

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE.

The meeting was called to order by Chairperson Senator Les Donovan at 8:30 a.m. on March 12, 2003 in Room 245-N of the Capitol.

All members were present except: Senator Ed Pugh

Committee staff present: Hank Avila, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Marian F. Holeman, Committee Secretary

Conferees appearing before the committee: Senator Lana Oleen
Jason Butler, Junction City, KS Youth Commission
Representative Barbara Craft
Bob Storey, Junction City Police Chief
Sheila Walker, Dir., Division of Vehicles, KDOR
Tom Whitaker, Exec. Dir., KMCA
Mike Crow, Chief, Bureau Traffic Engineering KDOT

Others attending: See attached list

HB 2221: Re motor vehicles; neon ground effect lighting

Senator Oleen offered testimony in support of this bill which would allow vehicles to be equipped with neon ground effect lighting. The neon tubing cannot be visible nor can it be in any shade of red. The bill is necessary to clarify inconsistent interpretation of present law (Attachment 1). Jason Butler, Chairperson, Junction City Youth Commission explained how his group worked with local law enforcement and received their support in trying to solve the problem. They contacted the Kansas Peace Officers Association, Kansas Chiefs of Police Association, Kansas Sheriff's Association and the Highway Patrol and received no negative input (Attachment 2). They do not have a problem with the House amendment that says lighting shall not flash. Last year when a similar bill passed the Senate, law enforcement, almost across the board, just want the bill clarified - either it is legal or it isn't.

Representative Craft did not have written testimony. She praised the collaborative effort between Police Chief Storey and the Junction City Youth Commission. Representative Craft also informed members that Jason Butler is the grandson of former Representative Jerry Geringer who also attended the meeting. Jason missed the House Committee meeting because he was in the state wrestling tournament. He is now state champion in his weight category. Junction City Police Chief, Robert Storey also testified in support of this bill. It has been a time consuming problem trying to explain to the public why there are so many different interpretations of what can and cannot be used for lighting. He felt the youth commission has done an excellent job in trying to look at the issue and address it from a law enforcement perspective. He has heard nothing against the bill and would urge passage of **HB 2221**. No written testimony. No other conferees appeared on the bill. Hearing closed.

HB 2220: Re uniform commercial drivers' license act

Sheila Walker, Director of Vehicles, Kansas Department of Revenue, testified in support of this bill explaining that it is necessary to bring Kansas into compliance with the U.S. Department of Transportation, Federal Motor Carrier Safety Administration's "Final Rule on Commercial Driver's License Standards, Requirements and Penalties and the Commercial Driver's License (CDL) Program Improvements, etc., etc School Bus Drivers can be grand fathered in for the new endorsement before September 30, 2005. Additional CDL changes include disqualifications for new major and serious offenses in a non-CMV; precludes diversion agreements and adds to the list of serious traffic violations (Attachment 3). Six new offenses at a railroad-highway grade crossing were effective October 2002. Therefore, Ms. Walker urged passage of this bill and that it become effective upon publication in the Kansas Register.

Tom Whitaker, Executive Director, Kansas Motor Carriers Association, stated his organization strongly supports all laws designed to increase commercial motor vehicle safety. The changes in this bill are

CONTINUATION SHEET

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE at 8:30 a.m. on March 12, 2003 in Room 245-N of the Capitol.

designed to further improve safety of motor carrier operations. The KMCA respectfully requests passage of the bill (Attachment 4). Mike Crow, Chief of the Bureau of traffic Engineering for the Kansas Department of Transportation voiced their support for the bill since they cannot afford to lose any more sources of funding. Lack of compliance would mean loss of \$16 - \$18 million the first year and \$31 - \$33 million the second and subsequent years (Attachment 5). They have worked with Ms. Walker and view this bill as essentially a "clean-up" bill. It is also important for our state to uniformly comply with traffic laws throughout the United States. No other conferees appeared on the bill. Hearing closed.

Final action

Following discussion, Senator Goodwin moved to recommend HB 2221 favorable for passage. Senator Harrington seconded the motion. Motion carried.

Approval of minutes

Senator Salmans moved to approve minutes of the March 11, 2003 meeting. Senator Schodorf seconded the motion. Motion carried.

The meeting adjourned at 9:25 a.m.

The next meeting is scheduled for March 13, 2003.

State of Kansas

LANA OLEEN
SENATOR, 22ND DISTRICT
GEARY AND RILEY COUNTIES
(785) 296-2497



COMMITTEE ASSIGNMENTS
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Majority Leader Kansas Senate

SENATE CHAMBER, STATE CAPITOL
TOPEKA, KANSAS 66612-1504

March 12, 2003

Senate Transportation Committee Testimony on HB 2221 Regarding Undercar Lighting

Chairman Donovan and Members of the Senate Transportation Committee:

Thanks for the opportunity to offer testimony to your committee regarding HB 2221 to allow vehicles to be equipped with neon ground effect lighting when the actual neon tubing is not visible and is not any shade of the color red.

The current statute regarding lighting on vehicles does not specifically address this type of decorative lighting, which has recently become popular with many young people. This ambiguity in the law has led to its inconsistent interpretation and application by various law enforcement agencies. HB 2221 provides consistency for law enforcement officials as well as basic guidelines for those people wishing to install ground effect lighting on their vehicles.

During the 2002 session, a similar provision passed the Senate with strong support on a vote of 39 to 1. Due to late introduction, the issue did not make it through the entire legislative process. Law enforcement officials support clarification of current law. To that end, I encourage your support of HB 2221.

Respectfully,

A handwritten signature in black ink, appearing to read 'Lana Oleen', with a stylized flourish at the end.

Lana Oleen
Kansas Senate Majority Leader

SENATE TRANSPORTATION COMMITTEE

- DATE: 3-12-03 -
ATTACHMENT: 1

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JUNCTION CITY YOUTH COMMISSION

February 25, 2003

Dear Committee Members,

My name is Jason Butler, from the Junction City Youth Commission. We are here to support House Bill 2221.

Over the last several months, people, especially the youth of our community, have received citations from highway patrol, police and sheriff's department officers for having neon lights under our vehicles.

We have talked to several law enforcement officials about what type of decorative lighting is legal and what is not. We have found that it depends on which agency you talk to as to how they interpret what the law states about lighting. For instance, the highway patrol has said that as long as the tubes cannot be seen, it is legal. But officers from the city police have a different interpretation of that, and sheriff's deputies have yet another interpretation.

What we like about the new section (F) is that it clears up the interpretation for all involved, both the people who want the lights and law enforcement officers trying to enforce this law.

We are not asking you to make anything legal that might hurt anyone. Adding decorative lighting under the vehicles is a way for youth to personalize their vehicles and have a little fun.

We also would like you to know that we have consulted with our local law enforcement agencies and have received their support in this endeavor. We have sent letters to the Kansas Peace Officers Association, Kansas Chiefs of Police Association, Kansas Sheriff's Association, and the Highway Patrol asking for their support and input.

We believe that adding this new section will be helpful to law enforcement and the youth of our communities would love it too!

Thank you for your consideration,

Jason Butler
Chair-Junction City Youth Commission

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SENATE TRANSPORTATION COMMITTEE

DATE: 3-12-03

ATTACHMENT: 2



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
DIVISION OF VEHICLES

KATHLEEN SEBELIUS, GOVERNOR

TO: Chairman Les Donovan
Members of the Senate Transportation Committee

FROM: Sheila J. Walker, Director of Vehicles *Sheila J. Walker*

DATE: March 12, 2003

SUBJECT: House Bill 2220 – Federal CDL Regulations

Mr. Chairman, members of the committee, I am Sheila Walker, Director of the Kansas Department of Revenue's Division of Vehicles. Thank you for allowing me to testify in support of House Bill 2220.

The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, published its Final Rule on Commercial Driver's License Standards, Requirements and Penalties and the Commercial Driver's License (CDL) Program Improvements and Noncommercial Motor Vehicle Violations on July 31, 2002 (49 CFR Parts 350, 383, 384 and 390).

In order for the State Highway Fund to avoid losing \$16 to \$18 million the first year and \$31 to \$33 million the second year, Kansas must pass state laws that mirror these federal regulations. House Bill 2220 will bring Kansas into compliance with the revised federal rule, which must be implemented by all states to protect highway funds.

There are four major changes to existing law:

- Adds an "S" endorsement for school bus drivers;
- Precludes diversion agreements that would prevent a conviction from appearing on the record;
- Adds disqualifications for several new major and serious offenses in a non-commercial motor vehicle; and
- Adds several new railroad-highway grade crossing offenses.

"S" Endorsement for School Bus Drivers

The regulations require the state to implement a new "S" endorsement on CDLs for school bus drivers. The Division will need to revise its written tests and drive tests for applicants who wish to obtain the new endorsement. (We expect the American Association of Motor Vehicle Administrators to assist with the preparation of those tests.)

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SENATE TRANSPORTATION COMMITTEE

DATE: 3-12-03

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<http://www.ksrevenue.org/>

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We will also need to revise the application process to verify that the applicant meets the specifications outlined in (b)(1) through (b)(7) on Page 1. (Has the applicant held a CDL with a passenger vehicle endorsement? Have the applicant's driving privileges been suspended, revoked or cancelled? Has the driver been convicted of any disqualifying offenses? Etc.)

The Kansas Department of Education reports there are approximately 6,000 school busses in the state. It is unknown exactly how many active school bus drivers there are in Kansas. Current active school bus drivers may be "grandfathered in" for the new endorsement. Under the bill, these drivers could have the endorsement added to their license before September 30, 2005, without being subject to the new driving skills test. We may see longer lines leading up to the deadline in order for school bus drivers to be "grandfathered in."

The new school bus driver endorsement change will require some examiner training, which can be accomplished with existing resources.

Preclude Diversion Agreements

The federal regulations preclude a commercial driver from entering into a diversion agreement that would prevent a conviction from appearing on the driver's record (New Section 2, starting on Line 43 of Page 1). This part of the regulation is intended to prohibit "masking" or allowing diversions for traffic violations *that would normally be recorded on the driving record*.

Disqualifications for New Major & Serious Offenses in a Non-CMV

The federal regulations increase the type and number of violations that can result in either new or longer sanctions against the driving privileges of CDL-holders (Pages 8 and 9). The most dramatic change is the requirement to disqualify CDL-holders from operating a commercial motor vehicle (CMV) for convictions of major and serious traffic violations while operating a non-commercial vehicle (non-CMV).

For example, a CDL-holder would be disqualified from driving a commercial motor vehicle for one year if convicted of a first-time DUI in a non-commercial motor vehicle. Currently, the CDL-holder is still eligible to drive his commercial motor vehicle because, following a 30-day suspension of all driving privileges, DUI offenders are restricted to and from work and during the course of employment (as well as to and from school, to and from alcohol treatment, and during a medical emergency). With this change, the CDL-holder would only be eligible to drive a non-commercial motor vehicle with the same restrictions.

Railroad-Highway Grade Crossing

The federal regulations add six new offenses at a railroad-highway grade crossing that disqualify commercial drivers from operating a commercial motor vehicle (starting on Line 36 of Page 9).

For instance, a commercial driver who is not required to always stop, but fails to slow down and check that the tracks are clear of an approaching train, would be disqualified from driving a commercial motor vehicle for 60 days for a first conviction; 120 days for a second conviction in three years; and one year for a third or subsequent conviction in three-years.

In Conclusion

The bill also adds to the list of serious traffic violations (Page 4, Line 27) a violation of subsection (a) of K.S.A. 8-2,132, which refers to driving a CMV without obtaining a CDL; driving a CMV without a CDL in the driver's possession; and driving a CMV without the proper class of CDL or endorsements.

Finally, the bill specifies that no person shall drive a commercial motor vehicle in violation of an out-of-service order. The consequences for such conviction (with and without hazardous materials) are outlined on Page 9, Lines 9 through 30.

The state has three years (until October 2005) to implement the "S" endorsement, the diversion preclusion, and the new major and serious offenses in a non-CMV. However, the railroad crossing offenses were effective October 2002.

This bill takes effect upon publication in the Kansas Register. To avoid losing \$16 to \$18 million in federal funding this fiscal year, we respectfully request the Committee to pass this bill out favorably.



KANSAS MOTOR CARRIERS ASSOCIATION

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Legislative Testimony

Presented by the Kansas Motor Carriers Association
Before the Senate Transportation Committee
Senator Les Donovan, Chairman
Wednesday, March 12, 2003

In Support of House Bill No. 2220

MR. CHAIRMAN AND MEMBERS OF THE HOUSE TRANSPORTATION COMMITTEE:

I am Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear here this morning representing our 1,250 member firms and the Kansas trucking industry in support of House Bill 2220.

KMCA strongly supported the Kansas Uniform Commercial Driver's License Act when it was adopted by the Kansas Legislature during the 1989 session. The commercial driver's license system was established to insure that unqualified and unsafe persons cannot obtain a license to operate a commercial motor vehicle (CMV).

KMCA strongly supports all laws designed to increase commercial motor vehicle safety including:

- Commercial driver's license
- Drug and alcohol testing
- Annual vehicle inspections
- Increased roadside inspections

House Bill 2220 is legislation to bring Kansas into compliance with revisions to the Commercial Driver's License program mandated by the Motor Carrier Safety Act of 1999. These changes are designed to further improve the safety of motor carrier operations on our nation's highways by making sure that only safe drivers operate commercial motor vehicles.

House Bill 2220 makes the following changes in the current Kansas Commercial Driver's License laws:

- Establishes requirements for a newly created school bus endorsement to promote the safe operation of school buses and distinguish the difference between school bus operations and commercial passenger bus operations.
- Prohibits diversion agreements that would prevent a driver's conviction of any violation in any type of vehicle from appearing on the driver's record.

SENATE TRANSPORTATION COMMITTEE

DATE: 3-12-03

ATTACHMENT: 4

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Member Emeritus

TOM WHITAKER
Executive Director

- Establishes a new “S” endorsement for operators of school buses.
- Adds definition for “fatality”, “noncommercial motor vehicle”, and “school bus”.
- Updates CDL disqualification from operating a CMV and includes nonCMV convictions of the same nature as those for a CDL.
- Updates CDL disqualifications for serious traffic violations to include nonCMV revocations, cancellations or suspensions.
- Establishes disqualifications from driving a CMV in violation of an out-of-service order.
- Establishes disqualifications from driving a CMV for convictions of operating a CMV in violation of federal, state and local laws or regulations of railroad-highway grade crossing.

The changes in HB 2220 to the Kansas Uniform Commercial Driver’s License Act would bring Kansas in compliance with the Motor Carrier Safety Act of 1999. The changes eliminate the possibility being decertified by the federal government to issue CDL’s and lose federally-aided highway funds.

Kansas Motor Carriers Association respectfully requests that the Senate Transportation Committee act favorably on HB 2220. We thank you for the opportunity to appear before you today and would be pleased to respond to any questions you may have.

What is the CDL and who has to have one?

The Commercial Driver's License, or CDL, is more than just an innovative and efficient method of licensing commercial drivers. It is a dramatic improvement in highway safety. Thanks to the CDL program, law enforcement officials now have a method of removing unsafe truck and bus drivers from our highways.

Quite simply, the CDL is a single commercial driver's license, valid throughout the United States that ensures that the licensees are qualified to drive their vehicles and they have been uniformly tested.

The concept originated as part of the Commercial Motor Vehicle Safety Act of 1986, enacted to resolve the long-standing problem of multiple licensing, and make sure drivers operating commercial motor vehicles are qualified. Under past licensing systems it was easy for some truck and bus drivers to obtain licenses from various states. With licenses from various states, drivers could hide violations and poor driving records from employers, licensing agents and law enforcement officials.

The CDL puts the licensing systems of all states on equal footing. Before the CDL program, many states did not have a classified licensing system. Drivers of heavy trucks could become licensed without demonstrating an ability to safely handle the equipment. The CDL program changed those inequities. It keeps unqualified and unsafe drivers off the highways by creating a national, single-license system that tests a driver's knowledge and driving skills and cross-checks the driver's record on a national data base before the CDL is issued.

The key to the success of the CDL program is the Commercial Driver's License Information System (CDLIS), a national computer network connected to the licensing agencies in all 50 states and the District of Columbia. This computer network ensures that drivers who are licensed have been tested and have not had any disqualifying offenses in any state.

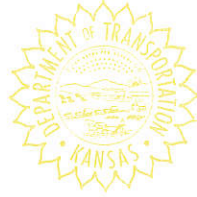
All drivers operating a commercial motor vehicle in interstate or intrastate commerce with a gross vehicle weight rating of more than 26,000 pounds, vehicles designed to transport 16 or more passengers, or drivers hauling "placarded" loads of hazardous material must have a CDL.

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Kansas Motor Carriers Association
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2/03

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Deb Miller
Secretary of Transportation

Kathleen Sebelius
Governor

**TESTIMONY BEFORE THE
SENATE TRANSPORTATION COMMITTEE**

**REGARDING HOUSE BILL 2220
RELATING TO THE UNIFORM COMMERCIAL
DRIVERS' LICENSE ACT**

MARCH 12, 2003

Mr. Chairman and Members of the Committee:

Good morning, I am Mike Crow, Chief of the Bureau of Traffic Engineering for the Kansas Department of Transportation (KDOT). On behalf of KDOT, I appreciate the opportunity to testify before you today.

This bill would bring Kansas into compliance with federal requirements for the Commercial Drivers' License. If Kansas does not comply, KDOT stands to lose federal highway funds of \$16 - \$18 million the first year and \$31 - \$33 million the second and subsequent years.

We appreciate the opportunity to voice our support for the proposed bill and request your favorable consideration of House Bill 2220.

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SENATE TRANSPORTATION COMMITTEE

DATE: 3-12-03

ATTACHMENT: 5