

MINUTES OF THE HOUSE TRANSPORTATION.

The meeting was called to order by Chairperson Gary Hayzlett at 1:50 p.m. on February 26, 2002 in Room 519-S of the Capitol.

All members were present except:

Representative Dillmore, excused  
Representative Humerickhouse, excused  
Representative Kauffman, excused  
Representative Levinson, excused  
Representative Osborne, excused

Committee staff present:

Bruce Kinzie, Office of the Revisor  
Hank Avila, Legislative Research Department  
Carol Doel, Acting Committee Secretary

Conferees appearing before the committee:

D. Michael Brown, Commander, Coffeyville Police Department

Others attending:

See attached sheet

**HB 2799 - Commercial driver's licenses, exempt vehicles**

Representative Hayzlett opened hearings on **HB 2799**. Representative Garner introduced D. Michael Brown, Commander, Coffeyville Police Department as a proponent. He told the committee his department had recently acquired a surplus armored truck that would have multiple uses within the department. However, upon researching the current statutes the truck is considered a Commercial Motor Vehicle, therefore, any officer that operated the truck would be required to obtain a Commercial Drivers License. Being a small department this would not be practical. He said it was his understanding that the firefighters are exempt from this requirement based on the fact that a fire vehicle is a firefighting apparatus that incidentally drives on the roads and highways. They are asking that this exemption be extended to include police officers operating law enforcement specialty vehicles that are otherwise considered Commercial Motor Vehicles. (Attachment 1)

There were no further proponents and no opponents listed. Following questions from the committee Chairman Hayzlett closed hearings on **HB 2799**.

Representative Larkin made a motion to pass **HB 2799** favorably, seconded by Representative Levinson and the motion carried.

Representative Powers requested his "no" vote be recorded.

**HB 2604 - driver's licenses, expiration date**

Chairman Hayzlett opened **HB 2604** for discussion and final action. Representative Osborne made a motion to table **HB 2604**, seconded by Representative Powers and the motion carried.

**HB 2886 - child passenger safety act**

Chairman Hayzlett opened **HB 2886** for discussion and final action and called on Bruce Kinzie, Revisor, to give an overview of the bill with the amendments which had been added. He said basically the amendments changed the age and weight of children required to be in a child passenger safety restraining system, added it would not be a violation if the number of children subject to the requirements exceeds the number of passenger securing locations available for use by children affected by such requirements and all of those securing locations are in use and finally would renumber the sections and sub-sections.

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE, Room 519-S of the Capitol at 1:50 p.m. on February 26, 2002

Representative Vickrey made a motion to adopt the amendments, seconded by Representative Loganbill and the motion carried.

Representative Larkin made a motion to amend page 2, line 6 eliminating the \$60.00 and making the fine back to \$20.00, seconded by Representative Long and the motion carried. Representative Levinson wished his "no" vote recorded.

Representative Huy made a motion to waive \$10.00 of the fine and the court costs if the parents could provide proof of a booster seat on a first offense (this is back to the current law), seconded by Representative Humerickhouse and the motion carried.

Representative Humerickson made a motion that line 6, page 2 be \$20.00 for the first conviction and \$60 for the 2<sup>nd</sup> conviction and subsequent convictions, seconded by Representative Levinson and the motion carried.

Representative Aday moved that on page 2, line 21 the age be moved back to 14, seconded by Representative Levinson and the motion failed.

Representative Vickrey moved to pass **HB 2886**, as amended, seconded by Representative Loganbill. There was no vote taken.

Representative Pyle made a substitute motion that officers carry a child safety seat with them. This failed for lack of a second.

Representative Ballou made a motion to table **HB 2886**, seconded by Representative Powers - no vote taken.

Representative Osborne made a substitute motion to strike weight and height on page 1, line 32. Motion died for lack of a second.

Representative McKinney made a motion to pass **HB 2886** favorably, as amended, seconded by Representative Loganbill and the motion carried.

Representatives Ballou and Osborne wished their "no" vote recorded.

Chairman Hayzlett adjourned the meeting at 2:40 p.m. The next meeting of the House Transportation Committee will be March 7<sup>th</sup> at 1:30 p.m. in Room 519-S.

# HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: February 26, 2002

NAME	REPRESENTING
Christi Stewart	KS Motor Carriers Assoc.
Marcia Stambough	KDOT
ERIC COLLINS	KS Governmental Consulting
Sheila Walker	KDOR-DMV
Cindy Specht	KDOR-DMV
DAVID M. Brown	COFFEYVILLE POLICE DEPT
JIM KEATING	KANS. SAFE KIDS
Trista Bendles	Office of the Governor
June	KHP
Sandra Braden	Alliance of Auto Manuf.
Tom Whitaker	KS Motor Carriers Assn.
CHRISTI Stewart	" "
Sally Finney	To. Public Health Assn.
Jan Hegelman	KS. SAFE KIDS Coalition



# COFFEYVILLE POLICE DEPARTMENT

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Office of Chief of Police  
316-252-6164  
FAX 316-252-6118

Joe Humble  
Chief of Police

To: Chairman, House Transportation Committee  
From: D. Michael Brown, Commander Coffeyville Police Department  
Re: House Bill No. 2799

Dear Chairman,

We recently acquired a surplus Armored Truck that would have multiple uses within the Department's areas of responsibility, including:

- Serving as a Command Post for Disasters
- Transporting Officers to and from SWAT calls
- Utilizing the vehicle in officer/citizen down situations where officers and victims would be placed in danger by approaching the scene w/o the armor protection of the vehicle
- Creating a "safe haven" to set up command and control structure during critical incidents in closer proximity to the scene than is possible with unarmored vehicles.

Upon researching the current state statutes we found that our particular vehicle is considered a Commercial Motor Vehicle (CMV). Due to our vehicle being a CMV, every officer that would possibly operate the armored truck would be required to obtain a Com. Drivers License (CDL). Being a small department, this would not be practical due to the fact that eight of our 26 officers are members of our tactical team and four additional officers are attached to the team as negotiators or Command elements. This would require that almost half of our officers would be required to possess and maintain a CDL.

I also found that firefighters operating firefighting apparatus are exempt from this requirement. It is my understanding that the current firefighter exemption is based on the fact that a fire vehicle is a firefighting apparatus that incidentally drives on the roads and highways. Basically it is driven on the roads only to get to the scene of a fire, other emergency or to conduct related training.

Following this reasoning, the same is true of an armored vehicle used in emergency police situations. The armored vehicle is utilized to respond to emergency situations, in which its armor capabilities reduce the risk to officers and citizens, and to conduct related training.

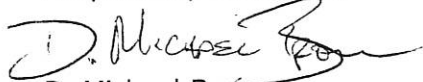
House Transportation Committee  
February 26, 2002  
Attachment 1

We think it would be logical that the current exemption for firefighters operating firefighting apparatus be extended to include police officers operating law enforcement specialty vehicles that are otherwise considered CMV's.

The current federal regulations clearly exempt SWAT vehicles from the CDL requirement, leaving the option to do the same up to each individual state. An amendment to KSA 8-2,127 that mirrors 49 CFR 383.3 (d)(2) would allow agencies throughout the State to utilize such vehicles without being required to have their officers possess and maintain CDL's.

I would respectfully request that the State of Kansas mirror the federal Commercial Motor Vehicle Act and exempt SWAT vehicles from the CDL requirement by approving House Bill No. 2799, thereby allowing Kansas law enforcement agencies the ability to utilize this type of vehicle without going through the rigors and expense of obtaining a CDL.

Respectfully submitted,



D. Michael Brown  
Commander  
Coffeyville Police Department

January 21, 2002

Mr. Jim Garner

Re: Proposal to amend K.S.A. 8-2,127

Dear Jim:

The Coffeyville Police Department owns a SWAT vehicle, which the department hopes to place into service in the near future. The vehicle will have multiple uses, including:

- Serving as a command post for disasters
- Transporting officers to and from SWAT calls
- Using the vehicle in rescue situations where officers would be placed in danger by approaching a scene without the armor protection of the vehicle
- Creating a safe haven to set up operations during armed and barricaded calls closer to the scene than is possible with conventional vehicles

The vehicle will not be used in the day-to-day operations and will only be used in emergency situations or in the training exercises. It will be identified with police department markings, emergency lights and a siren.

An obstacle which the department has encountered is the licensing required to operate the vehicle. The vehicle meets the statutory definition of a commercial motor vehicle ("CMV") under K.S.A. 8-2,128(f) and, therefore, operators of the vehicle must possess a commercial driver's license ("CDL").

K.S.A. 8-2,127 sets forth a list of vehicles, which are exempt from the Uniform CDL Act (the "Act"). The list includes firefighting equipment. That statute, along with the entire Act, draws its authority from the federal commercial motor vehicle act of 1986.

49 C.F.R. 383.3, which is the embodiment of the federal commercial motor vehicle act, identifies several exceptions to the CDL requirement. Where applicable to Coffeyville's dilemma, the federal code states as follows:

“(d) Exception for farmers, firefighters, emergency response vehicle drivers, and drivers removing snow and ice. **A State may, at its discretion, exempt individuals identified in paragraphs (d)(1), (d)(2) and (d)(3) of this section from the requirements of this part.** The use of this waiver is limited to the driver's home State unless there is a reciprocity agreement with adjoining States” (emphasis added).

...

“(d)(2) Firefighters and other persons who operate CMV’s which are necessary to the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals and are not subject to normal traffic regulation. **These vehicles include** fire trucks, hook and ladder trucks, foam or water transport trucks, **police SWAT team vehicles**, ambulances, or other vehicles that are used in response to emergencies” (emphasis added).

It seems logical that if firefighting equipment is exempt from the CDL requirement, so should a SWAT vehicle. Such an exemption would allow the Coffeyville Police Department, as well as other departments in the state, to implement usage of SWAT vehicles without being put through the rigors and expense of obtaining CDL’s for operators of those vehicles.

Would you consider sponsoring an amendment to K.S.A. 8-2,127 to expand the exemptions allowed by the federal code? I think a verbatim exemption to the above-referenced section (d)(2) would be sufficient.

On behalf of the City of Coffeyville, the Coffeyville Police Department and your Coffeyville constituents, thank you for your consideration of this request. Please feel free to call me if you have any questions or suggestions.

Sincerely,

Paul Kritz

(1) Establishes requirements for the State issued commercial license documentation.

[52 FR 20587, June 1, 1987, as amended at 53 FR 27648, July 21, 1988; 54 FR 40787, Oct. 3, 1989]

### § 383.3 Applicability.

(a) The rules in this part apply to every person who operates a commercial motor vehicle (CMV) in interstate, foreign, or intrastate commerce, to all employers of such persons, and to all States.

(b) The exceptions contained in § 390.3(f) of this subchapter do not apply to this part. The employers and drivers identified in § 390.3(f) must comply with the requirements of this part, unless otherwise provided in this section.

(c) Exception for certain military drivers. Each State must exempt from the requirements of this part individuals who operate CMVs for military purposes. This exception is applicable to active duty military personnel; members of the military reserves; member of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty U.S. Coast Guard personnel. This exception is not applicable to U.S. Reserve technicians.

(d) Exception for farmers, firefighters, emergency response vehicle drivers, and drivers removing snow and ice. A State may, at its discretion, exempt individuals identified in paragraphs (d)(1), (d)(2), and (d)(3) of this section from the requirements of this part. The use of this waiver is limited to the driver's home State unless there is a reciprocity agreement with adjoining States.

(1) Operators of a farm vehicle which is:

(i) Controlled and operated by a farmer, including operation by employees or family members;

(ii) Used to transport either agricultural products, farm machinery, farm supplies, or both to or from a farm;

(iii) Not used in the operations of a common or contract motor carrier; and

(iv) Used within 241 kilometers (150 miles) of the farmer's farm.

(2) Firefighters and other persons who operate CMVs which are necessary to the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals and are not subject to normal traffic regulation. These vehicles include fire trucks, hook and ladder trucks, foam or water transport trucks, police SWAT team vehicles, ambulances, or other vehicles that are used in response to emergencies.

(3)(1) A driver, employed by an eligible unit of local government, operating a commercial motor vehicle within the boundaries of that unit for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, if

(A) The properly licensed employee who ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle; or

(B) The employing governmental entity determines that a snow or ice emergency exists that requires additional assistance.

(ii) This exemption shall not preempt State laws and regulations concerning the safe operation of commercial motor vehicles.

(e) Restricted commercial drivers license (CDL) for certain drivers in the State of Alaska. (1) The State of Alaska may, at its discretion, waive only the following requirements of this part and issue a CDL to each driver that meets the conditions set forth in paragraphs (e) (2) and (3) of this section:

(i) The knowledge tests standards for testing procedures and methods of subpart H, but must continue to administer knowledge tests that fulfill the content requirements of subpart G for all applicants;

(ii) All the skills test requirements; and

(iii) The requirement under § 383.153(a)(4) to have a photograph on the license document.

(2) Drivers of CMVs in the State of Alaska must operate exclusively over roads that meet both of the following criteria to be eligible for the exception in paragraph (e)(1) of this section:

(i) Such roads are not connected by land highway or vehicular way to the

### Federal Highway Administration, DOT

land-connected State highway system; and

(ii) Such roads are not connected to any highway or vehicular way with an average daily traffic volume greater than 499.

(3) Any CDL issued under the terms of this paragraph must carry two restrictions:

(i) Holders may not operate CMVs over roads other than those specified in paragraph (e)(2) of this section; and

(ii) The license is not valid for CMV operation outside the State of Alaska.

(f) Restricted CDL for certain drivers in farm-related service industries. (1) A State may, at its discretion, waive the required knowledge and skills tests of subpart H of this part and issue restricted CDLs to employees of these designated farm-related service industries:

(i) Agri-chemical businesses;

(ii) Custom harvesters;

(iii) Farm retail outlets and suppliers;

(iv) Livestock feeders.

(2) A restricted CDL issued pursuant to this paragraph shall meet all the requirements of this part, except subpart H of this part. A restricted CDL issued pursuant to this paragraph shall be accorded the same reciprocity as a CDL meeting all of the requirements of this part. The restrictions imposed upon the issuance of this restricted CDL shall not limit a person's use of the CDL in a non-CMV during either validated or non-validated periods, nor shall the CDL affect a State's power to administer its driver licensing program for operators of vehicles other than CMVs.

(3) A State issuing a CDL under the terms of this paragraph must restrict issuance as follows:

(i) Applicants must have a good driving record as defined in this paragraph. Drivers who have not held any motor vehicle operator's license for at least one year shall not be eligible for this CDL. Drivers who have between one and two years of driving experience must demonstrate a good driving record for their entire driving history. Drivers with more than two years of driving experience must have a good driving record for the two most recent years. For the purposes of this para-

graph, the term *good driving record* means that an applicant:

(A) Has not had more than one cense (except in the instances specified in § 383.21(b));

(B) Has not had any license suspended, revoked, or canceled;

(C) Has not had any conviction of any type of motor vehicle for the d qualifying offenses contained in § 383.51(b)(2);

(D) Has not had any conviction of any type of motor vehicle for serious traffic violations; and

(E) Has not had any conviction for violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident and has no record of an accident in which he/she was at fault.

(ii) Restricted CDLs shall have the same renewal cycle as unrestricted CDLs, but shall be limited to the seasonal period or periods as defined in the State of licensure, provided that the total number of calendar days in any 12-month period for which the restricted CDL is valid does not exceed 180. If a State elects to provide for more than one seasonal period, the restricted CDL is valid for commercial motor vehicle operation only during the currently approved season, and must be revalidated for each successive season. Only one seasonal period of validity may appear on the license document at a time. The good driving record must be confirmed prior to any renewal or revalidation.

(iii) Restricted CDL holders are limited to operating Group B and C vehicles, as described in subpart F of this part.

(iv) Restricted CDLs shall not be issued with any endorsements on the license document. Only the limited tank vehicle and hazardous materials endorsement privileges that the restricted CDL automatically confers and are described in paragraph (f)(3)(v) of this section are permitted.

(v) Restricted CDL holders may not drive vehicles carrying any placardable quantities of hazardous materials, except for diesel fuel in quantities of 3,785 liters (1,000 gallons) or less; liquid fertilizers (i.e., plant nutrients) in vehicles or implements of husbandry in