. 258, § 8; Jan. 1, 1960.

Source or prior law:

66-199.

66-1,118. Assignment or transfer of certificate; approval of commission; application; notice and hearing; findings; merger of authorities. (a) A certificate of public convenience and necessity issued under the provisions of the motor carrier act or any portion of the authority conferred thereby may be assigned or transferred, but not without the consent of the commission. Applications for transfer of any certificate of public convenience and necessity or any portion of the authority conferred thereby shall be filed jointly by the assignor and the assignee, and shall be subject to the same provisions as to public hearings and notices as the original applications for certificates of public convenience and necessity, and the commission may issue the transfer, as prayed for, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted such terms and conditions as in its judgment the public convenience and necessity may require. Approval of the proposed transportation, either in whole or in part, may be given after notice and hearing only upon finding by the commission that such transportation will be consistent with the public interest and will not unduly restrict competition, and that the applicant is fit, willing, and able to properly perform the proposed service.

(b) On and after January 1, 1960, no person shall be permitted to hold a certifi-

cate as a common carrier of property if he is also the holder of a permit as a contract carrier which authorizes the transportation of any of the same kind of property wholly or partially over the same route, or within any of the same territory as is authorized by said common carrier certificate. If, as a result of a transfer proceeding, a common carrier is granted additional authority, the two authorities shall be merged, and a single authority only reissued, unless the commission finds that such merger is contrary to public convenience and necessity. If, prior to the effective date of this act a common carrier has acquired additional rights as a result of a transfer of authority, the commission may require such carrier, after reasonable notice and hearing unless waived by the carrier, to consolidate his operations, and thereafter the authorities shall be merged and a single certificate of authority issued to said carrier.

History: L. 1931, ch. 236, § 11; L. 1933, ch. 229, § 12; L. 1959, ch. 258, § 9; Jan. 1, 1960.

Source or prior law:
66-199.

Research and Practice Aids:

Application to transfer certificate of convenience. Vernon's Kansas Forms § 8707.

Law Review and Bar Journal References:

"Motor Carrier Cases Before the State Corporation Commission." Larry E. Gregg, 48 J.B.A.K. 107, 111 (1979).

CASE ANNOTATIONS

1. Orders of administrative agencies to be reasonable must be supported by substantial evidence. Darnell Truck Service v. State Corporation Commission, 194 K. 96, 97, 397 P.2d 385.

2. Mentioned: summary judgment not available to interpret certificate of convenience and necessity. Pelican Transfer & Storage v. State Corporation Commission, 195 K. 76, 79, 402 P.2d 762.

3. Allegations that statutes could not be applied to plaintiffs' business did not justify convening three-judge court: question of fact. Bartlett & Co., Grain v. State Corp. Com'n of Kansas, 223 F. Supp. 975, 977, 978, 981.

4. A certificate, prior to commission approval of transfer, constitutes at least a contingent liability and is subject to garnishment. Kirby v. United States, 329 F.2d 735, 737.

66-1,119. Change; abandonment or discontinuance of service; consent of commission; hearing when. No public motor carrier authorized by this act to operate shall change, abandon or discontinue any service established by this act or operations under any certificate of convenience and

necessity without consent of the commission after written application, notice and hearing: *Provided*, That no hearing shall be required if such abandonment is made in accordance with the provisions of K.S.A. 66-1115a.

History: L. 1931, ch. 236, § 12; L. 1941, ch. 300, § 1; L. 1957, ch. 348, § 1; L. 1959, ch. 258, § 10; Jan. 1, 1960.

Source or prior law:
66-1,109.

Law Review and Bar Journal References:

"Motor Carrier Cases Before the State Corporation Commission." Larry E. Gregg, 48 J.B.A.K. 107, 109 (1979).

CASE ANNOTATIONS

1. Mentioned in determining summary judgment not available to interpret certificate of convenience and necessity. Pelican Transfer & Storage v. State Corporation Commission, 195 K. 76, 79, 402 P.2d 762.

66-1,119a. Lease or assignment of territory, operating rights and authority prohibited; pooling agreement; action by commission; procedure. No public motor carrier authorized under the provisions of the motor carrier act to operate shall by contract, lease, agreement or any other means made with any person, partnership, association or corporation, lease or assign any authority or operating rights to perform any transportation service or operations authorized or assign any territory granted by any certificate of convenience and necessity issued to such motor carrier. When the interstate commerce commission has issued an order approving and authorizing a pooling agreement between two or more motor carriers covering points and places in this state, nothing herein shall be construed as prohibiting, invalidating or otherwise affecting any agreement between such motor carriers insofar as it relates to service or operations between the same points and places in intrastate commerce within this state. Any such order shall be filed with the corporation commission, and such agreement shall not be effective unless the commission finds, after notice and hearing, that the proposed service or any part thereof is proposed to be performed by the applicants and that the applicants are fit, willing and able to perform such service, the commission shall approve such agreement, except that if the commission finds that evidence shows that the proposed service is inconsistent with the public convenience and