

MINUTES OF THE HOUSE TRANSPORTATION.

The meeting was called to order by Chairperson Gary Hazylett at 1:40 p.m. on February 15, 2001 in Room 519-S of the Capitol.

All members were present except:

Representative Jerry Aday, excused
Representative Andrew Howell, excused

Committee staff present:

Bruce Kinzie, Revisor
Hank Avila, Research
Chris Courtright, Research
Ellie Luthye, Committee Secretary

Conferees appearing before the committee:

Jackie Miller, Director, Transportation Division, Kansas Corporation Commission
Major Mark Goodloe, Kansas Highway Patrol
Tom Whitaker, Executive Director, Kansas Motor Carriers Association

Others attending:

See attached sheet

HB 2290 - related to motor carriers - exemptions

Chairman Hayzlett called on Jackie Miller, Kansas Corporation Commission, to give testimony in support of **HB 2290**. She presented a handout which listed the four primary revision contained in **HB 2290** and explained each of these revisions. (Attachment 1)

Mark Goodloe, Kansas Highway Patrol, told the committee that in January, 2001 the Kansas Corporation Commission issued an opinion indicating the Kansas Highway Patrol did not have the authority to enforce federal regulations violated by interstate "Tools of the Trade" carriers. With the Kansas law exempting those persons transporting "tools of the trade" from the safety regulations, Kansas and the Kansas Highway Patrol could lose federal motor carrier safety assistance program dollars if the nonconforming statute is not amended. (Attachment 2)

The next conferee was Tom Whitaker, Executive Director, Kansas Motor Carriers Association. He stated the Association does support **HB 2290** with one technical amendment in Section 1, paragraph (d) to make the definition of household goods consistent with federal language governing interstate movements of this commodity. He told the committee the bill also clarifies that vehicles with a gross vehicle weight rating of 10,000 pounds, or less, are not subject to KCC regulations except when transporting hazardous materials. This change brings Kansas law into conformity with the Federal Motor Carrier Safety Regulations governing the transportation of "tools of the trade". (Attachment 3)

Following questions and voicing of concerns regarding **HB 2290**, Chairman Hayzlett closed hearings on this bill.

HB 2291 - regulation of motor carriers

Jackie Miller of the Kansas Corporation Commission stated **HB 2291** deletes references to the Interstate Commerce Commission and updates several United States codes. It also clarifies some language, which has simply been in the laws for quite some time, and was due for updating and clarification to current legislative style. She discussed each of these changes and answered questions from the committee. (Attachment 4)

Tom Whitaker, Kansas Motor Carriers Association, told the committee they would support **HB 2291** if certain amendments were added to the bill. He stated the concerns KMCA had with the bill and said they had been working with the KCC staff to work out differences with the KCC proposal. The final amendments have not been completed at this time. (Attachment 5)

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE, Room 519-S of the Capitol at 1:40 p.m. on February 15, 2001.

As there were concerns by the committee on both **HB 2290** and **HB 2291**, Chairman Hayzlett appointed a sub-committee to further study the bills. He appointed Jene Vickery as Chairman, with Representatives Jan Pauls and Joe Humerickhouse also serving.

The Chairman also appointed a sub-committee to further study **HB 2145 - warranties on safety belts -** and appointed Representative John Ballou as Chairman with Representatives Long and Dreher to also serve.

Chairman Hayzlett left the meeting to meet with the Scott City Leadership class and Vice-Chairman Vickery chaired the remainder of the meeting.

HB 2191 - license plates for Ancient Arabic Order, Nobles of the Mystic Shrine of North America

Vice Chairman Vickery called for final action on **HB 2191**. Representative Beggs made a motion to pass HB 2191 favorably, seconded by Representative Long. Representative Phelps made a substitute motion to table the bill, seconded by Representative Dillmore. Representative Phelps made a motion to withdraw his substitute motion however this failed as Representative Dillmore did not withdraw his second. A vote was taken and the substitute motion carried.

Vice Chairman Vickery adjourned the meeting at 2:55 p.m. The next meeting of the House Transportation Committee will meet on Monday, February 19th, 2001 in Room 519-S.

HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: February 15, 2001

NAME	REPRESENTING
Dale H. Luthye	None
Al Gerstner	KDOR
RANDALL BEAVER	U.S. DOT FMCSA
TERI GRAHAM	U.S. DOT FMCSA
LEE EISENHAUER	PROPANE MARKETERS ASSN of KS
Kathleen Falk	NRSCF
Bob Totten	Ks Association of Contractors
Bill Watts	KDOT
Deann Williams	KmCA
GARY DAVENPORT	KS MOTOR CARRIERS ASSN
Paula Lentz	KCC
Tom Whitaker	KS MOTOR CARRIERS ASSN
Jackie Miller	KCC
Miho Hoeme	KCC
Sandy Braden	Alliance for Automobile Manufact.
Andy Shaw	KmCA
Mark A. Cronlof	KHP
Ed BORING	KHP
MARK ESKOLM	KHP

**Testimony of Jackie Miller
Director of Transportation
Kansas Corporation Commission
House Bill 2290
February 15, 2001**

Good afternoon Mr. Chairman and members of the committee. I am Jackie Miller, the Director of the Transportation Division of the Kansas Corporation Commission. I am here to testify as a proponent of House Bill 2290, which proposes changes to the motor carrier act.

House Bill 2290 contains four primary revisions. First, it deletes references to the Interstate Commerce Commission and replaces those references with "relevant federal agency."

Next, HB 2290 eliminates the need for private motor carriers, with vehicles weighing less than 10,001 pounds, to obtain a permit from the Commission. Currently, vehicles weighing less than 10,001 pounds are not subject to safety rules and regulations of the Commission and there is a limited amount of public protection provided by the permitting process. We feel this revision is necessary because under current law, a Mary Kay cosmetic consultant, delivering lipstick outside a 25-mile radius of her domicile, is required to obtain a private motor carrier permit. We do not believe that it is necessary to subject small business concerns with only tangential transportation interests to the permitting process. I will note that this exception would not apply to lightweight vehicles transporting hazardous materials that require placards.

Third, HB2290, changes the definition of "private motor carrier of property" in K.S.A. 66-1,108 from "*any person engaged in the transportation, by motor vehicle, of property sold or to be sold by him in the furtherance of any commercial enterprise other than transportation . . .*" to "*a person who provides transportation of property or passengers, by commercial motor vehicle and is not a for hire motor carrier.*" This definition change is necessary to be compatible with Federal Motor Carrier Safety Assistance Program (MCSAP) grant.

Since 1985, the state has intended to be consistent and compatible with MCSAP. However, it has been brought to the KCC's attention that the current private motor

carrier definition precludes the state from enforcing safety regulations against interstate motor carriers carrying “tools of the trade.” This exclusion has been deemed to be inconsistent with the MCSAP grant and the state has been notified that this inconsistency jeopardizes the funding received by the Federal Motor Carrier Safety Administration. As important as the funding issue to the state, the safety concerns are of equal importance.

The term “tools of the trade” refers to motor vehicles, *“carrying tools, property or material belong to the owner of the vehicle and being used in repair, building or construction work, not having been sold or being transported for the purpose of sale, lease, rent or bailment.”*

Major Goodloe from the highway patrol will give you detailed examples of the types of operations that are considered “tools of the trade” and the hazards they present to the motoring public.

Lastly, this bill removes the exception to the safety rules and regulations for intrastate “tools of the trade” private motor carriers. The current exception is not related to the MCSAP grant, because it applies to intrastate movements. However, the removal of the exception is prompted by the same safety concerns. By allowing this exception, there is less protection afforded to citizens on Kansas highways than in other states.

I appreciate your consideration and will stand for questions.

House Bill 2290

Motor Carrier Safety Revisions

Kansas Highway Patrol Testimony

House Transportation Committee
February 15, 2001

Major Mark Goodloe
Special Services Commander



Commercial Vehicle
Safety Alliance

**Summary of testimony on HB 2290
House Transportation Committee**

**Presented by Major Mark Goodloe
February 15, 2001**

Good afternoon Mr. Chairman and members of the committee. My name is Major Mark Goodloe, and I appear before you in behalf of Colonel Don Brownlee and the Kansas highway Patrol in support of House Bill 2290.

On January 10, 2001, General Counsel, Kansas Corporation Commission, issued an opinion, at the request of the Director of Transportation, indicating that the Kansas Highway Patrol did not have the authority to enforce federal regulations violated by interstate "Tools of the Trade" carriers.

K.S.A. 66-1,108(i) defines "private motor carrier of property". Tools of the trade carriers are not included in this definition.

K.S.A. 66-1,109(g) and 66-1,129(c)(1) specifically exempts motor vehicles from the KCC regulations "Carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, lease, rent or bailment."

47 states, including Kansas, receive MCSAP grant funding. Among those states, Kansas is the only state that has no provision to regulate "tools of the trade" carriers based on the current definition of private carrier in the KCC rules and regulations.

Kansas based companies doing business in surrounding states are regulated as soon as they cross the state line. Conversely, out of state companies

doing business in Kansas are not subject to the safety regulations when they enter Kansas operating certain vehicles or combinations of vehicles. This may give rise for some foreign based companies to send vehicles that do not meet required safety standards into Kansas to perform work, competing with Kansas based carriers.

I'm sure each of you have seen trucks pulling trailers loaded with large pieces of equipment such as bulldozers, trenchers, front end loaders, back hoes, fork lifts and bob cats to name a few. Under the current regulations, the Kansas Highway Patrol cannot insure that the safety rules and regulations are being complied with, or that adequate tie downs are used to secure the large equipment being transported.

I have personally witnessed this type of equipment being moved with no tie downs and more often securement was attempted with one chain. It's frustrating to know that in the event of an evasive driving maneuver by the driver or a abrupt braking maneuver, this piece of equipment may roll forward crushing the cab of the truck or topple off onto the roadway.

In Kansas, the cities of Olathe, Lenexa and Burlington are recipients of MCSAP grant funding. By city ordinance, these cities have elected to adopt, verbatim, the federal rules and regulations. Tools of the trade carriers fall under the federal definition of Private Carrier, making them subject to the safety regulations. Federal enforcement officers and these city officials are routinely enforcing the safety regulations; however, the Kansas Highway Patrol cannot. This provides an inconsistent application of enforcement of the federal safety regulations. Ironically, this same operation, should the trailer or pulling unit have equipment that will remain at the job site, such as rebar, dry wall, etc., is subject to the safety regulations.

On January 30, 2001, Colonel Brownlee received notice from Mr. Teri Graham, Federal Motor Carrier Safety Administration, referencing the opinion offered by Mrs., Lentz. Mr. Graham stated that the definition in K.S.A. 66-1,108 was incompatible with the Federal Motor Carrier Safety Administration's definition. 49 CFR 390.5, a private motor carrier is defined as "a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier."

49 CFR part 350.341 requires, as receipt of funding under the Motor Carrier Safety Assistance Program, the State of Kansas must assume responsibility

for improving motor carrier safety and must adopt and enforce State safety laws and regulations that are compatible with the Federal Motor Carrier Safety Regulations (FMCSRs) and the Federal Hazardous Materials Regulations (HMRs). As a result of this incompatibility, funding received under the Motor Carrier Safety Assistance Program (MCSAP) is in jeopardy.

Presently the Kansas Highway Patrol receives \$2.3 million under the MCSAP Grant, funding equipment and 40 FTEs, 35 of which are Troopers.

HB 2290 proposes amending the definition of private carrier to be compatible with the definition in 49 CFR 390.5. For the reasons previously cited, the Kansas Highway Patrol urges this committee to give HB 2290 a favorable report.

Kansas Corporation Commi

Bill Graves, Governor John Wine, Chair Cynthia L. Claus, Commissioners

1-22-01
TO: TERI G.

MEMORANDUM

FYI

TO: Jackie Miller, Director of Transportation
FROM: Paula Lentz, Assistant General Counsel
DATE: January 10, 2001
SUBJECT: May the Kansas Highway Patrol enforce safety rules and regulations against interstate "tools of the trade" carriers?

INTRODUCTION

You have requested research regarding the Kansas Highway Patrol's ("KHP") ability to enforce the Kansas Corporation Commission's ("Commission") statutes, rules and regulations against "tools of the trade" carriers stopped in Kansas, but conducting interstate trips. My research leads me to the conclusion that the answer is no, the KHP may not enforce against a "tools of the trade" carrier in interstate movement.

DISCUSSION

In order to gain a full perspective on the issue, it is prudent to first review the KHP's authority to enforce motor carrier laws, and then proceed to how the Commission's statutes, rules and regulations affect that authority.

First, the KHP has been granted by the legislature the authority to enforce the laws "of this state" relating to public and private motor carriers of passengers or property, including any rules and regulations relating to such laws. K.S.A. 74-2108(b). This statute does not limit the KHP's authority to intrastate moves, but rather allows enforcement of this state's laws against any regulated carrier within the state of Kansas, unless otherwise preempted. However, the statute specifically states that the KHP's authority lies over "public and private motor carriers of passengers or property." This section, then, is dependent upon the definition of those types of carriers.

Further, K.S.A. 66-1319 provide, in part, that the KHP is authorized to inspect any motor vehicle "required by law to comply with any such laws and rules and regulations." When reading statutes, different provisions must be reconciled, as far as practicable, so as to make them consistent, harmonious, and sensible. *KPERS v. Reimer & Koger Assoc., Inc.*, 262 Kan. 634, 644 (1997). Reading the statutes together, the authority granted the KHP pursuant to K.S.A. 66-1319 will similarly be limited to the enforcement of the laws of this state.

K.S.A. 66-1,111 provides that all public, contract or private motor carrier of passengers or



U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration

3300 SW Topoka Boulevard, Suite 1
Topoka, KS 66611-2237
(785) 267-7288 fax (785) 267-7290

January 30, 2001

Colonel Donald Brownlee
Superintendent
Kansas Highway Patrol
122 SW Seventh Street
Topoka, Kansas 66603

Dear Colonel Brownlee:

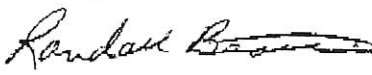
As a condition of receipt of funding under the Motor Carrier Safety Assistance Program (MCSAP), the State of Kansas must assume responsibility for improving motor carrier safety and must adopt and enforce State safety laws and regulations that are compatible with the Federal Motor Carrier Safety Regulations (FMCSRs) and Federal Hazardous Materials Regulations (HMRs). Compatibility "means State laws and regulations applicable to interstate commerce and to intrastate movement of hazardous materials are identical to the FMCSRs and the HMRs or have the same effect as the FMCSRs. State laws applicable to intrastate commerce are either identical to, or have the same effect as, the FMCSRs or fall within the established limited variances under § 350.341" [49 CFR 350.105].

The term "private motor carrier of property" as defined by KSA 66-1,108, "is any person engaged in the transportation, by motor vehicle, of property sold or to be sold by him....". On January 10, the Assistant General Counsel, Kansas Corporation Commission, issued an opinion concluding that interstate and intrastate "tools of the trade motor carriers" do not meet the definition of a public, private, or contract motor carrier; therefore, the Kansas Highway Patrol may not require such motor carriers to comply with its safety regulations. The FMCSA's definition of "private motor carrier," on the other hand, is "a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier" [49 CFR 390.5]. The agency has interpreted "property" as including an empty commercial motor vehicle [see Q. 6 to 49 CFR 390.5, 62 FR 16370, at 16406, April 4, 1997].

If the statute and opinion cited above remain applicable both interstate and intrastate commerce, the compatibility requirements of § 350.201(a) cannot be met. These incompatibilities with the FMCSRs would violate the conditions that Kansas must observe to qualify and maintain basic MCSAP funding. Consequently, the Administrator would be required to issue a proposed determination of nonconformity to the Governor of Kansas. If compatibility were not restored, all MCSAP funding would be withheld. See 49 CFR §§ 350.335 and 350.215.

If I can be of further assistance, please do not hesitate to call me at 785-267-7288

Sincerely,


Teri L. Graham

Five killed in I-35 wreck



Rich Sugg/St

Five persons were killed, four inside the white car above, in a five-vehicle accident Friday afternoon near Interstate 35 and 79th Street in

Lenexa. The driver of the truck on top lost control of his vehicle and crossed the median, hitting the southbound white car head-on.

Truck crosses median in Lenexa; 3 cars hit

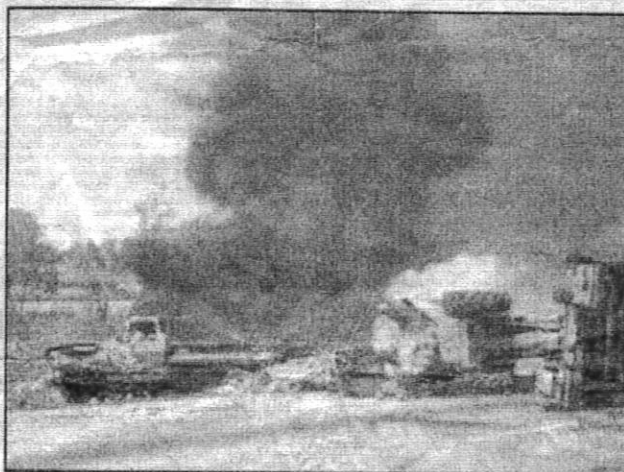
By Beverly Potter and Mike Kennedy
Of the Metropolitan Staff

Five persons were killed Friday when a pickup truck hauling a trailer and backhoe northbound on Interstate 35 careered across a grassy median into southbound traffic and burst into flames.

The one-ton pickup apparently slammed into a southbound Chevrolet Caprice with four passengers, swept it off the road and pinned it in a gully west of the highway. A woman and three children in the car were killed. Their names had not been released late Friday night pending notification of relatives.

The trailer carrying the backhoe then apparently smashed into the driver's side of a van, which was traveling in the left lane, and forced it onto the shoulder of the highway. The driver of the van also died.

A taxicab driving slightly behind the van in the right lane swerved into the west gully after being hit by one of the vehicles. The cab sailed through a wire fence east of the frontage road.



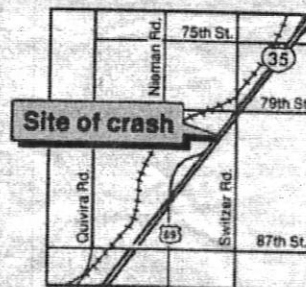
Beverly Potter/Staff

A man tries to put out a fire minutes after the accident.

The driver was in fair condition Friday night. A woman passenger received minor injuries and a 6-year-old child was not injured.

The accident, which occurred

about 2:15 p.m., forced police to close the southbound lanes of I-35 at 79th Street in Overland Park. Traffic was tied up for miles near the fatal crash.



■ Traffic was "stop and go" in the northbound lanes of Interstate 35 before the accident, witnesses said. The truck driver apparently was trying to pull onto the median to avoid hitting a vehicle when he lost control.

Joe Jackman, 58, of Kansas City, Kan., the driver of the van was pronounced dead at Shawnee Mission Medical Center, a spokesman said. See FIVE, A-24, Col. 1



Kansas Statutes

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66-1,108

Chapter 66.--PUBLIC UTILITIES Article 1.--POWERS OF STATE CORPORATION COMMISSION

66-1,108. Transportation by motor carriers; definitions. (a) The term "motor vehicle" when used in this act shall mean any automobile, truck, trailer, semitrailer, tractor, motor bus or any other self-propelled or motor-driven vehicle used upon any of the public highways of the state for the purpose of transporting persons or property.

(b) The term "public highways" when used in this act shall mean every public street, alley, road or highway or thoroughfare of any kind used by the public.

(c) The term "commission" shall mean the corporation commission of the state of Kansas.

(d) The term "person" means and includes any individual, firm, copartnership, corporation, company, association or their lessees, trustees, or receivers.

(e) The term "public motor carrier of property" when used in this act shall mean any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle, from place to place, the property of others who may choose to employ him.

(f) The term "public motor carrier of passengers" when used in this act shall mean any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle, from place to place, persons who may choose to employ him.

(g) The term "contract motor carrier of property" when used in this act shall mean any person engaged in the transportation by motor vehicle of property for hire and not included in the term "public motor carrier of property" as herein defined.

(h) The term "contract motor carrier of passengers" when used in this act shall mean any person engaged in the transportation by motor vehicle of persons for hire and not included in the term "public motor carrier of passengers" as hereinbefore defined.

(i) The term "private motor carrier of property" when used in this act shall mean any person engaged in the transportation, by motor vehicle, of property sold or to be sold by him in the furtherance of any commercial enterprise other than transportation, but not as a public motor carrier of property, or a contract motor carrier of property: *Provided*, That the term "private motor carrier of property" shall also include a person who transports the property of others by motor vehicle when such transportation is not for hire but is incident to or in furtherance of a commercial enterprise of such person other than transportation.

Evidence of ownership of the property being transported shall not be accepted as sufficient proof of a private carrier operation if the carrier is in fact engaged in the transportation of property for hire, and not merely as incident to or in furtherance of a commercial enterprise other than transportation.

Kansas Statutes

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66-1,109

Chapter 66.--PUBLIC UTILITIES Article 1.--POWERS OF STATECORPORATION COMMISSION

66-1,109. Regulation of motor carriers; exemptions of certain carriers, certain transporters and certain uses from act. This act shall not require the following carriers to obtain a certificate, license or permit from the commission or file rates, tariffs, annual reports or provide proof of insurance with the commission:

(a) Transportation by motor carriers wholly within the corporate limits of a city or village in this state, or between contiguous cities or villages in this state or in this and another state, or between any city or village in this or another state and the suburban territory in this state within three miles of the corporate limits thereof, or between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the interstate commerce commission, except that none of the exemptions specified in this subsection (a) shall apply to wrecker carriers and none of such exemptions shall apply to motor carriers of passengers, other than motor carriers of passengers operating as a part of the general transit system serving any such city or village in this or another state, operating on regular routes and time schedules between any city or village in this or another state, and the suburban territory in this state;

(b) a private motor carrier who operates within a radius of 25 miles beyond the corporate limits of its city or village of domicile, or who operates between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the interstate commerce commission;

(c) the owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in a motor vehicle of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment;

(d) persons operating motor vehicles used only to transport property when no common carrier is accessible, but when common-carrier service is available then this last exemption is limited to the transportation of such property from origin to the nearest practicable common-carrier receiving or loading point, or from a common-carrier unloading point by way of the shortest practicable route to destination, providing such motor vehicle does not pass a practicable delivery or receiving point of a common carrier equipped to transport such load, or when used to transport property from the point of origin to point of destination thereof when the destination of such property is less distant from the point of origin thereof than the nearest practicable common-carrier receiving or loading point equipped to transport such load;

(e) (1) the transportation of children to and from school, or (2) to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities;

(f) a new vehicle dealer as defined by K.S.A. 8-2401, and amendments thereto, when transporting property to or from the place of business of such dealer;

(g) motor vehicles carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work, not having been sold or being transported for the purpose of sale;

(h) persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles;

(i) the operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers;

(j) motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivision of this state, including vehicles used exclusively for handling U.S. mail;

(k) any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity of not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work;

(l) motor vehicles used to transport water for domestic purposes or livestock consumption;

(m) transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, calcium chloride, bituminous or concrete paving mixtures, blacktop, dirt or fill material to a construction site, highway maintenance or construction project or other storage facility and the operation of ready-mix concrete trucks in transportation of ready-mix concrete;

(n) the operation of a vehicle used exclusively for the transportation of solid waste, as the same is defined by K.S.A. 65-3402, and amendments thereto, to any solid waste processing facility or solid waste disposal area, as the same is defined by K.S.A. 65-3402, and amendments thereto;

(o) the transporting of vehicles used solely in the custom combining business when being transported by persons engaged in such business;

(p) the operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state;

(q) transportation by taxi or bus companies operated exclusively within any city or within 25 miles of the point of its domicile in a city;

(r) a vehicle being operated with a dealer license plate issued under K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A. 8-136, and amendments thereto, and vehicles being operated with a full-privilege license plate issued under K.S.A. 8-2425, and amendments thereto;

(s) any person operating a motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, transporting to or from an arts or craft show, hand-crafted products produced for resale by the owner or operator of such motor vehicle.

As used in this subsection, "gross vehicle weight rating" means the value specified by the

...manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle. The gross vehicle weight rating of a combination (articulated) vehicle commonly referred to as the "gross combination weight rating" is the gross vehicle weight rating of the power unit, plus the gross vehicle weight rating of the towed unit or units;

(t) the operation of vehicles used for transporting materials used in the servicing or repairing of the refractory linings of industrial boilers; and

(u) transportation of newspapers published at least one time each week.

History: L. 1931, ch. 236, § 2; L. 1933, ch. 229, § 2; L. 1935, ch. 239, § 1; L. 1938, ch. 56, § 1; L. 1947, ch. 333, § 1; L. 1951, ch. 367, § 1; L. 1959, ch. 258, § 2; L. 1971, ch. 218, § 1; L. 1974, ch. 263, § 1; L. 1975, ch. 340, § 1; L. 1977, ch. 225, § 1; L. 1977, ch. 304, § 20; L. 1978, ch. 267, § 1; L. 1980, ch. 202, § 1; L. 1981, ch. 258, § 1; L. 1984, ch. 25, § 8; L. 1985, ch. 44, § 1; L. 1985, ch. 54, § 6; L. 1985, ch. 226, § 1; L. 1990, ch. 241, § 2; L. 1992, ch. 206, § 1; L. 1993, ch. 263, § 3; L. 1995, ch. 98, § 1; L. 1996, ch. 164, § 1; July 1.

Kansas Statutes

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66-1,129

Chapter 66.--PUBLIC UTILITIES Article 1.--POWERS OF STATECORPORATION COMMISSION

66-1,129. Motor carriers; safety rules and regulations adopted by commission; exceptions. (a) The commission shall adopt rules and regulations necessary to carry out the provisions of this act. No public motor carrier of property or passengers, contract motor carrier of property or passengers or private motor carrier of property shall operate or allow the operation of any motor vehicle on any public highway in this state except within the provisions of the rules and regulations adopted by the commission. Rules and regulations adopted by the commission shall include:

- (1) Every vehicle unit shall be maintained in a safe and sanitary condition at all times.
- (2) Every driver of a public motor carrier, operating as a carrier of intrastate commerce within this state, shall be at least 18 years of age. Every driver of a contract motor carrier or private motor carrier, operating as a carrier of intrastate commerce within this state, shall be at least 16 years of age. All such drivers shall be competent to operate the motor vehicle under such driver's charge.
- (3) Minimum age requirements for every driver of a motor carrier, operating as a carrier of interstate commerce, shall be consistent with federal motor carrier regulations.
- (4) Hours of service for operators of all motor carriers to which this act applies shall be fixed by the commission.
- (5) Accidents arising from or in connection with the operation of motor carriers shall be reported to the commission within the time, in the detail and in the manner as the commission requires.
- (6) Every motor carrier shall have attached to each unit or vehicle distinctive marking adopted by the commission.
- (7) Motor carrier transportation requirements that are consistent with continuation of the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous materials.
 - (b) No rules and regulations adopted by the commission pursuant to this section shall require the operator of any motor vehicle having a gross vehicle weight rating or gross combination weight rating of not more than 10,000 pounds to submit to a physical examination, unless required by federal laws or regulations.
 - (c) Any rules and regulations of the commission, adopted pursuant to this section, shall not apply to the following, while engaged in the carriage of intrastate commerce in this state:
 - (1) The owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor

vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment.

(2) The transportation of children to and from school, or to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities.

(3) Motor vehicles carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards.

(4) Persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles.

(5) The operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers.

(6) Motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivisions of this state.

(7) Any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work.

(8) Motor vehicles used to transport water for domestic purposes or livestock consumption.

(9) The operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state.

History: L. 1931, ch. 236, § 22; L. 1959, ch. 258, § 12; L. 1965, ch. 506, § 36; L. 1976, ch. 289, § 1; L. 1977, ch. 226, § 1; L. 1978, ch. 269, § 1; L. 1985, ch. 227, § 1; L. 1988, ch. 356, § 242; L. 1990, ch. 241, § 3; July 1.



KANSAS MOTOR CARRIERS ASSOCIATION

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Executive Director

LEGISLATIVE TESTIMONY

by the

Kansas Motor Carriers Association

Appearing before the House Transportation Committee

Representative Gary Hayzlett, Chairman

Thursday, February 15, 2001

State Capitol, Topeka, Kansas

Supporting House Bill No. 2290

MR. CHAIRMAN AND MEMBERS OF THE
HOUSE TRANSPORTATION COMMITTEE:

My name is Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear here this afternoon representing our 1,450 members firms and the highway transportation industry. We are here today in support of House Bill No. 2290.

HB 2290 updates numerous definitions in the Kansas statutes governing the operation of motor carriers. One technical amendment needs to be made in Section 1, paragraph (d) to make the definition of household goods consistent with federal language governing interstate movements of this commodity.

In addition, the bill clarifies that vehicles with a gross vehicle weight rating of 10,000 lbs. or less are not subject to KCC regulations, except when transporting hazardous materials. The last change in HB 2290 brings Kansas law into conformity with the Federal Motor Carrier Safety Regulations governing the transportation of "tools of the trade."

Currently, Kansas law exempts those persons transporting "tools of the trade" from the safety regulations. Correspondence from the Federal Motor Carrier Safety Administration indicates that Kansas and the Kansas Highway Patrol could lose federal motor carrier safety assistance program dollars if we fail to correct this nonconforming statute.

KMCA continues to support uniformity between Kansas and the FMCSA for those that operate commercial vehicles. This industry has a long record of supporting initiatives that make our streets and highways safe. The programs include: increased vehicle inspections; the commercial drivers license; and mandatory drug and alcohol testing for operators of commercial vehicles.

With adoption of the technical amendment, KMCA supports your favorable consideration of HB 2290. We thank you for the opportunity to appear before you, and would be pleased to respond to any questions you may have.

House Transportation Committee
February 15, 2001

Attachment 3

Testimony of Jackie Miller
Kansas Corporation Commission
Director of Transportation
House Bill 2291
February 15, 2001

Good afternoon Mr. Chairman and members of the committee. I am Jackie Miller, Director of the Transportation Division of the Kansas Corporation Commission and I appear before you to testify as a proponent of House Bill 2291, which proposes several changes to the motor carrier act.

As a housekeeping matter, House Bill 2291 deletes references to the Interstate Commerce Commissions and updates several United State Codes. It also clarifies some language, which has simply been in the laws for quite some time, and was due for updating and clarification to current legislative style.

The amendment to K.S.A. 66-1,139 will eliminate a redundant paper work process for interstate motor carriers that transport exempt and nonexempt commodities. Presently, there is a group of carriers that must complete two separate applications for authority to operate. With this revision, the carrier will not be required to file somewhat redundant applications.

The amendments to K.S.A. 66-1,128, and K.S.A. 66-1314 will allow the Commission to set liability insurance amounts by rule and regulation.

The amendment to K.S.A. 66-1,129 will allow the Commission to update, through its own rules and regulations, the Code of Federal Regulations regarding hazardous materials, previously adopted by the Legislature in 1998, to more current "CFR" cites. I will note that allowing updates of these adoptions will not defeat the cargo tank exemptions brought into effect by the prior legislation.

The proposed new sections address safety ratings and civil penalty structures. I also understand that the Kansas Motor Carrier Association will be submitting amendments to these sections.

I appreciate your consideration and will stand for questions.



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LEGISLATIVE TESTIMONY

by the

Kansas Motor Carriers Association

Appearing before the House Transportation Committee

Representative Gary Hayzlett, Chairman

Thursday, February 15, 2001

State Capitol, Topeka, Kansas

Concerning House Bill No. 2291

MR. CHAIRMAN AND MEMBERS OF THE
HOUSE TRANSPORTATION COMMITTEE:

My name is Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear here this afternoon representing our 1,450 member firms, and the highway transportation industry. We are here today to support House Bill No. 2291, if certain amendments are added to the bill.

Members of KMCA staff and KCC staff have been meeting to work out differences with the KCC proposal. KMCA feels we have resolved our differences and would offer the committee a balloon bill as soon as the revisor has time to prepare the necessary changes.

KMCA took issue with allowing the KCC to issue safety fitness ratings for motor carriers. The Federal Motor Carrier Safety Administration (FMCSA) currently issues these safety ratings. We believe that, due to the importance of maintaining uniformity in the issuance of the safety ratings, only the FMCSA should issue such a safety rating.

In addition, we have some concerns with the new Section 2 of HB 2291. This section spells out a new fine statute for motor carriers. The KCC already has two other fine statutes that could be imposed on motor carriers. The KCC has indicated to us that they would like to have a specific fining authority, within the motor carrier statutes. We have agreed to their request, but would like amendments to maintain the current level of fines and remove reference to motor carriers in their other two penalty statutes.

The other provision of the bill would accomplish the following:

- Remove reference to the interstate commerce commission and replace the reference with the term "relevant federal agency." Motor carriers are currently governed by the FMCSA.
- Conform Kansas insurance requirements to the federal requirements.
- Eliminate interstate carriers, with federal operating authority, from also getting duplicate Kansas credentials for interstate-exempt commodity movements.

With the amendments agreed to by KMCA and the KCC, we support House Bill No. 2291 and ask your favorable consideration of the bill.

We thank you for the opportunity to appear before you today, and would be pleased to respond to your questions.

House Transportation Committee

February 15, 2001

Attachment 5

MINIMUM FEDERAL LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

Title 49 Code of Federal Regulations Part 387.9

A CARRIER'S FILES MUST CONTAIN US DOT FORM MCS-90 OR MCS-82 (For self-insured)

Type of carriage	Commodity transported	Liability Limits
(1) For hire (In interstate or foreign commerce, with a gross vehicle weight rating of 10,000 or more pounds).	Property (nonhazardous)	\$750,000
(2) For hire and Private (In interstate, foreign, or intrastate commerce, with a gross vehicle weight rating of 10,000 or more pounds).	Hazardous substances, as defined in 49 CFR 171.8 transported in cargo tanks, portable tanks, or hopper type vehicles with capacities in excess of 3,500 water gallons; or in bulk Division 1.1, 1.2, and 1.3 materials, Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in 49 CFR §173.403	5,000,000
(3) For hire and Private (In interstate or foreign commerce: in any quantity; or in intrastate commerce, in bulk only; with a gross vehicle weight rating of 10,000 or more pounds) .	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below	1,000,000
(4) For hire and Private (In interstate or foreign commerce, with a gross vehicle weight rating of less than 10,000 pounds).	Any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of a Class 7 material as defined in 49 CFR 173.403	5,000,000

Definitions:

“In bulk” --the transportation, as cargo, of property, except Division 1.1, 1.2, or 1.3 materials, and Division 2.3, Hazard Zone A gases, in containment systems with capacities in excess of 3,500 water gallons.

“In bulk (Division 1.1, 1.2, and 1.3 explosives)” --the transportation, as cargo, of any Division 1.1, 1.2, or 1.3 materials in any quantity.

“In bulk (Division 2.3, Hazard Zone A or Division 6.1, Packing Group I, Hazard Zone A materials)” --the transportation, as cargo, of any Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material, in any quantity.

Information Provided by: Kansas Motor Carriers Association, P.O. Box 1673, Topeka, KS 66601
2/2001