

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 February 21, 1989 in room 254-E of the Capitol.

Members present:

Senators Morris, Francisco, Hayden, F. Kerr, Martin, Rock, Sallee and Vidricksen.

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:

Mark Burghart, Department of Revenue
John Smith, Department of Revenue
Terry Stephens, Topeka Metropolitan Transit Authority
Joe Stickles, Amalgamated Transit Union, Local No. 1360, Topeka
Gene Johnson, Kansas Community Alcohol Safety Action Project Co-ordinators

Hearing on S.B. 250 - Kansas uniform commercial drivers' license act.

The Chairman said this was one of the most important bills the committee would be working this year. It has been around for several years and we have kept putting it off. The problem needs to be addressed and it should be passed in the best form possible to meet the federal requirements. It affects a lot of people.

Mark Burghart, Department of Revenue, showed a video on the subject which gave the reasons for this Act. He said it would remove unsafe and unqualified drivers from the nation's highways by making it illegal for commercial drivers to have more than one license by establishing standards for testing and issuance of licenses. The state would lose federal funding if this legislation is not implemented. A copy of his statement is attached. (Attachment 1).

Mr. Burghart also had a comparison chart which compared the Kansas Commercial Driver's License Act (CDL) to existing Kansas law. (Attachment 2). Also distributed were:

A copy of the Federal Register, Vol. 52, No. 238, dated 12/1/87 pertaining to testing and driving skills. (Attachment 3).

Questions and answers for Senate hearing. (Attachment 4).

Proposed modifications to S.B. 250. (Attachment 5).

Mr. Burghart said these licenses must be issued no later than April 1, 1992 but there is a phase-in time for testing and it is necessary to get appropriations for driver licensing stations and to make changes in the computer systems.

John Smith, Department of Revenue, has been working exclusively on this bill and answered questions from the committee. They were concerned about farm drivers and the effect this would have on them. They wanted to know how it would affect farmers in the areas where Kansas borders other states. They asked about tractor-trailer combinations and also about driving hazardous materials for farming.

Terry Stephens, Topeka Metropolitan Transit, said they were in favor of the guidelines laid down by the federal government but they had noted some inconsistencies which they were concerned about. A copy of her statement is attached. (Attachment 6).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:02 a.m./~~p.m.~~ on February 21, 1989.

Joe Stickles, Amalgamated Transit Union, Topeka, said he felt bus drivers were being discriminated against and had several problems with S.B. 250. A copy of his statement is attached. (Attachment 7).

Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators, said they support this bill but they feel the 45 day temporary permit should be changed to 15 days.

A motion was made by Sen. Hayden to approve the Minutes of February 14, 15 and 16. Motion was seconded by Sen. Sallee. Motion carried.

Meeting was adjourned at 10:00 and would continue on S.B. 250 the next day.

GUEST LIST

COMMITTEE: SENATE TRANSPORTATION & UTILITIES COMM.

DATE: 2-21-89.

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
TERRY STEPHENS	201 N. KANSAS	TOPEKA TRANSIT
John W. Smith	Topeka	K. D. A. R.
Hone Johnson	Topeka	Ks. A. S. & P. Comm
MARK BURGHAET	"	REVENUE
Cindy Kelly	"	KASB
TOM SKINNER	Topeka	DMV
DON L. GARNER	1165 Medford Topeka	ATU 1360
TOM GREENE	2430 NE 39TH	TOPEKA MTA
JOE STICKLES	530 FOREST	A.T.U. #1360
ED DE SOIGNIE	TOPEKA	KS CONTRACTORS ASSOC
SANDRA DEXTER	TOPEKA	KS DEPT OF REV.
Paul E. Fleener	Manhattan	Kansas Farm Bureau
Tom Whitaker	Topeka	Ks Motor Councils Assn
MIKE BEAM	"	Ks. LUSTK. ASSN
Lt. BILL JACOBS	TOPEKA	KMP
DEAN TRIMMELL	Council Grove	Ks Motor Car Dealers
Sherril Holdway	Budget Topeka	Budget
2007 Rebecca Rice	Topeka	Amoco
Connie McShinniss	Topeka	Ks Elect. Coop.
Al Maxwell	Topeka	KCC
Phil Holden	Topeka	KTA
Woody Woodman	KC Mo	KCP&L

MEMORANDUM

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

FROM: Mark A. Burghart
General Counsel

DATE: February 21, 1989

SUBJECT: Senate Bill 250, As Introduced

I appreciate the opportunity to appear before you today in support of the legislation requested by the Department of Revenue. 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)

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vehicle classification and licensing criteria equivalent to that established by Department of Transportation; and (3) a 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.

FEDERAL LAW-CMVSA OF 1986	KANSAS CDL	EXISTING KANSAS LAW	BENEFITS
1. Applies to drivers of commercial vehicles: Defines as a motor vehicle a vehicle with a gross weight of 26,001 pounds or more, or designed to carry 16 or more persons including the driver, or which carries specified hazardous materials.	16 persons, not 15; Sec. 4(g)	24,000 lbs. and 15 or fewer passengers K.S.A. 8-234b	Standardizes definition of commercial vehicle nationwide for identifying driver population.
2. No more than one driver license allowed.	Same; Sec. 5	Not specifically CDL. K.S.A. 8-235 allows military personnel to have more than one license. We are proposing that this also be changed to coincide with the CDL	Enhances traffic safety by making it more difficult for commercial drivers to avoid license suspension/ revocation actions by spreading violations over multiple licenses.
3. Requires drivers to report specified convictions and license actions to both employer and licensing state. Requires drivers to report 10 year history to prospective employers.	Same; Sec. 6	-----	Attempts to enhance traffic safety by establishing timely reporting to employers. Enhances screening by employers to minimize use of un-qualified or negligent drivers.
4. Employer shall not allow a driver to drive unless applicant has only one license and is not suspended, revoked, cancelled or disqualified.	Same; Sec. 7	Can't hire or permit to drive unless driver holds the appropriate license class. K.S.A. 8-265.	Enhances traffic safety by making employers more responsible for assuring only qualified, currently licensed drivers are employed.
5. Requires written and driver tests which meet minimum standards.	Same; Sec. 9	Requires written, driving, and vision tests as specified in K.S.A. 8-240.	Creates nationwide minimum knowledge and drive test standards. Improve performance of interstate driver.
6. Special license endorsement to drive a vehicle with air brakes, or a double/ triple trailer, articulated bus, cargo tanker, or a vehicle carrying hazardous materials.	Same; Sec. 12	Rules & regulations for safe operation to be established by the Secretary as set out in K.S.A. 8-234b(d)	Enhances traffic safety by creating uniform national minimum standards for unique skill/or knowledge areas.

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7. Medical examination and certificate, required within 2 years, required or driver disqualified.	-----	The ICC requires this	Ensures drivers meet minimum medical standards.
8. Driving tests may be conducted by third-party if monitoring is provided.	Same; Sec. 9	Allowed, but monitoring not specified. K.S.A. 8-234b(f).	Permits qualified employers to test own drivers and establishes monitoring system to ensure quality.
9. Commercial license must contain true full name and social security number.	Social security number &/or identifying number deemed appropriate by state licensing authority. Sec. 12(a)	Name required. Use of distinguishing number, we don't use social security number. K.S.A. 8-243	SSN provides standard identifier for all states and unique number for Commercial Driver License Information System (CDLIS).
10. Establishes disqualification sanctions for drunk driving, hit and run, serious traffic convictions, and specified felonies in commercial vehicles.	Same: Sec. 14 and 19	Not specifically commercial drivers. K.S.A. 8-254: mandatory revocation and 8-255 suspension of license.	Standardizes license withdrawal reasons and procedures nationwide. Recognizes potential loss when violations occur in large vehicles.
11. Requires inquiry to central clearinghouse and to the National Driver Register before issuance of license and update to central clearinghouse after issuance.	Same; Sec. 12(c) and (d)	-----	Ensures check of National Driver Register (problem drivers) and CDLIS (to ensure only one license is issued) and reduces possibility of issuance to disqualified drivers.
12. Regulations require that violations occurring in commercial vehicles be so designated.	Same; Sec. 19(h)	Only require vehicle and license number identification	Enables applications of specific sanctions for commercial vehicle drivers for violations in commercial vehicles as opposed to other sanction programs
13. Regulations require minimum age 21 to drive interstate.	-----	18 in Kansas; ICC requires 21 for interstate	Standardizes minimum age requirement for interstate commercial drivers.
14. Regulations establish classification system based on weight, number of passengers, or load.	Same; Sec. 12	Same type of class system, but lower weight and passenger limits.	Standardizes driver license classification system nationwide.

15. Regulations authorize fee to cover program costs, but amount not specified.	Same; Sec. 11	Fees set according to class license you receive. K.S.A. 8-240	Fees to help set off cost of testing and issuance of license.
<p>16. Model law authorizes exemptions for the following vehicles and/or operator</p> <ol style="list-style-type: none"> 1. Farm Vehicles; defined as: <ol style="list-style-type: none"> a. controlled and operated by a farmer, b. used to transport either agricultural products, farm machinery, farm supplies or both to or from a farm, c. not used in the operations of a common or contract motor carrier, and d. used within 150 miles of the person's farm; 2. Fire fighters and Operators of Emergency Equipment; 3. Military Vehicles, when operated by military personnel in pursuit of military purposes and all non-civilian operators of equipment owned or operated by the Department of Defense. This 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; and 4. Motor vehicles, which would otherwise be considered commercial motor vehicles, if such vehicles are used solely and exclusively for private nonbusiness use and any operator of such vehicles. 	Same; Sec. 3		Enables person's/vehicles who are not commercial in nature to be exempt from the requirements of CDL licensing.

after FHWA determines that their countries or political subdivisions do not test and license consistent with the standard.

A CDC would not be valid as a stand alone document. The CDC would be issued under the same requirements as a CDL and would only be valid in combination with a valid license issued by the drivers' State of domicile or country of residence. The CDC would only be issued after the driver takes and passes tests which meet the Federal standard.

Drivers with these certificates would continue to notify their State of licensure or country of domicile of any violation as described in § 383.31 and of any suspensions, revocations, and cancellations as specified in § 383.33. In addition to notifying the State of licensure, the FHWA proposes that drivers with these certificates would notify the State which issued the CDC of any violation or license suspension, cancellation, or revocations as described in §§ 383.31 and 383.33. This action would ensure that each CMV operator has a driver's record consistent with the goals of the Act in both States. Also, it would ensure that appropriate information about the driver is included in the CDLIS and would ensure that these records can be appropriately monitored by States

CDL Revocation—This paragraph proposes minimum revocation requirements for persons who falsify the information or certification required to be provided by CDL applicants. If a State determines that a person falsified the information, the State would revoke the license within 30 days.

Reciprocity—Section 12009(a)(14) of the Act requires that States allow any person who has a valid CDL and who is not disqualified from operating a CMV, to operate a CMV in the State. The FHWA proposes to include this requirement in § 383.73 as a condition for States to issue a CDL which meets the standards.

Section 383.75 Third party testing.

Section 12005(c)(3) of the Act allows for third parties to administer driving tests. The FHWA proposes that States may use a third party to administer driving skills tests. According to the Act, a third party may be a person (including a department, agency, or instrumentality of a local government). The FHWA proposal would allow a broad interpretation of this provision to include another State or public or private organizations with which the State has an agreement. Because of concerns that third party testers may compromise standards adopted by the

States, agreements between States and third parties would need to include the provisions required by the Act as well as additional provisions that would establish mechanisms to ensure that people who pass the tests given by third parties would have passed tests had they taken them from the State. Under the FHWA proposal, third parties may give driving tests if the following conditions are met:

(a) Tests given by the third party are the same as those which the State would give;

(b) The State's agreement with the testing party allows the FHWA or its representative and the State to conduct random examinations, inspections, and audits without prior notice;

(c) The State agrees to conduct on-site inspections at least annually;

(d) All third party examiners meet the same qualification and training standards as State examiners; and

(e) State employees periodically "check-ride" with examiners on actual tests, or States periodically test a sample of drivers who were examined by third parties to compare pass/fail results.

Section 383.77 Substitute for driving skills test.

The FHWA recognizes that CMV drivers are professionals who are, as a group, highly experienced in the skills needed to operate such vehicles. In response to the overwhelming number of comments from the States and the motor carrier industry in this regard, the FHWA proposal provides States an option to allow certain drivers to substitute a good driving record and experience for the driving skills test. States would be able to exercise this option only for the basic skills tests. The provision would not be used for the knowledge tests or the tests related to the proposed endorsements, except for the driving skills test required for the air brake endorsement. The option would apply to drivers of commercial motor vehicles who were licensed before July 15, 1988, and who either (1) have a good driving record and have previously passed an acceptable skills test or (2) have a good driving record in combination with certain driving experience. The FHWA believes that for many current drivers, their experience is an appropriate indication that the individual has the minimum driving skills to operate a commercial motor vehicle. Accordingly, the FHWA believes that this provision would not diminish public safety or overall safe operation of commercial vehicles.

A State which chooses to exercise this option would have to adopt criteria to

eliminate certain applicants from consideration under this provision. As a minimum, an applicant must be licensed before July 15, 1988, and must:

(1) Certify that he/she has not committed certain offenses; and

(2) Certify that he/she has previously passed an acceptable skills test or has certain experience driving a commercial motor vehicle.

The FHWA looked at the practices used by several States to determine whether applicants who are transferring their licenses from another State need to take driving tests. Based on these current practices, the FHWA proposes that an applicant would first have to certify that he/she has not violated the single license or disqualification provisions in Part 383. In addition, an applicant could not have a violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident or a record of an accident where he/she was at fault, during the 2 years immediately preceding application for a CDL. Second, the applicant would have passed an acceptable skills test—i.e., one which was given by a State with a classified licensing and testing system, and which was taken by the driver behind-the-wheel in a vehicle representative of the type or classification which the applicant operates or expects to operate. In lieu of an acceptable skills test, the applicant may qualify for an exception to the driving skills test that is based on prior experience. In this case, an applicant would be required to have 2 years experience of driving a vehicle that is representative of the type or class of vehicle for which he/she wishes to obtain a CDL. A State would need to ensure that the applicant has this experience through mechanisms such as requiring the employer to provide certification.

Question Area: Licensing Procedures

Comments are specifically requested on:

(1) What proof of domicile, if any, school an applicant be required to provide to the State for initial licensing renewals, upgrades, and transfers? Should applicants be required to provide a specific mailing address rather than a post office box?

(2) The FHWA has proposed that States continue their existing learner's permit programs for CMV drivers. Should there be any Federal standard for learner's permits? What time period, if any, should be included if such a standard were adopted?

QUESTIONS AND ANSWERS FOR SENATE HEARING

-What are the costs of the licenses?

The basic license is \$12 and then \$10. for each endorsement that the driver obtains, excepting the airbrake restriction which there will be no charge for.

-Who is waived from the act?

To be waived from the skills portion of the exam, the applicant must meet the qualifications set out in Section 9, page 8 of S.B. 250. There will be no waivers of the knowledge or endorsement portions of the exam.

-What does the exam consist of?

There is a basic knowledge exam consisting of a minimum of 50 questions. Then an applicant must take written endorsement exams consisting of 20 questions each except the air brake is 25 and the hazardous material endorsement is 30 questions. Upon passage of the knowledge portion, 80% or better, and vision exam, the applicant is given a pretrip skills test. This consists the applicant explaining, not necessarily showing the examiner those things needed to be done prior to a trip. At a minimum the front, back and one side of the vehicle must be inspected, the coupling systems, engine compartment and start up and brakes. This is a test of the applicants knowledge of these areas. Then there is the basic control skills test which may be done in conjunction with the road test or prior to. It should include four basic maneuvers, i.e. forward drive stop, straight backing, alley dock, and right turn. Finally, there is the road test.

-How long should the exam take?

This depends on the number of endorsements the applicant has applied for. You can figure 2/3 of a minute for each question. For example, the 50 question basic knowledge portion would take 33 minutes. The skills portion will take on the average one to two hours with 15-20 minutes for the pretrip, 15-20 minutes for the control test, and 30-45 minutes for the road test.

-Who is exempt from the statute?

This is outlined in Sec. 3 of the bill on pages 1 and 2. Basically it includes, farm vehicles, emergency and fire equipment, military vehicles, and those CMV's used only for nonbusiness purposes, e.g. recreational vehicles.

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-When will we lose our highway funds?

All of those persons' in Kansas desiring to obtain a CDL must be licensed no later than April 1, 1992. The highway funds will not be taken away until 1993, though.

-Will CDL's be issued at all driver licensing stations?

No, we are proposing that seven stations be utilized for CDL's. Stations in Garden City, Hays, Chanute and Salina will have to be moved to larger facilities. New stations would be acquired in Topeka, Kansas City and Wichita.

-Are any states currently issuing CDL's?

Yes, California began issuing CDL's in January of this year. With our proposed implementation date of January 1, 1991, Kansas would be one of the last eight states to implement their programs. 19 states will be issuing CDL's by the end of 1990 and an additional 18 by the middle of 1991.

-What is taking Kansas so long?

Mainly the changes that need to be made to our computer system. Under the program, each applicant must be checked through the AAMVANet, CDLIS and NDR computer systems. These systems connect all fifty states. We now have three persons working part-time on this project, while other states have as many as 10 full-time persons on the project. We are looking into contracting out our computer design and reworking. This alone will take over nine months due to the fact that we will have to take bids, etc. In addition to these computer changes we must find facilities for seven driver licensing stations, set them up, employ and train an additional 25 employees, and put into motion Kansas' public information campaign.

We are looking into the possibility of issuing the licenses prior to the computer systems being ready to go. We must obtain approval from AAMVA and FHWA.

-What are the pass/fail rate outlooks?

In California there is approximately a 35% failure rate on the written portions of the exam, with higher percentages in tank, hazardous materials, and double-triple trailer endorsements. As to the skills portions of the exam there is a total 57% failure rate being distributed as 32% in the pretrip, 14% in the skills, and 11% in the road test.

-Why are we using 15 m.p.h. as excessive speeding, instead of 10 m.p.h.?

This is defined as a serious traffic offense. If the driver receives two convictions within a three year period his CDL is suspended for a period of 60 days, if he receives three or more within a three year period he is suspended for a period of 120 days.

-Will hardship licenses be issued?

No, the Feds do not recommend it. The reason for this legislation is to implement stricter penalties on those person who drive commercial motor vehicles. By allowing them hardship licenses we are defeating our purpose.

PROPOSED MODIFICATIONS TO SENATE BILL 250

-Delete the definition of "commerce", Sec. 4(c) because we do not utilize it within the definition of commercial motor vehicle.

-Sec. 9(a) Add subpart F to the reference of CFR 383.

-Sec. 10(f) the word "to" added in the second to the last line, "... and pass a written test and "to" retain..." .

-Sec. 20(a)(5), put back in the following language, "except that class B does not include buses (other than school buses, church buses and day care program buses) designed for carrying ~~16~~ 15 or fewer passengers".

-Sec. 21(d) add the following language at the end of (1) or classes *provided the person's driving privileges are not currently suspended, revoked, or cancelled;*

-Sec. 22, line 69, "Such examination shall be held in the county where the applicant resides, *unless the applicant is applying for a commercial driver license, then to a designated commercial driver license exam station, ...*

-Sec. 38(b)(1), line 98. "...the ~~court~~ *division* shall restrict the..."

-Addition of K.S.A. 8-1018 as follows: On and after January 1, 1991, K.S.A. 8-1018 shall read as follows. K.S.A. 8-1018. A test refusal or failure shall ~~not~~ be a part of the public record ~~and~~ *but* shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy or whether to cancel any such policy under the provisions of subsection (7)(c) of K.S.A. 40-277 and amendments thereto.

-Sec. 31. Delete the new language at lines 483, 484, and 485 and place it beginning at line 457, as follows:...become final, *except, driving privileges are to be automatically revoked if the violation which leads to the subsequent conviction occurs in a commercial motor vehicle, as defined in section 4 of this act:*

-Add K.S.A. 74-2012 as follows: *On and after January 1, 1991, K.S.A. 74-2012 shall read as follows. K.S.A. 74-2012. Division of vehicles, records; disclosure; fees. (a) All records of the division of vehicles*

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relating to the physical or mental condition of any person or to expungement shall be confidential. Records of the division relating to diversion agreements for the purposes of K.S.A. 8-1567, 12-4415 and 22-2908, and amendments thereto, shall be confidential and shall be disclosed by direct computer access only to: (1) A city, county or district attorney, for the purpose of determining a person's eligibility for diversion; (2) a municipal or district court, for the purpose of using the record in connection with any matter before the court; ~~or~~ (3) a law enforcement agency, for the purpose of supplying the record to a person authorized to obtain it under (1) or (2) *or an employer when a person is required to retain a commercial driver license due to the nature of their employment.*

All other records of the division of vehicles shall be subject to the provisions of the open records act except as otherwise provided by this section.

(b) Lists of persons' names and addresses contained in or derived from records of the division of vehicles shall not be sold, given or received for the purposes prohibited by K.S.A. 1984 Supp. 21-3914 and amendments thereto except that:

(1) The director of vehicles may provide to a requesting party, and a requesting party may receive, such a list and accompanying information from public records of the division upon written certification that the requesting party shall use the list solely for the purpose of (A) assisting manufacturers of motor vehicles in compiling statistical reports or in notifying owners of vehicles believed to (i) have safety-related defects, (ii) fail to comply with emission standards or (iii) have any defect to be remedied at the expense of the manufacturer; or (B) assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for; or renewal or cancellation of, a motor vehicle liability insurance policy.

(2) Any law enforcement agency of this state which has access to public records of the division may furnish to a requesting party, and a requesting party may receive, such a list and accompanying information from such records upon written certification that the requesting party shall use the list solely for the purpose of assisting an insurer authorized to do business in this state or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy.

(c) If a law enforcement agency of this state furnishes information to a requesting party pursuant to subsection (b)(2), the law enforcement agency shall charge the fee prescribed by the secretary of revenue and approved by the director of accounts and

reports pursuant to subsection (c)(5) of K.S.A. 1984 Supp. 45-219 and amendments thereto for any copies furnished and may charge additional fee to be retained by the law enforcement agency to cover its cost of providing such copies. The fee prescribed pursuant to subsection (c)(5) of K.S.A. 1984 Supp. 45-219 and amendments thereto shall be paid monthly to the secretary of revenue.

(d) The secretary of revenue, the secretary's agents or employees, the director of vehicles or the director's agents or employees shall not be liable for damages caused by any negligent or wrongful act or omission of a law enforcement agency in furnishing any information obtained from records of the division of vehicles.

(e) A fee in an amount fixed by the secretary of revenue and approved by the director of accounts and reports pursuant to subsection (c)(5) of K.S.A. 1984 Supp. 45-219 and amendments thereto, for each request for information in the public records of the division concerning any vehicle or licensed driver shall be charged by the division, except that the director may charge a lesser fee pursuant to the contract between the secretary of revenue and any person to whom the director is authorized to furnish information under subsection (b), and such fee shall not be less than the cost of production or reproduction of any information requested.

(f) The secretary of revenue may adopt such rules and regulations as are necessary to implement the provisions of this section.

Testimony of Terry Stephens,
Legal Intern for TOPEKA METROPOLITAN TRANSIT AUTHORITY
before Senate Transportation Committee
Regarding SB 250, Kansas Commercial Drivers' License Act

I would like to begin by stating that Topeka Transit is fully in favor of the guidelines laid down by the federal government regarding standard requirements for commercial drivers' licenses. We also appreciate the care with which the Kansas department of motor vehicles has put together act before us. However, as an entity which will be directly affected by the act, we would like to voice concerns in the following areas:

- 1) Beginning with page 3, line 108, the definition of "drive" is not limited to driving of commercial vehicles, but "driver" in the paragraph below includes only a person driving a commercial vehicle. These two seem inconsistent.
- 2) The definition of "out of service order" on the bottom of page 4 and top of 5 applies when a driver is operating a commercial vehicle or other motor vehicle. This is the first example of inconsistencies in the act regarding the stricter alcohol concentration level to be applied to commercial drivers.
- 3) On page 8 is the list of requirements which a driver currently holding a commercial license must meet in order to be "grandfathered" in without having to take the skills test called for in the act.

The first requirement is that the applicant be currently employed or have a position pending which will require the operation of a commercial vehicle. If a person has the required skill, whether or not that person is currently employed as a commercial driver seems irrelevant. Item (C) on line 301 requires that the driver have two years experience immediately preceding the application. This seems unduly stringent. For example, it means that a driver who was laid off six months ago would have to take the skills test to get a commercial license. This would obviously work a hardship on such a person since he or she probably would not have access to a representative vehicle.

- 4) Item (II) on line 278, "currently has no adverse actions pending," is vague and also seems unfair. Perhaps the requirement can be made more specific so it relates only to actions involving driving a commercial vehicle.

- 5) Also on page 8, item (V) on line 283 is unclear. It seems to refer to a situation where a traffic violation would result from an unrecorded accident. Perhaps the intent was to refer to an accident which the driver failed to report when there was a duty to do so. If so, the requirement needs to be reworded slightly.
- 6) On page 12, Sec. 16 provides that the division will furnish driving record information to employers and prospective employers for a fee of \$6.00 per report. The current fee is \$1.00 per report. Topeka Transit employs over 30 drivers, and we periodically check all driving records. This added expense will make such checking quite burdensome.
- 7) Section 19 on page 13 lists offenses which will cause a commercial driver to be disqualified for one year. The portion of Item (1) dealing with alcohol seems to overlap with Item (2). Item (1) in its present form will no doubt be difficult to administer since it appears to be a subjective determination. Perhaps the controlled substance portion could be quantified to parallel the drug rules recently promulgated by DOT.
- 8) On page 15, line 527, the definition of commercial class B vehicles does not include buses, even though they fall within the weight requirements. In fact, buses are not included in any of the definitions.
- 9) In that same section, the definitions of class A and B and commercial class A and B vehicles are very difficult to distinguish. It would be helpful if a statement could be inserted spelling out the difference.
- 10) Section 36 on page 33 deals with required certification by a law enforcement officer when a test has been ordered to determine alcohol concentration. Line 614 and following seem to indicate that commercial drivers' license holders will be held to the .04 standard even if they were stopped while driving personal vehicles. This is clearly contradictory to Section 40, which states at line 153 on page 42 that the .04 level applies to persons operating or attempting to operate commercial motor vehicles.

No doubt the intent of the act and the federal guidelines is to confine the higher standard to application when a commercial vehicle is being operated. However, some clarification would be helpful. For example, on line 171 the act again refers to a commercial driver but does not designate whether this means only when driving a commercial vehicle.

- 11) On pages 42 and 43, items (f) and (g) spell out penalties for driving under the influence. The act does not say whether commercial drivers are subject to these penalties in addition to penalties imposed on them because of their commercial status.

In summary, many of the items mentioned are simply language problems which we would like to have clarified. Other problems involve areas which we feel could be made more equitable.

Thank you for your attention. If Topeka Transit can be of any assistance as you consider this bill, please call on us.

Amalgamated Transit Union

Local No. 1360

TOPEKA, KANSAS



SENATE BILL #250
COMMERCIAL DRIVERS LICENSE

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Page 3) Lines 108-112

This defines the word "driver" as any driver of any motor vehicle, for purposes of section 14, 15, and 19. This does not distinguish between a driver and a commercial driver. Section 19 addresses disqualifications of commercial drivers. If the word "drive" is meant to mean commercial driving for purposes of disqualification, it should state that. Commercial vehicles and private vehicles should be separated completely and stated so.

Page 7) Lines 250-251

Just pointing out that a class B misdemeanor is punishable by imprisonment for up to 6 months. Someone can go to jail just for leaving their license in their other pants.

Page 8) Lines 296-304

Sub. B)

States that a driver must have taken a driving test in the type of vehicle of the class applied for within the last 2 years to be eligible to be grandfathered in, but Sub. C., states that the same person must have operated the representative vehicle for at least 2 years prior to the application. The two cancel each other out!

It also seems grossly unfair that a person who currently has a Class A license and has been driving that type of vehicle the preceding two years can get a license to drive not only Class A vehicles, but may also get an endorsement to haul passengers regardless of being qualified or not. While a person who currently holds a Class A license, but has been a Bus Driver for the last two years can only be eligible for a Class B license no matter how many years prior experience he/she had with a Class A vehicles prior to that two years or how good their driving record was.

It seems to us that these certain people are being punished just because they wanted to make a career change.

Also what will the circumstances be for a person who gets grandfathered in on a Class A license and later becomes a Bus Driver? When it later becomes time for a renewal, may this person renew his/her Class A license without a skills test? We strongly feel that as long as a person has a good driving record, that person should be grandfathered in to the class that he/she currently is holding now, regardless of what type of vehicle they are currently now driving.

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SENATE BILL #250
COMMERCIAL DRIVERS LICENSE

Page 8) Lines 269-271

Why should it be necessary for a person to be employed in a job driving a commercial motor vehicle at the time of application for the license? Most employers require a license at the time of hire: No license; No job! NO job; No license! Driving skills are not readily forgotten; changing from one vehicle to another vehicle can require no more than orientation. A person who is a professional driver, is a professional driver no matter what he/she is now currently driving.

Page 15) Lines 527-532

Defines Commercial Class B vehicles as trucks; does not include buses.

Page 15) Lines 541-558

There needs to be a definition for the difference between class A & B and Commercial class A & B. In this section the explanation for both classes are exactly the same.

Page 26) Lines 336-341

This outlines the fees for the license and the endorsements. A fee of \$3.00 will be charged for the application, (page 25 lines 287-290). The fee for any commercial drivers license will be \$12.00, plus \$10.00 for each endorsement, except air brakes. The total cost for a commercial class A license with endorsements for a double-trailers, tank vehicles, and passengers will be \$51.00. This seems rather excessive, especially when it presently costs \$15.00.

Page 30) Lines 483-485

This implies that the court is to have no discretion. This implies that it is in compliance with the federal regulations, but section 4 does not list the federal guidelines. It seems to us that this is an attempt to take jurisdiction out of the courts!

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Page 3

SENATE BILL #250
COMMERCIAL DRIVERS LICENSE

Page 38) Lines 26-27

This is a further attempt to take the jurisdiction from our courts. We strongly feel that our court systems have handled things this far, and should continue to do so in the future.

Page 39-40) Lines 57-84

There are continuing parts all through this bill that is trying to take away all the jurisdiction and the discretions from our courts. They continue to try to take more away from the courts on page 40-41 Lines 95-115 How can one person/persons be more qualified to administer fines, punishment, and/or restrictions than our courts?

Page 42) Line 171

Should specifically state; Driver of a Commerical Motor vehicle.....
As it is written now it does not state what the driver is driving. It just states a commerical driver. We contend that it should be specific, because the levels of alcohol are different between a commerical vehicle and your private vehicle. What you do in your private vehicle should not in any way have to do with your actions in a commerical vehicle.

Pages 48-50) Lines 392-476

This section should be discussed at length by the committee as this section has the ability to change the lives of many people. Without diversion programs and restricted licenses, many drivers with families will not be able to work and take care of their families. We are not siding with the drivers that are out there on our public roads driving drunk or driving under the influence of drugs. But we also feel that because a driver gets a couple of speeding tickets in his personal vehicle does not make him/her a menace to society. This is why we feel that all jurisdiction should stay in the court system, so that each case can be heard on an individual level, and the penalties be given on an individual bases, not lumping everyone into a single catagory.

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Page 4

SENATE BILL #250
COMMERCIAL DRIVERS LICENSE

In Summary:

I would like to state that we have read the federal guidelines, and they seem to address the issue. They also seem to be fair enough. This proposal has went beyond what was in the guidelines proposed by the federal government. This proposal not only wants to regulate your license but also wants to limit your right to a day in court to tell your side of the story.

We cannot see a cure to this problem by throwing every driver into one category and making one set of rules for everybody. A person is entitled to a private life, but under this proposal, if you hold a commercial license, everything you do, no matter if you are in your personal vehicle, or in a commercial vehicle, relates to what happens to you and your future.

We strongly urge the committee to study this proposal very carefully, and to study our proposals. Take into consideration how our court system works now and how could one person/persons who do not have a law degree be able to administer the laws of our state better than our courts?

We also feel that there should be a definite division between your private vehicle and a commercial vehicle.

We also feel that the guidelines in this proposal restricts a person from doing a particular job, regardless of their qualifications just because the person is not doing this particular job at this present time!

We ask this committee to study this over, as the results of this proposal will have serious effects on a number of people, not just the driver, but also all of their family, not just in their livelihood now, but also the serious effects it could have in their future.