

Approved 1-25-90
Date

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 23, 1990 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

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

Conferees appearing before the committee:

Alfonzo Maxwell, Kansas Corporation Commission
Mr. Teri L. Graham, Office of Motor Carriers, Federal Highway Administration.
Maj. David Hornbaker, Kansas Highway Patrol
Mary Turkington, Kansas Motor Carriers Association

Hearing on S.B. 487 - Relating to motor carriers; concerning certain permits and certificates.

Alfonzo Maxwell, KCC, said this bill would authorize the Commission to grant a certificate without a hearing when such application would meet special criteria. The amendment would eliminate the need for applicants to submit "shipper witness affidavits". This is essentially obsolete but the language remains in the law. A copy of his statement is attached. (Attachment 1).

Hearing on S.B. 489 - Relating to motor carriers; concerning regulation thereof.

Al Maxwell said this bill would make Kansas law compatible with federal laws and regulations. Not enacting these changes could lead to loss of federal funds. A copy of his statement is attached. (Attachment 2).

Mr. Teri L. Graham, Office of Motor Carriers, spoke in favor of S.B. 489. They are striving for uniformity in motor carrier safety laws and Kansas is second only to California in the number of variances between State laws and Federal regulations. Failure to comply could cause the state to lose federal funding. A copy of his statement is attached. (Attachment 3).

Maj. David Hornbaker, KHP, spoke in favor of the bill and said this bill would remove the exemption currently granted certain carriers from complying with safety rules and regulations adopted by KCC. The inspection program is working and he submitted statistics to substantiate the improvement since involvement in the Motor Carrier Safety Assistance Program (MCSAP). A copy of his statement is attached. (Attachment 4).

Mary Turkington, KMCA, said she was in support of both S.B. 487 and S.B. 489. A copy of her statement is attached. (Attachment 5).

There were questions regarding (4) on page 5 of S.B. 489 regarding transporting grain for a distance not to exceed 50 miles. It was explained that this was an exemption put in years ago and would not affect a farmer moving his grain over 50 miles. They were exempt and this could be stricken from the bill.

A motion was made by Sen. Doyen to recommend S.B. 487 favorably

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:02 a.m./~~10:00~~ on January 23, 1990

for passage. Motion was seconded by Sen. Rock. Motion carried.

A motion was made by Sen. Rock to recommend S.B. 489 favorably for passage. Motion was seconded by Sen. Hayden. Motion carried.

Pam Somerville, KDOT, told the committee of a section of old Rt. 66 on the west edge of Galena where a section of the road caved in. This was caused by an abandoned mine. The Governor and Chairman were going to fly down to survey the damage.

On a motion from Sen. Francisco and a second from Sen. Thiessen the Minutes of January 17, 1990 were approved.

Meeting was adjourned at 9:50 a.m.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 1-23-90 Place 254-E Time 9:02

GUEST LIST

| NAME | ADDRESS | ORGANIZATION |
|--------------------|--|--|
| Michael Kuhn | 700 JACKSON Suite 500 444 S.E. QUINCY | KANSAS Highway Patrol |
| TERI GRAHAM | FEDERAL BUILDING | FEDERAL HIGHWAY ADMIN |
| Alec Creighton | DSOB, Topeka | Kansas Corp. Cmsn. |
| JACK TIERCE | DSOB - Topeka | Ks Cong Comm |
| DAVID HORNBAKER | TOPEKA | KAP |
| Al Maxwell | Topeka | KCC |
| Pat Wiechman | Topeka | Kansas Automotive Dismantlers & Recyclers Assn. |
| Don Lindsey | OSAWATOMIE | UTU |
| PAT HUBBELL | Topeka | Kans. RR Assoc. |
| Howard W. Tice | HUTCHINSON | Ks. Ass'n. of Wheat Growers |
| Ray Davenport | TOPEKA | Kansas Motor Carriers Assn |
| Donald White | Topeka | Aptus |
| Tom Whitaker | Topeka | Kansas Motor Carriers Assn |
| Warren Hemann | Overland Park | Yellow Freight System |
| Mary E. Turkinston | Topeka | Kansas Motor Carriers Assn |

STATEMENT
BY THE
KANSAS CORPORATION COMMISSION

In support of Senate Bill No. 487 which amends K.S.A. 66-1,115a to eliminate the need for motor carrier applicants to submit "shipper witness affidavits" along with their authority applications.

Presented to the Senate Transportation and Utilities Committee, Senator Bill Morris, Chairman; Statehouse, Topeka, January 23, 1990.

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 in support of Senate Bill No. 487. This bill proposes changes to "K.S.A. 66-1,115a. Granting of certain permits and certificates without hearing, when; notice."

I would like to thank this Committee for the opportunity to testify today.

K.S.A. 66-1,115a which was enacted in 1959, currently authorizes the Commission to grant a certificate without a hearing when such application request meet 4 criteria: (1) the request is made by filing a verified application; (2) the request is supported by shipper witness affidavits (attesting to the necessity of the service); (3) the request is properly noticed; and (4) if no protests are lodged against the granting of the application.

The proposed amendments to K.S.A. 66-1,115a would eliminate the need for applicants to submit "shipper witness affidavits". The other 3 requirements would remain the same.

When "relaxed entry" became law in Kansas in 1982, the Commission's focus shifted primarily from competition to safety. Therefore, "shipper witness affidavits" are essentially obsolete in the application process, but the language remains in the law. The present standard is that the applicant shall be fit, willing, and able to perform the service requested.

The language added at the end of section 1 of Senate Bill No. 487 is virtually identical to the language last year's legislature added to K.S.A. 66-1,118. It reiterates the standard the Commission is to use when considering motor carrier applications.

The Kansas Corporation Commission supports this legislative proposal. We ask that you recommend this bill for passage. We will be pleased to respond to any questions the Committee may have.

STATEMENT
BY THE
KANSAS CORPORATION COMMISSION

In support of Senate Bill No. 489 which amends K.S.A. 66-1,109 and K.S.A. 66-1,129 to make Kansas law compatible with federal laws and regulations and allows Kansas to continue its participation in the Federal Department of Transportation's Motor Carrier Safety Assistance Program (MCSAP)

Presented to the Senate Transportation and Utilities Committee, Senator Bill Morris, Chairman; Statehouse, Topeka, January 23, 1990.

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 in support of Senate Bill No. 489.

I would like to thank this Committee for the opportunity to testify today.

INTRODUCTION

The proposed amendments to K.S.A. 66-1,109 and K.S.A. 66-1,129 will make Kansas law compatible with federal laws and regulations. These amendments are designed to allow Kansas to continue its participation in the Federal Department of Transportation's Motor Carrier Safety Assistance Program (MCSAP) and enhance public safety on Kansas highways.

The net effect of the proposed amendments, taken together, is: (1) to bring several categories of carriers under the Commission's safety regulations, but not subject them to the economic regulations (i.e., obtaining a certificate or license) or to insurance filing requirements; (2) to provide for uniformity between Kansas and federal laws and regulations; and (3) to provide further clarification of certain statutory language.

EXPLANATION OF AMENDMENTS

Specifically, the amendments to K.S.A. 66-1,109 would establish which carriers are not required to obtain a certificate, license or permit from the Commission or file rates, tariffs, annual reports or insurance with the Commission. K.S.A. 66-1,109(b) as amended clarifies the reference to "25 miles beyond the corporate limits of a city or village" to refer to the city where the private motor carrier is domiciled.

The specific amendments to K.S.A. 66-1,129 are as follows:

The existing language in K.S.A. 66-1,129(a) giving the Commission the authority to suspend, revoke or amend certificates has been moved to "New Section 1" under Senate Bill No. 489 and revised to clarify the Commission's authority. Also new language has been added to K.S.A. 66-1,129(a) which would make it clear that the KCC safety regulations apply to almost all motor carriers. This would bring several now unregulated motor carriers under the Commission's jurisdiction as to safety.

K.S.A. 66-1,129(a)(2) has been amended to provide further clarification of that language, the minimum age requirement for intrastate drivers would not change.

K.S.A. 66-1,129(a)(3) would allow the Commission, by regulation, to make the age requirement for interstate drivers consistent with federal regulations. (The federal requirement is 21 years of age in most instances, the proposed amendment would simply allow enforcement of those requirements in Kansas.)

In K.S.A. 66-1,129(b) the reference to registered gross vehicle weight has been changed from 12,000 to 10,000 and the wording changed to make Kansas regulations uniform with federal regulations.

The new subsection (c) lists the types of motor carriers that would still be exempt from safety regulations. The language in the preamble to subsection (c) means only intrastate carriers are exempt from the safety regulations. Interstate carriers in Kansas are already subject to the federal safety regulations. The current condition of the law has led to the situation where only federal officials can enforce the federal regulations in Kansas; the change in Kansas law would mean Kansas law enforcement officials could also enforce the federal regulations applicable to interstate carriers.

FISCAL IMPACT

Federal officials will advise that the fiscal impact of not enacting these changes could be the loss of federal funds from the Motor Carrier Safety Assistance Program (MCSAP).

It is difficult to estimate at this time if these changes will lead to a significantly increased number of KCC hearings for motor carrier safety violations. At this time there are no plans to add special investigators to the KCC Staff. The Highway Patrol is the primary enforcer of these regulations.

No new carriers are required to obtain a certificate, license or permit.

Should the proposed amendments be adopted, it may be appropriate for the Commission to allocate or reallocate some funds to inform the motor carrier industry about the changes in the law.

The Kansas Corporation Commission supports the legislative proposal under Senate Bill No. 489. We ask that you recommend this bill for passage. We would be happy to respond to any questions you may have.

Senate Bill 489

As a condition for Motor Carrier Safety Assistance Program (MCSAP) funding, the Surface Transportation Assistance Act of 1982 requires a state to adopt and assume responsibility for enforcing safety requirements compatible with the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations.

Kansas has been found to have several groups of motor carriers which have been exempted from the safety requirements. Many of these motor carriers are presently subject to the Federal Regulations if they operate in interstate commerce, however under existing Kansas law, they cannot be regulated for safety by the State while operating within Kansas. Uniformity of motor carrier safety laws nationwide is pertinent to the industry.

Kansas is second only to California in the number of variances between State laws and Federal regulations, and between the two States comprise over 70% of the total variances nationwide. The State of Florida was in a comparable position with Kansas last year and chose not to act, which resulted in their elimination from the program.

If the state fails to bring the exempted groups of motor carriers under the safety regulations, it is highly probable that all future MCSAP funding will be terminated. The total MCSAP budget for the current grant year 1990 is in excess of 1.4 million dollars, with approximately \$900,000 being the Federal share. This is money that is used exclusively to enhance safety upon our states highways.

ATT. 3
T&U
1-23-90

Kansas has a motor carrier safety program which we can all be proud of, even though it does not include all groups of motor carriers. The program has been recognized nationwide as a leader in several areas of MCSAP. The Federal Highway Administration's Office of Motor Carriers wants the State of Kansas to remain in the MCSAP, but only with the passage of Senate Bill 489 can this be assured.

Teri L. Graham
Office of Motor Carriers
Federal Highway Administration
444 S. E. Quincy, Room 240
Topeka, Kansas 66683
(913) 295-2555

SUMMARY OF TESTIMONY

SENATE BILL 489

SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

MAJOR DAVID HORNBAKER

KANSAS HIGHWAY PATROL

JANUARY 23, 1990

The Kansas Highway Patrol supports Senate Bill 489. This proposed legislation essentially removes the exemption currently granted certain carriers from complying with safety rules and regulations adopted by the Kansas Corporation Commission.

As proposed, this bill does not require those no longer exempted carriers to obtain any type of certificate, license or permit from the Commission, or to file rates, tariffs, annual reports or provide proof of insurance with the Commission.

To support our testimony on this bill, I offer to the Committee some statistics which come from Kansas' involvement in the Motor Carrier Safety Assistance Program (MCSAP). The Patrol is the lead agency in this federally funded program assisted by the Corporation Commission.

The statistics I will quote are from the period of April 1, 1985 through September 30, 1989, or just under four and a half years.

The total number of inspections has increased 437 percent.

The total number of vehicles being placed out of service has decreased 24.3 percent.

The average number of violations per inspection has decreased 48.3 percent.

ATT. 4
T&U
1-23-90

From these statistics, it is readily seen that the inspection program is working. The ultimate goal of the program would be to have zero vehicles placed out of service and zero violations per inspection.

Even more striking than the statistics I have just mentioned are the statistics concerning accident data.

The number of commercial vehicle accidents has decreased 29.7 percent.

The commercial vehicle accident rate (accidents per million miles) has decreased 36.4 percent.

The number of fatalities per million vehicle miles has decreased 23.9 percent.

We are convinced that the improvement in the forgoing data is a direct result of Kansas' involvement in the MCSAP program. This is not only because of the involvement of the Patrol and the Commission enforcing the safety rules and regulations on the carriers, but because of the industry's increased knowledge and compliance with these rules and regulations.

By imposing these same regulations on those carriers who were previously exempt, we are certain that the highways of the State of Kansas will be a safer place to travel to all motorists.

You have been given some supporting documentation to study at your convenience. One of the booklets is a review of the MCSAP program outlining its accomplishments and effectiveness nation-wide. The second booklet concerns the variances regarding the compatibility of state and federal safety requirements that has been discussed in previous testimony.

I would be more than happy to answer any questions the Committee may have.

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

Presented to the Senate Transportation & Utilities Committee; Senator Bill Morris, Chairman; Statehouse, Topeka, Tuesday, January 23, 1990.

Supporting Senate Bills 487 and 489 which propose revisions in policies and procedures at the Kansas Corporation Commission.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Mary E. Turkington, Executive Director of the Kansas Motor Carriers Association with offices in Topeka. I appear here this morning with Tom Whitaker, our Governmental Relations Director, representing our 1,525 member-firms and the highway transportation industry to express our support for Senate Bill 487 and for Senate Bill 489. In the interest of time, I would like to address both proposals in this statement.

Senate Bill 487 would allow the Commission to issue or grant contract carrier permits and/or common carrier certificates or abandonment thereof without a formal hearing when the request for such issuance is made by verified application.

The bill contains language that would require a formal hearing if a protest is filed -- or -- if the prefiled testimony does not demonstrate that the applicant is fit, willing and able.

ATT. 5
T&U
1-23-90

Our industry continues its concern that applications for authority from the Corporation Commission NOT become a "mail order house." We sincerely believe that the language in Senate Bill 487 would not permit such a practice so long as the Commission staff follows the law.

Our industry will continue to seek specific Commission guidelines on what constitutes "fit, willing and able." In these days of intense concern for industry safety practices, for full compliance with insurance coverages, drug testing, vehicle maintenance and safe operating procedures, tax responsibilities, and lawful transportation of the goods and services of those for whom the authority is granted -- all are among the components of the "fit, willing and able criteria". We need strong Commission understanding and enforcement of these guidelines.

We support the passage of Senate Bill 487 so long as this intent is fully understood and guides the implementation of this proposed statutory revision.

Senate Bill 489 proposes major changes in Commission policy and procedures.

The bill, with the exception of the nine categories listed on pages 5 and 6, brings all other vehicles now exempt under K.S.A. 66-1,109, under the Commission's safety rules and regulations which govern intrastate transportation in Kansas.

The nine categories which appear on pages 5 and 6 of the bill, currently are subject to the DOT federal safety rules and regulations when such transportation crosses a state line.

Our industry has worked with representatives of the Commission staff, with Teri Graham, the officer-in-charge of the federal DOT, and with representatives of the Kansas Highway Patrol, to develop the proposed language which appears in this bill.

It is our understanding that failure to revise the application of our Kansas safety rules and regulations would jeopardize the substantial federal funds our state receives to implement our Motor Carrier Safety Assistance Program (MCSAP) administered by the Kansas Highway Patrol.

Under the proposed legislation, the Kansas Highway Patrol could obviously enforce the safety rules and regulations of the Commission on those vehicles which would be brought under the Commission's safety jurisdiction.

We also wish to point out that the bill would make the minimum age requirements for every driver of a motor carrier operating in interstate commerce consistent with federal motor carrier regulations.

Our industry strongly supports the work of the MCSAP program and consistently has supported uniformity, where workable, in rules and regulations governing the operation of motor truck vehicles. Our concern for the safe operation of all vehicles on streets and highways is well known.

For these reasons, Mr. Chairman and members of the Committee, we support Senate Bill 489 as it appears before you. Tom and I will be pleased to attempt to respond to any questions you may have.

####