



CONTINUATION SHEET

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE at 8:30 a.m. on March 15, 2001 in Room 245-N of the Capitol.

**HB 2369: Cities and counties; paving materials, prohibiting the sale thereof**

The committee has before it four proposed balloon amendments. Staff explained Representative Grant's proposed amendment which basically takes the House position that removes the "otherwise providing" and "or paving services". Then it restructures the stricken language from line 23 to 28. Those things are kept the same and adds the provision to not prohibit interlocal agreements. The Chair asked Randy Allen to explain the two amendments proposed by the Aggregate Producers' Association. Proposed Balloon #1 is very similar to Representative Grant's. However, this one does not strike the words "or otherwise provide." They believe this would remove flexibility for cities and counties to work together. Proposed Balloon #2 is similar to language in **SB 210** under consideration in Local Government. In that Committee they testified against that language and offered language that is more straight forward. Mr. Allen further explained that the language in the Balloon proposed by the Kansas Association of Counties would prohibit cities and counties from providing materials to private entities but would allow cities and counties to provide materials to each other.

Time did not permit further action on this bill in today's meeting. Chairman Donovan announced continued discussion and possible final action on this bill will be held next week.

**Approval of minutes**

Senator Jackson moved to approve minutes of the March 7 and 8, 2001 meetings. Senator Salmans seconded the motion. Motion carried.

The meeting adjourned at 9:30 a.m.

The next meeting is "on call" for Tuesday, March 20, 2001.

SENATE TRANSPORTATION COMMITTEE

GUEST LIST

DATE: MARCH 15, 2001

NAME	REPRESENTING
Janice Miller	KCC
Tom Whitaker	Ks Motor Carriers Assn
Michael L White	Kearney Law Office
Michael Hoeme	RCC
Lee Eisenhauer	Propane Marketers Assn.
MARK GOSWELL	KHP
Ed A Borning	KHP
TERRY MCKEYS	KCC
Makha Lee Smith	KMAA
Sandy Jacquet	LKM
Randy Allen	Kansas Assoc. of Counties
Bob Totton	Ks Contractors Assn
E.L. Moore	KMAA

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

Good morning Mr. Chairman and members of the committee. My name is Jackie Miller. I am 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 five primary revisions. First, it deletes references to the Interstate Commerce Commission and replaces those references with "relevant federal agency." The ICC was abolished in 1995.

Next, this bill allows the Commission to define "household goods" to conform to federal law.

Third, 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 would point out that all private carriers transporting hazardous materials that require placards would still be required to obtain a permit from the Commission.

Fourth, 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, after conducting legal research in response to a question I received from the Federal Motor Carrier Safety Administration, the conclusion is 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 is to the state, the safety concerns are of equal importance.

*"Tools of the trade" carriers are those that are "carrying tools, property or material belong 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."*

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 amends the exception to the safety rules and regulations for private motor carriers hauling "tools of the trade" within the state of Kansas or intrastate. The current exception is **not** related to the MCSAP grant, because it applies only to intrastate movements. However, the modification to this exception is prompted by the same safety concerns as interstate transportation of "tools of the trade." The amendment to K.S.A. 66-1,129(c)(3) would continue to allow motor vehicles of a gross vehicle weight rating (GVWR) of 26,000 pounds or less, engaged in intrastate movement, to have an exception to the safety rules and regulations. Vehicles with a GVWR over 26,000 pounds would be subject to safety rules and regulations with the passage of this bill.

I appreciate your consideration and will stand for questions.



# House Bill 2290

## Motor Carrier Safety Revisions

Kansas Highway Patrol Testimony

Senate Transportation Committee  
March 15, 2001

Major Mark Goodloe  
East Region Commander



*Commercial Vehicle  
Safety Alliance*

# KANSAS HIGHWAY PATROL

*Service—Courtesy—Protection*

Bill Graves  
Governor



Col. Donald W. Brownlee  
Superintendent

## **Kansas Highway Patrol Summary of Testimony 2001 House Bill 2290**

**Senate Transportation Committee  
presented by  
Major Mark Goodloe  
March 15, 2001**

Good afternoon Mr. Chairman and members of the committee. My name is Mark Goodloe and I appear before you on behalf of Patrol Superintendent, Don Brownlee, to comment on House Bill 2290, which amends certain motor carrier safety statutes to mirror existing federal regulations.

Kansas is one of 47 states that have accepted federal funding through the Motor Carrier Safety Assistance Program (MCSAP). Since 1984, the Kansas Highway Patrol has annually received federal funding through this program to enforce motor carrier safety rules and regulations. Currently, \$2.3 million dollars in federal funding provides the citizens of Kansas with 35 troopers assigned to motor carrier safety enforcement duties, 5 civilian support positions and specialized services including the Patrol's Critical Highway Accident Response Team (CHART). Members of CHART are highly trained and respond to fatality collisions involving commercial vehicles and other catastrophic collisions where they perform in-depth technical investigations and reconstructions.

Through a partnership with the Federal Motor Carrier Safety Administration, the State of Kansas agrees to:

- Assume responsibility for improving motor carrier safety in our state, and
- Enforce state safety laws and regulations that are compatible with the Federal Motor Carrier Safety Regulations (FMCSRs) and Federal Hazardous Materials Regulations (HMRs).

This agreement ensures that rules and regulations are enforced uniformly across the United States, lessening the burden upon the motor carrier industry. The Kansas Highway Patrol has operated since the inception of the MCSAP program with the understanding that we were in full compliance with this agreement.

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2.2

On January 10, 2001, the General Counsel of the Kansas Corporation Commission (KCC) issued an opinion, at the request of their director of transportation, indicating that the Kansas Highway Patrol did not have the authority to enforce federal regulations on interstate or intrastate carriers hauling "tools of the trade." This exempts those commercial 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, lease, rent or bailment" from safety regulations.

The Patrol is extremely concerned about the implications this opinion has upon the safety of Kansans. Ultimately, this exemption prevents our troopers from enforcing basic safety rules that protect motor carrier employees and innocent travelers from the threat of serious injury or death.

Every day we see trucks pulling trailers loaded with large pieces of equipment such as bulldozers, trenchers, front end loaders, back-hoes and fork-lifts. Under current law, the Kansas Highway Patrol is prohibited from enforcing basic safety rules such as ensuring that adequate tie-downs are in place to keep that piece of equipment on the trailer. I have personally witnessed individuals moving this type of equipment with only one chain in place and even with no tie-downs at all. It is frustrating to know that in the event of one sudden braking or evasive maneuver this heavy piece of equipment will likely roll forward crushing the cab of the truck or topple off into oncoming traffic.

The current version of House Bill 2290 contains amendments to Kansas law which will:

- Strike all "tools of the trade" exemptions on trucks traveling across state lines (interstate),
- Require trucks where a driver must have a Commercial Driver's License (CDL) operating in Kansas (Intrastate) that are carrying "tools of the trade" to comply with safety rules, and
- Exempt smaller trucks operating in Kansas that carry "tools of the trade" from safety rules.

The Kansas Highway Patrol strongly supports House Bill 2290 for the reasons of safety and uniformity. I appreciate the opportunity to address you today and urge this committee to give House Bill 2290 a favorable report.

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A northbound pickup owned by a construction company was pulling a two-axle trailer loaded with masonry equipment. The trailer was not properly hooked to the truck and no safety devices (chains or breakaway trailer brakes) were in use. The trailer separated from the truck striking a southbound car head on. The driver of the car was killed and three other occupants, including a 5-year-old girl, sustained critical injuries.



The driver of this semi was killed when the loader it was transporting shifted forward during a sudden stop.

# Five killed in I-35 wreck



Rich Sugg/Staff

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 as it 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.



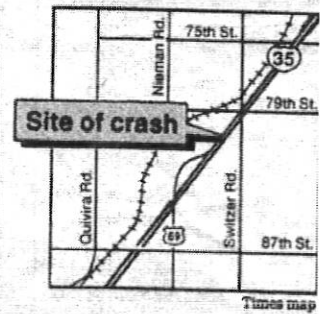
Beverly Potter/Staff

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 MOTOR CARRIERS ASSOCIATION

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Public Relations Chairman

TOM WHITAKER  
Executive Director

## LEGISLATIVE TESTIMONY

by the

**Kansas Motor Carriers Association**

**Appearing before the Senate Transportation Committee  
Senator Les Donovan, Chairman  
Thursday, March 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 morning 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. The bill changes the definition of "household goods" to make it 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 person transporting "tools of the trade" from the safety regulations. Correspondence from the Federal Motor Carrier Safety Administration indicates that Kansas and the 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 safer. They include: increased vehicle inspection; the commercial drivers license; and, mandatory drug and alcohol testing for operators of commercial vehicles.

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.

— SENATE TRANSPORTATION  
COMMITTEE-DATE: 3-15-01 —  
ATTACHMENT: 3

3-1

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

Good morning Mr. Chairman and members of the committee. My name is Jackie Miller. I am the 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 Commission 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. This includes K.S.A. 66-137, a criminal statute that pertains to all public utilities, so it conforms with Kansas sentencing guidelines.

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 amendment to K.S.A. 66-1,129b 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 Section 1 authorizes the Superintendent of the Highway Patrol and the Commission to enter into agreements with the relevant federal agency to allow qualified investigators to conduct investigations that would result in the relevant federal agency issuing a safety fitness rating.

New Section 2 separates the penalties pertaining to motor carriers from penalties pertaining to utilities. The proposed amendment deletes references to motor

carriers in the other civil penalty statutes. It also requires Commission attorneys to enforce and collect civil penalties in the appropriate district court.

New Section 3 allows for civil penalties to be compromised by the Commission based on the appropriateness of the penalty to the size of the business, the gravity of the violation, and the good faith of the violator. Once the penalty is determined, the Commission may consider and approve expenditures to a project that is related to motor carrier safety and benefits the industry or community as a whole, in lieu of civil penalties.

I appreciate your consideration and will stand for questions.





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## LEGISLATIVE TESTIMONY

by the

**Kansas Motor Carriers Association**

**Appearing before the Senate Transportation Committee  
Senator Les Donovan, Chairman  
Thursday, March 15, 2001  
State Capitol, Topeka, Kansas**

**Supporting House Bill No. 2291**

### **MR. CHAIRMAN AND MEMBERS OF THE SENATE TRANSPORTATION COMMITTEE:**

My name is Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear here this morning representing our 1,450 member firms and the highway transportation industry. We are here today to support House Bill No. 2291. Members of KMCA staff and the KCC staff worked together to produce the bill before you today.

The provisions of the bill will accomplish the following:

- Allows the KCC and the Kansas Highway Patrol to contract with the federal government to do the investigation necessary to provide the federal agency with the information needed to issue a federal motor carrier safety fitness rating.
- Sets out a fine statute specifically for motor carriers. The amount of penalties will not change.
- Removes reference to the interstate commerce commission and replace the reference with the term "relevant federal agency." Motor carriers are currently governed by the FMCSA.
- Conforms Kansas insurance requirements to the federal requirements.
- Eliminates the requirement that interstate carriers with federal interstate common carrier operating authority also obtain Kansas credentials for interstate exempt commodity movements.

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 please to respond to questions.

SENATE TRANSPORTATION  
COMMITTEE-DATE: 3-15-01  
ATTACHMENT: 5

5-1