

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE.

The meeting was called to order by Chairperson Senator Les Donovan at 8:30 a.m. on March 13, 2003 in Room 245-N of the Capitol.

All members were present except: Senator Harrington

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

Conferees appearing before the committee: Mike Hoeme, Kansas Corporation Commission
Tom Whitaker, Exec. Dir., KMCA
Pat Hubbell, Kansas Railroads

Others attending: See attached list

HB 2160: Re motor carriers, fees

Mike Hoeme, Director of Transportation, Kansas Corporation Commission, testified in support of the bill. Current motor carrier application and registration fees have been in place since at least 1937. Since then obviously there have been significant changes in the industry and those fees are no longer adequate to provide required services. Attachment "A," included in Mr. Hoeme's testimony, details some of the cost changes. The proposed changes will also bring Kansas more in line with surrounding states. Mr. Hoeme also requested the committee amend HB 2244 as amended by the House Transportation Committee into **HB 2160**. The bill is an act relating to the state corporation commission; concerning motor carriers and railroads, amending several sections of K.S.A. At this time HB 2244 remains on General Orders in the House. Basically HB 2244 is simply a mechanism to allow KCC to be more efficient and effective in regulating motor carrier and railroad industries. The bill is lengthy and covers a number of areas, primarily technical in nature. The Supplemental Note on HB 2244, as amended by House Committee on Transportation, provides a summary of the principal changes. KCC also asked for two additional changes to the amended House Bill, one reflects the new location of the reference to gross vehicle weight rating. The second addition is to New Section 2 where the House amendment inadvertently dropped the phrase "to the extent not preempted by federal law." A balloon amendment to this effect is part of the attachment (Attachment 1). The House Transportation Committee Chairman has no problem with adding it onto **HB 2160**.

Tom Whitaker, Executive Director, Kansas Motor Carriers Association appeared in support of this bill, explaining the industry is no longer regulated by rates. They are regulated by all the different safety requirements. These requirements have had a definite positive effect on safety practices of motor carriers. Additional safety inspectors are needed to assure compliance. The industry further supports including the provisions of HB 2244. These technical and procedural changes should increase the KCC's effectiveness (Attachment 2). Pat Hubbell, Kansas Railroads, advised the railroad industry concurs with this legislation. No other conferees appeared on the bill. Hearing closed.

Chair called for recommendations on the bill. Members were not comfortable with amending HB 2244 into **HB 2160**. They felt they needed more time to study the bill. No action taken.

HB 2220: Re commercial drivers' license act

Staff reviewed contents of this bill which the committee heard on March 12, 2003. The changes in the bill are designed to further improve safety of motor carrier operations. It is supported by Kansas Motor Carriers Association and Kansas Department of Revenue, Division of Motor Vehicles. Senator Schodorf moved to recommend the bill favorable for passage. Senator Gooch seconded the motion. Motion carried

The meeting adjourned at 9:30 a.m.

The next meeting is scheduled for March 18, 2003.

SENATE TRANSPORTATION COMMITTEE
GUEST LIST

DATE: March 13, 2003

| NAME | REPRESENTING |
|---------------|------------------|
| Pat Hubbell | Kansas Railroads |
| Mike Hoem | KCC |
| Paula Johnson | KCC |
| Tom Day | KCC |
| Ron Wickert | KDOT |
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**Testimony of Mike Hoeme
Director of Transportation
Kansas Corporation Commission
House Bill 2160
March 13, 2003**

Good morning Mr. Chairman and members of the committee. My name is Mike Hoeme, and I am the Director of the Transportation Division of the Kansas Corporation Commission ("Transportation Division" and "KCC," respectively). I am here to testify as a proponent of House Bill 2160, which revises the fee schedules found in K.S.A. 66-1a01 for motor carrier applications and registrations. For your information, the Transportation Division has met with the Kansas Motor Carrier's Association ("KMCA") regarding HB 2160, and received their support for the proposed increases in fees, discussed in more detail below.

BACKGROUND

The current fee structure for motor carrier applications and registrations has been in place since at least 1937. Significant changes in the motor carrier industry and inflation have brought into question for the KCC whether these fees are still appropriate. Ultimately, the KCC has decided that these fees are insufficient to accomplish important goals, and therefore proposes certain fees be raised.

The KCC specifically proposes three sets of fees paid for particular types of applications and registrations. First, the fees for intrastate public motor carrier applications (certificates of public service and certificates of convenience and necessity) are revised from \$25 to \$250. Second, the application fees for private and exempt motor carrier registrations, and certain existing license and permit revisions, are increased from \$10 to \$100. Finally, the late fee for a motor carrier's failure to timely complete renewal applications has been altered to the cost of the new application for authority.

This increase in fees is justified for numerous reasons.

ATTEMPT TO COVER COSTS

Primarily, the KCC feels that it is appropriate that application fees be set at a rate more comparable to the KCC's cost of completing those applications. To actually set the application fees at the KCC's costs would increase these fees to over \$400. In Attachment "A" to my testimony, you will see a breakdown of the costs actually incurred by the KCC in processing the different types of applications and registrations. While the KCC is not ruling out pursuing additional increases in the future to cover actual costs, we feel that, at this time, beginning with the revisions proposed above will help ease the motor carrier industry into the necessary increases.

Normal office processing costs include examining the applications for completeness and working with the motor carrier to correct any omissions, meeting publication requirements, and working with insurance companies. However, the more significant

SENATE TRANSPORTATION COMMITTEE

— **DATE: 3-13-03** —

ATTACHMENT 1

costs occur in ensuring the motor carrier's compliance with safety regulations rather than in examining the routine paperwork.

First, the Transportation Division tries to aid new motor carriers in staying off of SafeStat by conducting an aggressive safety-training program for all public and private motor carriers in Kansas. The Transportation Division's special investigators conduct educational safety seminars throughout Kansas four times a month. These seminars are designed to educate new, and existing, motor carriers about the KCC's safety rules and regulations. The KCC has also developed several specialized Power Point presentations to correct several trends it has noted in instances of non-compliance. The Transportation Division's special investigators will also conduct individual "refresher" safety programs when requested by a specific motor carrier.

Second, state law requires the KCC, within 12 months of a motor carrier being granted common carrier authority, to verify that the motor carrier is in compliance with the KCC's safety regulations. The Transportation Division has worked toward accomplishing this task by conducting comprehensive investigations and audits on existing and new motor carriers, and taking the appropriate action when unsafe conditions are found.

These two factors appreciably increase the costs of processing the application. However, protection of the public safety cannot allow these seminars and inspections to be sacrificed for the sake of cost. As noted above, the Transportation Division has discussed the increase in fees with KMCA, who stated that it would even have supported an increase to cover the full costs of the application.

FEDERAL ACTION

Impending federal action concerning the Unified Carrier Registration Agreement ("UCR") may also affect the fees the KCC can charge, and the KCC's access to those fees. If certain proposed revisions to the UCR are successful, state motor carrier programs will have to have increased access to funds for use in safety functions, or funding could be jeopardized.

CONCLUSION

The KCC realizes that the changes proposed still constitute a significant increase over current fees. However, as noted above, these fees have been in place since at least 1937, when the motor carrier industry was highly regulated, and the value of the dollar figure was significantly higher. Changes to these fees probably should have been ongoing through the last seventy years in order to more closely reflect the actual processing costs in different time periods reflecting different regulatory and financial times. However, simply because that has not been done in the past does not mean it should not be done now. Currently, we are nearly the cheapest state in which to obtain motor carrier authority. Raising the fees as proposed above will bring the KCC fee structure more in line with fees charged by the surrounding states.

Attachment "A"

Testimony of Mike Hoeme
Director of Transportation
Kansas Corporation Commission

Manpower spent on various functions and cost per hour of the manpower expended:

| <u>Application/Training/Compliance</u> | <u>Process Hours/Mean</u> | <u>Salary Range/Mean</u> |
|--|---------------------------|-----------------------------|
| Certificate of Public Service (COPS) | 1-10 Hours (5) | \$10 - \$14 per Hour (\$12) |
| Certificate of Convenience & Necessity (COCAN) | 1-10 Hours (5) | \$10 - \$14 per Hour (\$12) |
| Private carrier authority (P) | 1-10 Hours (5) | \$10 - \$14 per Hour (\$12) |
| Interstate Exempt (ICC-E) | 1-10 Hours (5) | \$10 - \$14 per Hour (\$12) |
| Safety Compliance Program (SCP) | 4-9 Hours (4.5) | \$15 - \$19 per Hour (\$17) |
| Compliance Review Audit (CR) | 8-24 Hours (16) | \$15 - \$19 per Hour (\$17) |

Total Average Cost to Process Specific Applications:

| <u>(COPS/COCAN)</u> | <u>Total</u> |
|---|-----------------|
| • (5) Hours at \$12 per hour to process application | \$60.00 |
| • (4.5) Hours at \$17 per hour for Safety Compliance Program | \$76.50 |
| • (16) Hours at \$17 per hour for mandatory Compliance Review | <u>\$272.00</u> |
| | \$408.50 |
| | |
| <u>(P/ICC-E)</u> | |
| • (5) Hours at \$ 12 per hour to process application | \$60.00 |
| • (4.5) Hours at \$17 per hour for Safety Compliance Program | <u>\$76.50</u> |
| | \$136.50 |

The KCC also requests the Committee amend House Bill 2244, as amended by the House Transportation Committee, into House Bill 2160. House Bill 2244, while lengthy, is simply a mechanism to allow the KCC's Transportation Division to more efficiently and effectively regulate the motor carrier and railroad industries.

Second, House Bill 2244 removes the last apparent distinction between contract motor carriers and public motor carriers. Currently, there is no significant difference between the application processes for these types of carriers. Further, most contract motor carriers also hold public motor carrier authority because of the diversity of their operations. The federal government also recognized that little distinction between these types of motor carriers remained, and officially removed the federal statutory distinction in the ICC Termination Act of 1995. The removal of the distinction between contract motor carriers and public motor carriers actually constitutes the bulk of House Bill 2244, simply because the term "contract motor carrier" appears in numerous places throughout the Kansas Statutes Annotated. (K.S.A. 8-142, 8-2107, 32-1009, 44-503c, 60-305a, 65-1626, 65-4101, 65-4116, 65-7004, 66-1,108, 66-1,111, 66-1,112, 66-1,112a, 66-1,112b, 66-1,112c, 66-1,112d, 66-1,112e, 66-1,112f, 66-1,112h, 66-1,115, 66-1,115a, 66-1,116, 66-1,128, 66-1,129, 66-1,139, 66-1,140, 66-1313a, 79-6a01, 79-6a02, and 79-6a03.)

Third, House Bill 2244 refines the process for a public motor carrier of property other than household goods and passengers. The Kansas Register publication requirement would be removed in favor of publication on the KCC's internet web site. Also, public motor carriers of property other than household goods and passengers who submitted fully-completed applications to the KCC would receive 30-day interim authority, and would be published on the website. If no protests to the applicant's authority was received in those 30 days, then the KCC could automatically grant permanent authority to the applicant. (K.S.A. 66-1,114b and 66-1,115.)

House Bill 2244 also gives the KCC more power to enforce its statutes, regulations, and orders. Motor carriers who failed to renew their authority annually would abandon their authority by operation of law, allowing the KCC to keep clear records of who is actually operating in the state, and encouraging those continuing operations to maintain current authority. (K.S.A. 66-1,119.) Also, the current provisions for criminal prosecution of certain violations of KCC statutes and regulations would be expanded to include a motor carrier's failure to comply with KCC orders requiring payment of a penalty, cease and desist orders, or out-of-service orders. (K.S.A. 66-1,126.) Further, the KCC would receive the power to work in conjunction with the Kansas Highway Patrol ("KHP") to impound the motor vehicles of motor carriers who have failed to comply with out-of-service orders, cease and desist orders, any order assessing a civil penalty, or other such KCC orders, as well as motor carriers who do not have KCC authority to operate. (K.S.A. 66-1,129a.)

House Bill 2244 also clarifies and refines several minor areas of regulation:

- The unnecessary costs of sending out all orders and decisions by certified mail is removed, and instead, certified mailings are limited to cases where notice of a

proceeding could be at issue, particularly, cases that may end in a negative impact on a motor carrier's authority. (K.S.A. 66-1,105.)

- The definition of gross vehicle weight rating is moved from the authority exemption statute to the definition statute, and is modified slightly to mirror the federal definition. (K.S.A. 66-1,108 and 66-1,109.)
- The safety regulation exemption for the operation of motor vehicles used for servicing, repairing, and transporting implements of husbandry by a person actively engaged in the business of buying, selling, or exchanging implements of husbandry within 100 miles of that person's business has been slightly modified to remove that exemption when the implement of husbandry is transported on a commercial motor vehicle. (K.S.A. 66-1,129.)
- The requirement that KCC Special Investigators be law enforcement certification has been removed in favor of a policy requiring that they meet the standards of compliance review training established by the Federal Motor Carrier Safety Administration. (K.S.A. 66-1,130.)
- The Kansas Department of Revenue will explicitly be authorized to issue temporary permits for vehicles, and the cost of those permits has been raised. (K.S.A. 66-1,140.)
- Non-profit public transportation carriers operating pursuant to 49 U.S.C. 5307, 5310, and 5311 shall no longer be required to register with the KCC, an exemption their city and county agency counterparts also enjoy. (K.S.A. 66-1,109.)
- An enabling statute will be created allowing the KCC to administer and enforce its existing railroad jurisdiction in cooperation with the Secretary of Transportation. (New Section 2.)
- Tools of the trade motor carriers with a gross vehicle weight rating of 26,000 pounds or less who are transporting material to be left at the job site would be exempted from safety regulation as long as they did not go beyond 25 miles of their domicile.

Finally, the KCC would only recommend two additional changes to the amended House Bill 2244. First, on page 33, line 17, the KCC inadvertently neglected to update the reference to the gross vehicle weight rating, currently located at K.S.A. 66-1,109(s), to reflect its new location at K.S.A. 66-1,108(b) and (c). Second, when New Section 2 was previously amended at the House Transportation Committee, the KCC inadvertently dropped the phrase "to the extent not preempted by federal law" from the section. A balloon amendment adding this language back to that section is attached to this testimony.

HOUSE BILL No. 2244

By Committee on Transportation

2-7

10 AN ACT relating to the state corporation commission; concerning motor
11 carriers and railroads; amending K.S.A. 8-142, 8-2107, 32-1009, 44-
12 503c, 60-305a, 65-1626, 65-4101, 65-4116, 65-7004, 66-1,105, 66-
13 1,108, 66-1,109, 66-1,111, 66-1,112, 66-1,112h, 66-1,114, 66-1,114b,
14 66-1,115, 66-1,115a, 66-1,116, 66-1,119, 66-1,126, 66-1,128, 66-1,129,
15 66-1,129a, 66-1,130, 66-1,139, 66-1,140, 66-1313a, 79-6a01, 79-6a02
16 and 79-6a03 and K.S.A. 2002 Supp. 8-2,127 and repealing the existing
17 sections; also repealing K.S.A. 66-1,112a, 66-1,112b, 66-1,112c, 66-
18 1,112d, 66-1,112e and 66-1,112f.

19
20 *Be it enacted by the Legislature of the State of Kansas:*

21 New Section 1. Contract motor carriers transporting household
22 goods or passengers holding permits issued by the commission under the
23 former authority of K.S.A. 66-1,112a, 66-1,112b or 66-1,112c, and amend-
24 ments thereto, shall now be considered as holding certificates of conven-
25 ience and necessity to transport such household goods and passengers as
26 originally granted to that motor carrier by the commission. Contract mo-
27 tor carriers transporting property other than household goods or trans-
28 porting passengers and holding permits issued by the commission under
29 the former authority of K.S.A. 66-1,112a, 66-1,112b or 66-1,112c, and
30 amendments thereto, shall now be considered as holding certificates of
31 public service to transport such property other than household goods or
32 transporting passengers as originally granted to that motor carrier by the
33 commission. Contract motor carriers with rates and tariffs on file with the
34 commission under the authority of K.S.A. 66-1,112 and 66-1,112f, and
35 amendments thereto, shall be considered public motor carriers with the
36 same rates and tariffs on file with the commission.

37 New Sec. 2. The state corporation commission is hereby authorized,
38 **in cooperation with the secretary of transportation**, to adopt and
39 enforce such rules and regulations as may be necessary ~~for the regulation~~
40 ~~of the safety of railroad transportation in the state of Kansas, to the extent~~
41 ~~not preempted by federal law to regulate the safety of railroad grade~~
42 ~~crossings on Kansas city, county, township and state roads~~

, to the extent not
preempted by federal law.

Sec. 3. K.S.A. 8-142 is hereby amended to read as follows: 8-142. It

1 without carrying in the cab a copy of the registration receipt for such
 2 vehicle or without having painted or otherwise durably marked on said
 3 vehicle on both sides thereof, the gross weight for which said vehicle is
 4 licensed and the name and address of the owner thereof, except as pro-
 5 vided in K.S.A. 8-143e, and amendments thereto.

6 *Thirteenth:* To operate on the highways of this state a farm trailer car-
 7 rying more than 6,000 pounds without being registered and the registra-
 8 tion fees paid thereon.

9 *Fourteenth:* To operate more than 6,000 miles in any calendar year any
 10 truck or truck tractor which has been registered and licensed to operate
 11 not more than 6,000 miles in such calendar year, as provided in subsection
 12 (2) of K.S.A. 8-143, and amendments thereto, unless the additional fee
 13 required by said subsection (2) has been paid.

14 *Fifteenth:* For any owner who has registered a truck or truck tractor
 15 on the basis of operating not more than 6,000 miles to fail to keep the
 16 records required by the director of vehicles, or to fail to comply with rules
 17 and regulations of the secretary of revenue relating to such registration.

18 *Sixteenth:* To operate a vehicle or combination of vehicles on the na-
 19 tional system of interstate and defense highways with a gross weight
 20 greater than permitted by the laws of the United States Congress.

21 Sec. 4. K.S.A. 2002 Supp. 8-2,127 is hereby amended to read as fol-
 22 lows: 8-2,127. Vehicles that are exempt from this act include:

23 (a) Farm vehicles, defined as follows:

24 (1) Registered as a farm truck or truck tractor under K.S.A. 8-143,
 25 and amendments thereto;

26 (2) used to transport either agricultural products, farm machinery,
 27 farm supplies, or both, to or from a farm;

28 (3) not used in the operations of a common ~~or contract~~ motor carrier;
 29 and

30 (4) used within 150 air miles of any farm or farms owned or leased
 31 by the registered owner of such farm vehicle;

32 (b) vehicles operated by firefighters and other persons which are nec-
 33 essary to the preservation of life or property or the execution of emer-
 34 gency governmental functions, are equipped with audible and visual sig-
 35 nals and are not subject to normal traffic regulation. These vehicles
 36 include fire trucks, hook and ladder trucks, foam or water transport
 37 trucks, police SWAT team vehicles, ambulances or other vehicles that are
 38 used in response to emergencies;

39 (c) military vehicles which are operated by military personnel in pur-
 40 suit of military purposes and all noncivilian operators of equipment owned
 41 or operated by the United States department of defense. This applies to
 42 any active duty military personnel and members of the reserves and na-
 43 tional guard on active duty, including personnel on full-time national

1 guard duty, personnel on part-time training and national guard military
 2 technicians, civilians who are required to wear military uniforms and are
 3 subject to the code of military justice; and

4 (d) motor vehicles, which would otherwise be considered commercial
 5 motor vehicles, if such vehicles are used solely and exclusively for private
 6 noncommercial use and any operator of such vehicles.

7 Sec. 5. K.S.A. 8-2107 is hereby amended to read as follows: 8-2107.

8 (a) (1) Notwithstanding any other provisions of the uniform act regulating
 9 traffic on highways, when a person is stopped by a police officer for any
 10 of the offenses described in subsection (d) and such person is not im-
 11 mediately taken before a judge of the district court, the police officer may
 12 require the person stopped, subject to the provisions of subsection (c), to
 13 deposit with the officer a valid Kansas driver's license in exchange for a
 14 receipt therefor issued by such police officer, the form of which shall be
 15 approved by the division of vehicles. Such receipt shall be recognized as
 16 a valid temporary Kansas driver's license authorizing the operation of a
 17 motor vehicle by the person stopped until the date of the hearing stated
 18 on the receipt. The driver's license and a written copy of the notice to
 19 appear shall be delivered by the police officer to the court having juris-
 20 diction of the offense charged as soon as reasonably possible. If the hear-
 21 ing on such charge is continued for any reason, the judge may note on
 22 the receipt the date to which such hearing has been continued and such
 23 receipt shall be recognized as a valid temporary Kansas driver's license
 24 until such date, but in no event shall such receipt be recognized as a valid
 25 Kansas driver's license for a period longer than 30 days from the date set
 26 for the original hearing. Any person who has deposited a driver's license
 27 with a police officer under this subsection (a) shall have such license
 28 returned upon final determination of the charge against such person.

29 (2) In the event the person stopped deposits a valid Kansas driver's
 30 license with the police officer and fails to appear in the district court on
 31 the date set for appearance, or any continuance thereof, and in any event
 32 within 30 days from the date set for the original hearing, the court shall
 33 forward such person's driver's license to the division of vehicles with an
 34 appropriate explanation attached thereto. Upon receipt of such person's
 35 driver's license, the division shall suspend such person's privilege to op-
 36 erate a motor vehicle in this state until such person appears before the
 37 court having jurisdiction of the offense charged, the court makes a final
 38 disposition thereof and notice of such disposition is given by the court to
 39 the division. No new or replacement license shall be issued to any such
 40 person until such notice of disposition has been received by the division.
 41 The provisions of K.S.A. 8-256, and amendments thereto, limiting the
 42 suspension of a license to one year, shall not apply to suspensions for
 43 failure to appear as provided in this subsection (a).

1 fraction and the person is a resident of a state which is not a member of
 2 the nonresident violator compact, K.S.A. 8-1219 *et seq.*, and amendments
 3 thereto, or the person is licensed to drive under the laws of a foreign
 4 country, the police officer may require a bond as provided for under
 5 subsection (c). The bond shall be in the amount specified in the uniform
 6 fine schedule in subsection (c) of K.S.A. 8-2118, and amendments
 7 thereto, plus \$54 which shall be regarded as a docket fee in any court
 8 having jurisdiction over the violation of state law.

9 (h) When a person is stopped by a police officer for failure to provide
 10 proof of financial security pursuant to K.S.A. 40-3104, and amendments
 11 thereto, and the person is a resident of another state or the person is
 12 licensed to drive under the laws of a foreign country, the police officer
 13 may require a bond as provided for under subsection (c). The bond shall
 14 be in the amount of \$54, plus \$54 which shall be regarded as a docket
 15 fee in any court having jurisdiction over the violation of state law.

16 Sec. 6. K.S.A. 32-1009 is hereby amended to read as follows: 32-
 17 1009. Except as provided in rules and regulations adopted pursuant to
 18 K.S.A. 32-963, *and amendments thereto*, it shall be unlawful for any per-
 19 son to take, possess, transport, export, process, sell or offer for sale or
 20 ship nongame species deemed by the secretary to be in need of conser-
 21 vation pursuant to K.S.A. 32-959, *and amendments thereto*. Subject to
 22 the same exception, it shall further be unlawful for any common ~~or con-~~
 23 ~~tract~~ carrier knowingly to transport or receive for shipment nongame
 24 species deemed by the secretary to be in need of conservation pursuant
 25 to K.S.A. 32-959, *and amendments thereto*.

26 Sec. 7. K.S.A. 44-503c is hereby amended to read as follows: 44-
 27 503c. (a) (1) Any individual who is an owner-operator and the exclusive
 28 driver of a motor vehicle that is leased or contracted to a licensed motor
 29 carrier shall not be considered to be a contractor or an employee of the
 30 licensed motor carrier within the meaning of K.S.A. 44-503, and amend-
 31 ments thereto, or an employee of the licensed motor carrier within the
 32 meaning of subsection (b) of K.S.A. 44-508, and amendments thereto,
 33 and the licensed motor carrier shall not be considered to be a principal
 34 within the meaning of K.S.A. 44-503, and amendments thereto, or an
 35 employer of the owner-operator within the meaning of subsection (a) of
 36 K.S.A. 44-508, and amendments thereto, if the owner-operator is covered
 37 by an occupational accident insurance policy and is not treated under the
 38 terms of the lease agreement or contract with the licensed motor carrier
 39 as an employee for purposes of the federal insurance contribution act, 26
 40 U.S.C. § 3101 *et seq.*, the federal social security act, 42 U.S.C. § 301 *et*
 '1 *seq.*, the federal unemployment tax act, 26 U.S.C. § 3301 *et seq.*, and the
 2 federal statutes prescribing income tax withholding at the source, 26
 43 U.S.C. § 3401 *et seq.*

8
1-1

1 (2) As used in this subsection:
 2 (A) "Motor vehicle" means any automobile, truck-trailer, semitrailer,
 3 tractor, motor bus or any other self-propelled or motor-driven vehicle
 4 used upon any of the public highways of Kansas for the purpose of trans-
 5 porting persons or property;

6 (B) "licensed motor carrier" means any person, firm, corporation or
 7 other business entity that holds a certificate of convenience and necessity,
 8 a certificate of public service, ~~a contract carrier permit~~, or an interstate
 9 license as a common, ~~contract~~ or exempt carrier from the state corpora-
 10 tion commission or is required to register motor carrier equipment pur-
 11 suant to 49 U.S.C. § 11506; and

12 (C) "owner-operator" means an individual who is the owner of a sin-
 13 gle motor vehicle that is driven exclusively by the owner under a lease
 14 agreement or contract with a licensed motor carrier.

15 (b) Notwithstanding any other provision of this act, a licensed motor
 16 carrier may by lease agreement or contract secure workers compensation
 17 insurance for an owner-operator, otherwise subject to the act by statute
 18 or election, and may charge-back to the owner-operator the premium for
 19 such workers compensation insurance, and by doing so does not create
 20 an employer-employee relationship between the licensed motor carrier
 21 and the owner-operator, or subject the licensed motor carrier to liability
 22 under subsection (d)(1) of K.S.A. 44-5,120 and amendments thereto.

23 (c) For purposes of subsection (b) of this section only, "owner-op-
 24 erator" means a person, firm, corporation or other business entity that is
 25 the owner of one or more motor vehicles that are driven exclusively by
 26 the owner or the owner's employees or agents under a lease agreement
 27 or contract with a licensed motor carrier; provided that neither the owner-
 28 operator nor the owner's employees are treated under the term of the
 29 lease agreement or contract with the licensed motor carrier as an em-
 30 ployee for purposes of the federal insurance contribution act, 26 U.S.C.
 31 § 3101 *et seq.*, the federal social security act, 42 U.S.C. § 301 *et seq.*, the
 32 federal unemployment tax act, 26 U.S.C. § 3301 *et seq.*, and the federal
 33 statutes prescribing income tax withholding at the source, 26 U.S.C. §
 34 3401 *et seq.*

35 Sec. 8. K.S.A. 60-305a is hereby amended to read as follows: 60-
 36 305a. Every individual, partnership, association or corporation engaged
 37 in the business of transportation as a common carrier ~~or contract carrier~~,
 38 which is subject to regulation by the state corporation commission, doing
 39 business in this state shall designate some person residing in this state on
 40 whom all process and notices issued by any court of record may be served.
 41 In every case such individual, partnership, company or corporation shall
 42 file a certificate of the appointment and designation of such person in the
 43 office of the state corporation commission or as required pursuant to 49

1 prescription-only drugs other than individual prescriptions are stored or
2 administered.

3 (p) "Medical care facility" shall have the meaning provided in K.S.A.
4 65-425 and amendments thereto, except that the term shall also include
5 facilities licensed under the provisions of K.S.A. 75-3307b and amend-
6 ments thereto except community mental health centers and facilities for
7 the mentally retarded.

8 (q) "Manufacture" means the production, preparation, propagation,
9 compounding, conversion or processing of a drug either directly or in-
10 directly by extraction from substances of natural origin, independently by
11 means of chemical synthesis or by a combination of extraction and chemi-
12 cal synthesis and includes any packaging or repackaging of the drug or
13 labeling or relabeling of its container, except that this term shall not in-
14 clude the preparation or compounding of a drug by an individual for the
15 individual's own use or the preparation, compounding, packaging or la-
16 beling of a drug by: (1) A practitioner or a practitioner's authorized agent
17 incident to such practitioner's administering or dispensing of a drug in
18 the course of the practitioner's professional practice; (2) a practitioner,
19 by a practitioner's authorized agent or under a practitioner's supervision
20 for the purpose of, or as an incident to, research, teaching or chemical
21 analysis and not for sale; or (3) a pharmacist or the pharmacist's author-
22 ized agent acting under the direct supervision of the pharmacist for the
23 purpose of, or incident to, the dispensing of a drug by the pharmacist.

24 (r) "Person" means individual, corporation, government, govern-
25 mental subdivision or agency, partnership, association or any other legal
26 entity.

27 (s) "Pharmacist" means any natural person licensed under this act to
28 practice pharmacy.

29 (t) "Pharmacist in charge" means the pharmacist who is responsible
30 to the board for a registered establishment's compliance with the laws
31 and regulations of this state pertaining to the practice of pharmacy, man-
32 ufacturing of drugs and the distribution of drugs. The pharmacist in
33 charge shall supervise such establishment on a full-time or a part-time
34 basis and perform such other duties relating to supervision of a registered
35 establishment as may be prescribed by the board by rules and regulations.
36 Nothing in this definition shall relieve other pharmacists or persons from
37 their responsibility to comply with state and federal laws and regulations.

38 (u) "Pharmacy," "drug store" or "apothecary" means premises, labo-
39 ratory, area or other place: (1) Where drugs are offered for sale where
40 the profession of pharmacy is practiced and where prescriptions are com-
41 pounded and dispensed; or (2) which has displayed upon it or within it
42 the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apoth-
43 ecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these

1 words or combinations of these words or words of similar import either
2 in English or any sign containing any of these words; or (3) where the
3 characteristic symbols of pharmacy or the characteristic prescription sign
4 "Rx" may be exhibited. As used in this subsection, premises refers only
5 to the portion of any building or structure leased, used or controlled by
6 the licensee in the conduct of the business registered by the board at the
7 address for which the registration was issued.

8 (v) "Pharmacy student" means an individual, registered with the
9 board of pharmacy, enrolled in an accredited school of pharmacy.

10 (w) "Pharmacy technician" means an individual who, under the direct
11 supervision and control of a pharmacist, may perform packaging, manip-
12 ulative, repetitive or other nondiscretionary tasks related to the processing
13 of a prescription or medication order and who assists the pharmacist in
14 the performance of pharmacy related duties, but who does not perform
15 duties restricted to a pharmacist.

16 (x) "Practitioner" means a person licensed to practice medicine and
17 surgery, dentist, podiatrist, veterinarian, optometrist licensed under the
18 optometry law as a therapeutic licensee or diagnostic and therapeutic
19 licensee, or scientific investigator or other person authorized by law to
20 use a prescription-only drug in teaching or chemical analysis or to conduct
21 research with respect to a prescription-only drug.

22 (y) "Preceptor" means a licensed pharmacist who possesses at least
23 two years' experience as a pharmacist and who supervises students ob-
24 taining the pharmaceutical experience required by law as a condition to
25 taking the examination for licensure as a pharmacist.

26 (z) "Prescription" means, according to the context, either a prescrip-
27 tion order or a prescription medication.

28 (aa) "Prescription medication" means any drug, including label and
29 container according to context, which is dispensed pursuant to a prescrip-
30 tion order.

31 (bb) "Prescription-only drug" means any drug whether intended for
32 use by man or animal, required by federal or state law (including 21
33 United States Code section 353, as amended) to be dispensed only pur-
34 suant to a written or oral prescription or order of a practitioner or is
35 restricted to use by practitioners only.

36 (cc) "Prescription order" means: (1) An order to be filled by a phar-
37 macist for prescription medication issued and signed by a practitioner or
38 a mid-level practitioner in the authorized course of professional practice;
39 or (2) an order transmitted to a pharmacist through word of mouth, note,
40 telephone or other means of communication directed by such practitioner
41 or mid-level practitioner.

42 (dd) "Probation" means the practice or operation under a temporary
43 license, registration or permit or a conditional license, registration or per-

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1 tioner, including the packaging, labeling or compounding necessary to
2 prepare the substance for that delivery, or pursuant to the prescription
3 of a mid-level practitioner.

4 (i) "Dispenser" means a practitioner or pharmacist who dispenses.

5 (j) "Distribute" means to deliver other than by administering or dis-
6 pensing a controlled substance.

7 (k) "Distributor" means a person who distributes.

8 (l) "Drug" means: (1) Substances recognized as drugs in the official
9 United States pharmacopoeia, official homeopathic pharmacopoeia of the
10 United States or official national formulary or any supplement to any of
11 them; (2) substances intended for use in the diagnosis, cure, mitigation,
12 treatment or prevention of disease in man or animals; (3) substances
13 (other than food) intended to affect the structure or any function of the
14 body of man or animals; and (4) substances intended for use as a com-
15 ponent of any article specified in clause (1), (2) or (3) of this subsection.
16 It does not include devices or their components, parts or accessories.

17 (m) "Immediate precursor" means a substance which the board has
18 found to be and by rule and regulation designates as being the principal
19 compound commonly used or produced primarily for use and which is
20 an immediate chemical intermediary used or likely to be used in the
21 manufacture of a controlled substance, the control of which is necessary
22 to prevent, curtail or limit manufacture.

23 (n) "Manufacture" means the production, preparation, propagation,
24 compounding, conversion or processing of a controlled substance either
25 directly or indirectly or by extraction from substances of natural origin or
26 independently by means of chemical synthesis or by a combination of
27 extraction and chemical synthesis and includes any packaging or repack-
28 aging of the substance or labeling or relabeling of its container, except
29 that this term does not include the preparation or compounding of a
30 controlled substance by an individual for the individual's own lawful use
31 or the preparation, compounding, packaging or labeling of a controlled
32 substance: (1) By a practitioner or the practitioner's agent pursuant to a
33 lawful order of a practitioner as an incident to the practitioner's admin-
34 istering or dispensing of a controlled substance in the course of the prac-
35 titioner's professional practice; or

36 (2) by a practitioner or by the practitioner's authorized agent under
37 such practitioner's supervision for the purpose of or as an incident to
38 research, teaching or chemical analysis or by a pharmacist or medical care
39 facility as an incident to dispensing of a controlled substance.

40 (o) "Marijuana" means all parts of all varieties of the plant *Cannabis*
41 whether growing or not, the seeds thereof, the resin extracted from any
42 part of the plant and every compound, manufacture, salt, derivative, mix-
43 ture or preparation of the plant, its seeds or resin. It does not include the

1 mature stalks of the plant, fiber produced from the stalks, oil or cake
2 made from the seeds of the plant, any other compound, manufacture,
3 salt, derivative, mixture or preparation of the mature stalks, except the
4 resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the
5 plant which is incapable of germination.

6 (p) "Narcotic drug" means any of the following whether produced
7 directly or indirectly by extraction from substances of vegetable origin or
8 independently by means of chemical synthesis or by a combination of
9 extraction and chemical synthesis: (1) Opium and opiate and any salt,
10 compound, derivative or preparation of opium or opiate;

11 (2) any salt, compound, isomer, derivative or preparation thereof
12 which is chemically equivalent or identical with any of the substances
13 referred to in clause (1) but not including the isoquinoline alkaloids of
14 opium;

15 (3) opium poppy and poppy straw;

16 (4) coca leaves and any salt, compound, derivative or preparation of
17 coca leaves, and any salt, compound, isomer, derivative or preparation
18 thereof which is chemically equivalent or identical with any of these sub-
19 stances, but not including decocainized coca leaves or extractious of coca
20 leaves which do not contain cocaine or ecgonine.

21 (q) "Opiate" means any substance having an addiction-forming or
22 addiction-sustaining liability similar to morphine or being capable of con-
23 version into a drug having addiction-forming or addiction-sustaining li-
24 ability. It does not include, unless specifically designated as controlled
25 under K.S.A. 65-4102 and amendments thereto, the dextrorotatory iso-
26 mer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
27 It does include its racemic and levorotatory forms.

28 (r) "Opium poppy" means the plant of the species *Papaver somni-*
29 *ferum l.* except its seeds.

30 (s) "Person" means individual, corporation, government, or govern-
31 mental subdivision or agency, business trust, estate, trust, partnership or
32 association or any other legal entity.

33 (t) "Poppy straw" means all parts, except the seeds, of the opium
34 poppy, after mowing.

35 (u) "Pharmacist" means an individual currently licensed by the board
36 to practice the profession of pharmacy in this state.

37 (v) "Practitioner" means a person licensed to practice medicine and
38 surgery, dentist, podiatrist, veterinarian, optometrist licensed under the
39 optometry law as a therapeutic licensee or diagnostic and therapeutic
40 licensee, or scientific investigator or other person authorized by law to
41 use a controlled substance in teaching or chemical analysis or to conduct
42 research with respect to a controlled substance.

43 (w) "Production" includes the manufacture, planting, cultivation,

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(d) The board may waive by rules and regulations the requirement for registration of certain manufacturers, distributors or dispensers if the board finds it consistent with the public health and safety, except that licensure of any person by the state board of healing arts to practice any branch of the healing arts, Kansas dental board or the state board of veterinary examiners shall constitute compliance with the registration requirements of the uniform controlled substances act by such person for such person's place of professional practice. Evidence of abuse as determined by the board relating to a person licensed by the state board of healing arts shall be submitted to the state board of healing arts and the attorney general within 60 days. The state board of healing arts shall, within 60 days, make findings of fact and take such action against such person as it deems necessary. All findings of fact and any action taken shall be reported by the state board of healing arts to the board of pharmacy and the attorney general. Evidence of abuse as determined by the board relating to a person licensed by the state board of veterinary examiners shall be submitted to the state board of veterinary examiners and the attorney general within 60 days. The state board of veterinary examiners shall, within 60 days, make findings of fact and take such action against such person as it deems necessary. All findings of fact and any action taken shall be reported by the state board of veterinary examiners to the board of pharmacy and the attorney general. Evidence of abuse as determined by the board relating to a dentist licensed by the Kansas dental board shall be submitted to the Kansas dental board and the attorney general within 60 days. The Kansas dental board shall, within 60 days, make findings of fact and take such action against such dentist as it deems necessary. All findings of fact and any action taken shall be reported by the Kansas dental board to the board of pharmacy and the attorney general.

(e) A separate annual registration is required at each place of business or professional practice where the applicant manufactures, distributes or dispenses controlled substances.

(f) The board may inspect the establishment of a registrant or applicant for registration in accordance with the board's rules and regulations.

(g) (1) The registration of any person or location shall terminate when such person or authorized representative of a location dies, ceases legal existence, discontinues business or professional practice or changes the location as shown on the certificate of registration. Any registrant who ceases legal existence, discontinues business or professional practice, or changes location as shown on the certificate of registration, shall notify the board promptly of such fact and forthwith deliver the certificate of registration directly to the secretary or executive secretary of the board. In the event of a change in name or mailing address the person or au-

thorized representative of the location shall notify the board promptly in advance of the effective date of this change by filing the change of name or mailing address with the board. This change shall be noted on the original application on file with the board.

(2) No registration or any authority conferred thereby shall be assigned or otherwise transferred except upon such conditions as the board may specifically designate and then only pursuant to the written consent of the board.

Sec. 12. K.S.A. 65-7004 is hereby amended to read as follows: 65-7004. The provisions of this act shall not apply to: (a) A distribution of a regulated chemical to or by a common ~~or contract~~ carrier for carriage in the lawful and usual course of the business of the common ~~or contract~~ carrier, or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman;

(b) the lawful administering or dispensing of a regulated chemical by a licensed practitioner in the course of professional practice or research;

(c) the purchase, distribution or possession of a regulated chemical by a local, state or federal law enforcement agency while in the discharge of official duties unless the Kansas bureau of investigation properly notifies the local law enforcement agency relying on the exclusion that its investigatory activities are contrary to the public interest; or

(d) products containing ephedra or ma huang, which do not contain any chemically synthesized ephedrine alkaloids, and are lawfully marketed as dietary supplements under federal law.

Sec. 13. K.S.A. 66-1,105 is hereby amended to read as follows: 66-1,105. The orders and decisions of the ~~corporation~~ commission on the matters covered by this act shall be made in writing and ~~a certified copy thereof~~ *copies of such decisions* shall be served on the ~~motor carrier affected thereby by certified motor carriers by first class mail~~, except that ~~such copies when mailed to private carriers and carriers having licenses under K.S.A. 66-1,116 or permits under K.S.A. 66-1,112g shall be mailed such copies by first class mail orders and decisions potentially resulting in a negative impact upon any motor carrier's authority and initial orders in show cause proceedings shall be served by certified mail, return receipt requested.~~ Every ~~such~~ order and decision of the commission on matters covered by this act shall become operative and effective within 30 days after ~~such~~ service, and ~~such the~~ motor carrier shall carry the provisions of ~~such the~~ order into effect, unless the order is enjoined or set aside by a court of proper jurisdiction.

Sec. 14. K.S.A. 66-1,108 is hereby amended to read as follows: 66-1,108. As used in this act:

(a) "Commission" means the corporation commission of the state of Kansas;

1 such property from origin to the nearest practicable common-carrier re-
 2 ceiving or loading point, or from a common-carrier unloading point by
 3 way of the shortest practicable route to destination, providing such motor
 4 vehicle does not pass a practicable delivery or receiving point of a com-
 5 mon carrier equipped to transport such load, or when used to transport
 6 property from the point of origin to point of destination thereof when
 7 the destination of such property is less distant from the point of origin
 8 thereof than the nearest practicable common-carrier receiving or loading
 9 point equipped to transport such load;

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

15 (f) a new vehicle dealer as defined by K.S.A. 8-2401, and amend-
 16 ments thereto, when transporting property to or from the place of busi-
 17 ness of such dealer;

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

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

25 (i) the operation of hearses, funeral coaches, funeral cars or ambu-
 26 lances by motor carriers;

27 (j) motor vehicles owned and operated by the United States, the Dis-
 28 trict of Columbia, any state, any municipality or any other political sub-
 29 division of this state, including vehicles used exclusively for handling U.S.
 30 mail, **and the operation of motor vehicles used exclusively by or-
 31 ganizations operating public transportation systems pursuant to 49
 32 U.S.C. sections 5307, 5310 and 5311;**

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

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

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

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

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

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

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

20 (r) a vehicle being operated with a dealer license plate issued under
 21 K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A.
 22 8-136, and amendments thereto, and vehicles being operated with a full-
 23 privilege license plate issued under K.S.A. 8-2425, and amendments
 24 thereto;

25 (s) any person operating a motor vehicle with a gross vehicle weight
 26 rating of 10,000 pounds or less, transporting property sold or to be sold
 27 by the owner or operator of such motor vehicle, except motor vehicles
 28 transporting hazardous materials which require placards;

29 ~~As used in this subsection, "gross vehicle weight rating" means the~~
 30 ~~value specified by the manufacturer as the maximum loaded weight of a~~
 31 ~~single or a combination (articulated) vehicle. The gross vehicle weight~~
 32 ~~rating of a combination (articulated) vehicle commonly referred to as the~~
 33 ~~"gross combination weight rating" is the gross vehicle weight rating of~~
 34 ~~the power unit, plus the gross vehicle weight rating of the towed unit or~~
 35 ~~units;~~

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

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

41 Sec. 16. K.S.A. 66-1,111 is hereby amended to read as follows: 66-
 42 1,111. No public motor carrier of property or passengers, ~~contract motor~~
 43 ~~carrier of property or passengers for hire~~ or private motor carrier of prop-

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1 ~~of the Kansas register~~ *electronically on the commission's web site within*
 2 *three days of the filing of the application.* Any person may offer testimony
 3 at such hearing.

4 (b) If the commission finds that the proposed service or any part
 5 thereof is proposed to be performed by the applicant, that the applicant
 6 is fit, willing and able to perform such service, and that the applicant is
 7 in compliance with the commission's safety rules and regulations, liability
 8 and cargo insurance requirements and other applicable state laws, the
 9 commission shall issue the certificate of convenience and necessity to
 10 transport household goods and passengers, except that if the commission
 11 finds that the proposed service is inconsistent with the public convenience
 12 and necessity, the commission shall not issue the certificate.

13 (c) Within 12 months of the issuance to a public motor carrier of a
 14 certificate of convenience and necessity to transport household goods or
 15 passengers, the commission shall verify that such public motor carrier
 16 continues to be fit, knowledgeable and in compliance with the commis-
 17 sion's safety rules and regulations, liability and cargo insurance require-
 18 ments and other applicable state laws.

19 Sec. 20. K.S.A. 66-1,114b is hereby amended to read as follows: 66-
 20 1,114b. (a) Except as hereinafter provided, it shall be unlawful for any
 21 public motor carrier to operate as a carrier of property other than house-
 22 hold goods or *as a carrier of* passengers in intrastate commerce within
 23 this state without first having obtained from the ~~corporation~~ commission
 24 a certificate of public service to transport property other than household
 25 goods or *to transport* passengers.

26 (b) The ~~corporation~~ commission, upon the filing of an application for
 27 a certificate of public service ~~to transport property other than household~~
 28 ~~goods~~, shall ascertain that the motor carrier is fit, knowledgeable and in
 29 compliance with the commission's safety rules and regulations, liability
 30 and cargo insurance requirements and other applicable state laws. *Once*
 31 *a motor carrier submits a complete application demonstrating that the*
 32 *motor carrier is fit, knowledgeable and in compliance with the commis-*
 33 *sion's safety rules and regulations, liability and cargo insurance require-*
 34 *ments and other applicable state laws, the commission may issue that*
 35 *motor carrier a 30-day interim certificate of public service, signed and*
 36 *approved by the commission's executive director.* A list of applications
 37 received shall be published ~~bimonthly in the first and third issues of the~~
 38 ~~Kansas register, but in no case shall notice of the receipt of an application~~
 39 ~~be published no more than 30 days after the application is filed.~~ If the
 40 commission finds that the public motor carrier is fit, knowledgeable and
 41 in compliance with the commission's safety rules and regulations, liability
 42 and cargo insurance requirements and other applicable state laws, the
 43 commission shall issue the certificate, signed and approved by the com-

1 ~~mission's executive director, authorizing the public motor carrier to trans-~~
 2 ~~port such property statewide~~ *electronically on the commission's web site,*
 3 *and shall state whether an interim certificate has been granted to the*
 4 *applicant. Any person who opposes the grant of a certificate of public*
 5 *service to a motor carrier applicant shall have 30 days from the commis-*
 6 *sion's grant of an interim certificate to file a written protest with the*
 7 *commission. If no protest against a motor carrier applicant is filed before*
 8 *the expiration of the 30-day interim certificate, the commission may issue*
 9 *the motor carrier applicant a permanent certificate, signed and approved*
 10 *by the commission's executive director.* If the commission finds that the
 11 ~~public motor carrier an applicant~~ is not fit, knowledgeable, or in compli-
 12 ance with the commission's safety rules and regulations, liability and cargo
 13 insurance requirements and other applicable state laws, an order shall be
 14 issued denying the application. *If the commission deems it necessary, a*
 15 *hearing may be held on any application, and any commission decision on*
 16 *such application shall be issued by order.*

17 (c) Motor carriers holding a certificate of convenience and necessity
 18 to transport property other than household goods or a local wrecker per-
 19 mit shall be considered as holding a certificate of public service to trans-
 20 port that property originally granted by the commission as a public motor
 21 carrier of property. Pursuant to federal law those motor carriers may
 22 transport that property originally granted by the commission statewide.

23 (d) Within 12 months of the issuance to a public motor carrier of a
 24 certificate of public service to transport property other than household
 25 goods or passengers, the commission shall verify that such public motor
 26 carrier continues to be fit, knowledgeable and in compliance with the
 27 commission's safety rules and regulations, liability and cargo insurance
 28 requirements and other applicable state laws.

29 Sec. 21. K.S.A. 66-1,115 is hereby amended to read as follows: 66-
 30 1,115. It shall be unlawful for any ~~"contract motor carrier of property or~~
 31 ~~passengers"~~ or ~~"private motor carrier of property"~~ *private motor carrier*
 32 to operate as a carrier of property or passengers within this state either
 33 in intrastate commerce or in interstate commerce without first having
 34 obtained from the ~~corporation~~ commission a license or permit or regis-
 35 tered pursuant to 49 U.S.C. 14504. An application shall be made to the
 36 ~~corporation~~ commission in writing stating such information as the com-
 37 mission may request. Upon receipt of such information and on compli-
 38 ance with the *rules and* regulations and payment of fees, the ~~corporation~~
 39 commission shall issue a license or permit to such applicant.

40 Sec. 22. K.S.A. 66-1,115a is hereby amended to read as follows: 66-
 41 1,115a. Notwithstanding the provisions of K.S.A. 66-1,112b and 66-1,114,
 42 and amendments thereto, the commission may issue or grant ~~contract~~
 43 ~~carrier permits and common~~ *public motor* carrier certificates or aban-

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1 such carrier, the commissioner of insurance may issue a certificate of self-
2 insurance, if the commissioner is satisfied that such carrier is possessed
3 and will continue to be possessed of ability to pay any judgment obtained
4 against such carrier arising out of the ownership, operation, maintenance
5 or use of any motor vehicle registered in such carrier's name.

6 (d) Upon notice and a hearing in accordance with the provisions of
7 the Kansas administrative procedure act, the commissioner of insurance
8 may cancel a certificate of self-insurance upon reasonable grounds. Fail-
9 ure to pay any judgment against a self-insurer, arising out of the owner-
10 ship, operation, maintenance or use of a motor vehicle registered in such
11 self-insurer's name, within 30 days after such judgment shall have become
12 final, shall constitute reasonable grounds for the cancellation of a certifi-
13 cate of self-insurance.

14 Sec. 27. K.S.A. 66-1,129 is hereby amended to read as follows: 66-
15 1,129. (a) The commission shall adopt rules and regulations necessary to
16 carry out the provisions of this act. No public motor carrier of property,
17 household goods or passengers, ~~contract motor carrier of property or~~
18 ~~passengers~~ or private motor carrier of property shall operate or allow the
19 operation of any motor vehicle on any public highway in this state except
20 within the provisions of the rules and regulations adopted by the com-
21 mission. Rules and regulations adopted by the commission shall include:

22 (1) Every vehicle unit shall be maintained in a safe and sanitary con-
23 dition at all times.

24 (2) Every driver of a public motor carrier, operating as a carrier of
25 intrastate commerce within this state, shall be at least 18 years of age.
26 Every driver of a ~~contract motor carrier~~ or private motor carrier, oper-
27 ating as a carrier of intrastate commerce within this state, shall be at least
28 16 years of age. All such drivers shall be competent to operate the motor
29 vehicle under such driver's charge.

30 (3) Minimum age requirements for every driver of a motor carrier,
31 operating as a carrier of interstate commerce, shall be consistent with
32 federal motor carrier regulations.

33 (4) Hours of service for operators of all motor carriers to which this
34 act applies shall be fixed by the commission.

35 (5) Accidents arising from or in connection with the operation of mo-
36 tor carriers shall be reported to the commission within the time, in the
37 detail and in the manner as the commission requires.

38 (6) Every motor carrier shall have attached to each unit or vehicle
39 distinctive marking adopted by the commission.

40 (7) Motor carrier transportation requirements that are consistent
41 with continuation of the federal motor carrier safety assistance program
42 and other federal requirements concerning transportation of hazardous
43 materials.

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1 (b) No rules and regulations adopted by the commission pursuant to
2 this section shall require the operator of any motor vehicle having a gross
3 vehicle weight rating or gross combination weight rating of not more than
4 10,000 pounds to submit to a physical examination, unless required by
5 federal laws or regulations.

6 (c) Any rules and regulations of the commission, adopted pursuant
7 to this section, shall not apply to the following, while engaged in the
8 carriage of intrastate commerce in this state:

9 (1) The owner of livestock or producer of farm products transporting
10 livestock of such owner or farm products of such producer to market in
11 a motor vehicle of such owner or producer, or the motor vehicle of a
12 neighbor on the basis of barter or exchange for service or employment,
13 or to such owner or producer transporting supplies for the use of such
14 owner or producer in or producer, or in the motor vehicle of a neighbor
15 on the basis of barter or exchange for service or employment.

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

21 (3) ~~Motor (A) Except for motor vehicles under subparagraph~~
22 ~~(B), motor vehicles, with a gross vehicle weight rating, as defined in~~
23 ~~subsection (s) of K.S.A. 66-1,109, and amendments thereto, of 26,000~~
24 ~~pounds or less, carrying tools, property or material belonging to the owner~~
25 ~~of the vehicle, and used in repair, building or construction work, not~~
26 ~~having been sold or being transported for the purpose of sale, except~~
27 ~~vehicles transporting hazardous materials which require placards.~~

28 **(B) Except vehicles transporting hazardous materials which re-**
29 **quire placards, motor vehicles, with a gross vehicle weight rating**
30 **of 26,000 pounds or less, carrying tools, property or material be-**
31 **longing to the owner of the vehicle and used in repair, building or**
32 **construction work and such tools, property or material are being**
33 **transported to or from an active construction site located within a**
34 **radius of 25 miles of the principal place of business of the motor**
35 **carrier.**

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

40 (5) The operation of hearses, funeral coaches, funeral cars or am-
41 bulances by motor carriers.

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

1 ister under this subsection.

2 (d) All applications for registration shall be made on forms furnished
3 by the commission. Applications for registration of interstate common or
4 contract motor carriers shall include on the application the quantity of
5 trucks, truck tractors or passenger vehicles used by the motor carriers on
6 which a fee is required to be paid. Applications for registration of intra-
7 state common or ~~contract~~ motor carriers, private motor carriers, and in-
8 terstate exempt motor carriers shall include the complete vehicle iden-
9 tification numbers and the year and make of all trucks, truck tractors or
10 passenger vehicles used by the motor carrier, on which a fee is required
11 to be paid, and the application shall be accompanied by the required fee.
12 The fees shall be due January 1 and shall be paid not later than January
13 15. Upon receipt of the application and fee, the commission shall issue
14 to the carrier appropriate credentials for each vehicle registered.

15 (e) The commission shall remit all moneys received by it or for it in
16 payment of fees imposed under this section to the state treasurer in ac-
17 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.
18 Upon receipt of each such remittance, the state treasurer shall deposit
19 the entire amount in the state treasury to the credit of the motor carrier
20 license fees fund.

21 Sec. 31. K.S.A. 66-1,140 is hereby amended to read as follows: 66-
22 1,140. (a) The commission shall make reasonable rules and regulations
23 specifying circumstances under which substitute or extra trucks, truck
24 tractors or passenger vehicles to be used temporarily in cases of emer-
25 gency or for special occasional trips by carriers currently licensed by the
26 commission may be registered and shall prescribe and collect a reasonable
27 registration fee therefor, not exceeding ~~\$2.50~~ \$10 for each truck, truck
28 tractor or passenger vehicle. The term of such registration shall be for
29 such period of time as the commission shall prescribe by rules and reg-
30 ulations.

31 (b) The commission shall also provide for special registration for
32 trucks, truck tractors or passenger vehicles not registered under the pro-
33 visions of K.S.A. 66-1,139, and amendments thereto, which enter the state
34 only on an occasional trip or in temporary service and shall collect ~~\$5~~ \$15
35 as a fee therefor.

36 (c) By contract entered into by the commission ~~and~~, the superinten-
37 dent of the Kansas highway patrol ~~and the secretary of the department of~~
38 ~~revenue~~, the commission may designate the superintendent ~~as the agent~~
39 ~~and secretary as agents authorized~~ to provide the special registrations
40 under either subsection (a) or (b) so that such registrations will be ob-
41 tainable at motor carrier inspection stations ~~and department of revenue~~
42 ~~offices~~. In such event, the superintendent ~~of the Kansas highway patrol~~
43 or the superintendent's designee ~~and the secretary or the secretary's des-~~

1 ~~ignee~~ may provide such special registrations pursuant to the terms and
2 conditions of the *applicable* contract. The commission or its designated
3 agent shall acknowledge special registration under either subsection (a)
4 or (b), which acknowledgment shall accompany the vehicle and be used
5 and accepted as evidence of such registration; and when necessary, such
6 acknowledgment shall be by telegram.

7 Sec. 32. K.S.A. 66-1313a is hereby amended to read as follows: 66-
8 1313a. Except as otherwise authorized under other laws of this state, a
9 motor carrier who holds a certificate of convenience and necessity, a
10 certificate of public service, ~~a contract carrier permit~~, a private carrier
11 permit or an interstate license from the state corporation commission,
12 upon application to the commission, may be designated to establish an
13 authorized inspection station for the inspection of the motor vehicles,
14 trailers and semitrailers operated in this state by such motor carrier for
15 compliance with the equipment statutes and rules and regulations of this
16 state. Such inspection station shall be located in Kansas. If the condition
17 of the motor vehicle, trailer or semitrailer is found to be in compliance
18 with the laws of this state, the authorized inspection station shall issue a
19 certificate of inspection stating its approval and the date of the inspection.
20 No certificate shall be issued unless equipment not in compliance is first
21 repaired or corrected and records of such repairs or corrections are main-
22 tained by the authorized inspection station. Certificates issued under this
23 section shall be valid for 12 months from the date of issue. Every certifi-
24 cate of approval issued pursuant to this section shall be issued in tripli-
25 cate. One copy of such certificate shall be carried in the motor vehicle of
26 the combination of vehicles of which a trailer or semitrailer is a part or
27 in the motor vehicle if applicable to the motor vehicle, during the time
28 such certificate is valid or in effect, one copy shall be retained by the
29 authorized inspection station as prescribed by rules and regulations of the
30 commission and the third copy shall be returned to the commission. Such
31 equipment inspection records shall be made available to the commission
32 upon request. The commission shall adopt rules and regulations for the
33 administration of this section and shall establish a schedule of fees and
34 charges governing the cost of administration of such authorized inspection
35 stations.

36 Sec. 33. K.S.A. 79-6a01 is hereby amended to read as follows: 79-
37 6a01. The director of property valuation shall value and assess annually
38 the over-the-road motor vehicles and rolling equipment of motor carriers
39 described in this act. The local deputy assessor shall value and assess
40 within the taxing district where located all other property, real and per-
41 sonal, belonging to such motor carriers.

42 As used in this act, "over-the-road motor vehicles and rolling equip-
43 ment" shall include all motor-driven vehicles, trailers, semitrailers, buses

1-18

1 poration commission of the state of Kansas between January 1 and March
 2 1 of any year did not own, use or operate any over-the-road motor vehicles
 3 or rolling equipment in Kansas during the preceding calendar year, the
 4 director of property valuation shall determine the mileage ratio of miles
 5 operated in the state of Kansas to miles operated everywhere by use of
 6 the estimate of mileage furnished by such motor carrier, and apply the
 7 same to the assessed valuation of the equipment listed by ~~said~~ *such* motor
 8 carrier to determine the assessed value of such equipment and the tax
 9 due thereon; and in any such case, when the carrier files ~~his or her~~ *such*
 10 *carrier's* return the following year, showing the actual mileage of such
 11 vehicles in the state of Kansas and everywhere during such year, the
 12 director of property valuation shall recompute the tax and refund any
 13 excess tax paid by such carrier, or if an additional amount of tax is deter-
 14 mined to be due from the taxpayer, ~~said~~ *such* additional amount shall
 15 become due upon mailing of notice of such additional tax to the motor
 16 carrier by the director of property valuation, which additional tax may be
 17 collected as provided in K.S.A. 79-6a07 and 79-6a11, *and amendments*
 18 *thereto*.

19 Sec. 36. K.S.A. 8-142, 8-2107, 32-1009, 44-503c, 60-305a, 65-1626,
 20 65-4101, 65-4116, 65-7004, 66-1,105, 66-1,108, 66-1,109, 66-1,111, 66-
 21 1,112, 66-1,112a, 66-1,112b, 66-1,112c, 66-1,112d, 66-1,112e, 66-1,112f,
 22 66-1,112h, 66-1,114, 66-1,114b, 66-1,115, 66-1,115a, 66-1,116, 66-1,119,
 23 66-1,126, 66-1,128, 66-1,129, 66-1,129a, 66-1,130, 66-1,139, 66-1,140, 66-
 24 1313a, 79-6a01, 79-6a02 and 79-6a03 and K.S.A. 2002 Supp. 8-2,127 are
 25 hereby repealed.

26 Sec. 37. This act shall take effect and be in force from and after its
 27 publication in the statute book.

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KANSAS MOTOR CARRIERS ASSOCIATION

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**Legislative Testimony
before the
Senate Transportation Committee
Senator Les Donovan, Chairman
Thursday, March 13, 2003**

**MR. CHAIRMAN AND MEMBERS OF THE
SENATE 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 in support of Senate Bill No. 2160.

The bill increases the application fee on new carrier applicants. The fee increase directly relates to the time and energy it takes to process and complete the issuance of authority. Three years ago, the Legislature required the KCC to do a safety audit of new carriers within 12 months of the carrier receiving authority. We believe this has had a positive effect on the safety practices of these carriers. In addition, we believe that additional inspectors are needed to assure the inspections continue. Should HB 2160 be adopted, KMCA will ask the House Appropriations Committee and the Senate Ways and Means Committee for two additional inspectors in the Omnibus bill.

Further, KMCA respectfully requests that the Senate Transportation Committee amend the provisions of HB 2244 into HB 2160. HB 2244 failed to be acted upon before the deadline for bills in their house of origin. HB 2244 makes several technical changes to the laws governing motor carriers and also includes procedural changes that should bring efficiencies to the Transportation Division of the KCC.

We ask for your support of HB 2160 with the provisions of HB 2244. I thank you for the opportunity to appear before you and would be pleased to answer any questions you may have.

2-1

SENATE TRANSPORTATION COMMITTEE
DATE: 3-13-03
ATTACHMENT: 2