

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 a.m. on February 12, 2004 in Room 527-S of the Capitol.

All members were present except:  
Senator David Adkins- absent

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

Conferees appearing before the committee:  
Carmen Alldritt, Dir. Motor Vehicles Div., KDOR  
Gary Davenport, KS Motor Carriers Assn.  
Terry Holdren, Kansas Farm Bureau  
Senator Phillip Journey

Others attending:  
See Attached List.

**SB 383: Commercial drivers' license, hazardous material endorsement**

Carmen Alldritt, Kansas Department of Revenue, Director Division of Motor Vehicles requested this bill in order to bring Kansas into compliance with the US Patriot Act. Commercial drivers who wish to renew a hazardous materials endorsement on their driver's license will be subject to fingerprinting and background checks (Attachment 1). Discussed possibility of problem with effective date because of federal time line. If necessary, an amendment to eliminate that problem will be proposed.

Gary Davenport, Kansas Motor Carriers Association addressed the implementation date issue which will be dependent on actions by Transportation Security Administration (TSA). This organization strongly supported the Kansas Uniform Commercial Driver's License Act when it was adopted and they also support **SB 383**. His testimony provided members with a list of disqualifying crimes and felonies (Attachment 2). Terry Holdren, Associate State Director, Kansas Farm Bureau Governmental Relations also presented testimony in support of the bill (Attachment 3). His testimony raised some questions regarding how it would impact their members. They are concerned about "threshold levels." Tom Whitaker, Kansas Motor Carriers Association, explained that Kansas Uniform Commercial Driver's License statutes exempt a farmer operating a vehicle registered as a farm truck within 150 miles of that farm. Farm Bureau is also concerned about the definition of hazardous material. Current law typically exempts farm materials. Nothing in this bill changes the current status of farm trucks. With these answers to his questions, Mr. Holden testified that in general his group supports the bill. Hearing closed.

**SB 385: School zones, disobeying school crossing guard**

Senator Phillip Journey explained his bill. It has two operative sections which would change existing law. It doubles the fines for violations in school zones and it creates a new infraction for refusing to comply with any lawful order or direction of any uniformed adult school crossing guard. Included in his testimony is a copy of the Attorney General's opinion which establishes the authority of school crossing guards (Attachment 4). It is felt this specific law will increase law enforcement. Several questions were raised. Members learned it is not a violation of school zone law to drive through the zone at normal speed when school is not in session. This law will not usurp local control. A school zone is a creature of local government unless it is located on a designated highway. The Highway Patrol will issue tickets for violations in the latter instance. Mark Desetti, Kansas National Education Association provided written testimony urging passage of this bill (Attachment 5). Diane A. Gjerstad, Wichita Public Schools, answered members' questions regarding problems in school zones. She advised the usual problems occur because of congestion around schools. No written testimony. Hearing closed

CONTINUATION SHEET

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE at 8:30 a.m. on February 12, 2004 in Room 527-S of the Capitol.

**Committee discussion**

Chairman Donovan reviewed the upcoming schedule. The Committee has some bills which have not yet been scheduled for hearings and time is getting short to get bills out of Committee. Discussed bills dealing with distinctive license plates and problems these have created. A big problem is the unsold special tags. Carmen Alldritt, KDOR Director of Motor Vehicles Division has agreed to store the plates here in Topeka. . The issuance of distinctive license plates has become a problem and something needs to be done about it. It was suggested a study should be given to the distinctive license plate issue. Perhaps consideration could be given to the use of decals.

Meeting adjourned at 9:20 a.m.

The next meeting is scheduled for February 17, 2004.



SENATE TRANSPORTATION COMMITTEE  
GUEST LIST

DATE: February 12, 2004

NAME	REPRESENTING
David Sim	KIBI
Therese Keller	Hein Law Firm
GARY DAVENPORT	Ks Motor Carriers Assn
<del>Rebecca</del>	<del>KOT</del>
Diane Gjerstad	Wichita Public Schools
Tom Whitaker	Ks Motor Carriers Assn.
Leslie Kaufman	Ks Co-op Council
Jim Edwards	KASB
Ralph A. Plasser	KFB



**K A N S A S**

IOAN WAGNON. SECRETARY

DEPARTMENT OF REVENUE  
DIVISION OF VEHICLES

KATHLEEN SEBELIUS. GOVERNOR

Testimony on SB383  
to  
The Senate Committee on Transportation  
Carmen Alldritt

February 12, 2004

Chairman Donovan and Members of the Committee:

Senate Bill 383 requires CDL drivers who wish to attain or renew a hazardous materials endorsement on their drivers license be subject to fingerprint capture and background check. This requirement brings Kansas into compliance with the US Patriot Act.

Our Drivers License Bureau has been working with the KBI and Federal agencies to begin this process April 1, 2004. At this time we are told Kansas will be a leader among the states to comply with these federal regulations and at a much lower cost.

I have with me today Alan Anderson, our Bureau Chief. We would be happy to address any specific questions that you have.

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- SENATE TRANSPORTATION COMMITTEE  
DATE 2-12-04 -  
ATTACHMENT: /



# KANSAS MOTOR CARRIERS ASSOCIATION

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TOM WHITAKER  
Executive Director

## Legislative Testimony

Presented by the Kansas Motor Carriers Association  
Before the Senate Transportation Committee  
Senator Les Donovan, Chairman  
Thursday, February 12, 2004

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

I am Gary Davenport, director of safety and risk management of the Kansas Motor Carriers Association. I appear here this morning representing our more than 1,200 member companies and the Kansas trucking industry in support of Senate Bill 383. We would like to note, that as SB 383 advances through the process it may be necessary to change the April 1, 2004 implementation date, dependent on actions by the Transportation Security Administration (TSA).

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).

The members of KMCA understand that drivers of commercial motor vehicles have a higher degree of safety responsibility and as an association 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
- Safety Belt use

Senate Bill 383 is legislation to bring Kansas into compliance with requirements of the USA Patriot Act which was enacted by Congress on October 25, 2001, to help protect the security of hazardous materials shipments.

Under the TSA rule, the Kansas Department of Revenue estimates 35,000 Kansas commercial vehicle drivers with hazardous material endorsements will be required to have their fingerprints collected to undergo a routine background check that includes a review of criminal, immigration, and FBI records. Any driver who has been convicted of a disqualifying offense (see attached) will not be permitted to obtain, retain, transfer or renew the hazardous materials endorsement. The checks also will verify that the driver is a U.S. citizen or a lawful permanent resident.

The Kansas Motor Carriers Association supports SB 383. We thank you for the opportunity to appear and would be happy to respond to any questions you may have.

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## **Disqualifying Crimes-Felonies:**

The list of disqualifying crimes was specifically designed to identify those most likely to endanger the nation's transportation network and is comparable to background reviews applied to millions of airport and airline employees.

**These crimes are only disqualifying if they are considered felonies in the appropriate jurisdiction, civilian or military. A driver will be disqualified from holding a hazmat endorsement if he or she was convicted\* or found not guilty by reason of insanity within the last seven years, was released from prison within the last five years, or is wanted or under indictment for any of the following crimes:**

- Murder
- Assault with intent to murder
- Kidnapping or hostage taking
- Rape or aggravated sexual abuse
- Extortion
- Robbery
- Bribery
- Smuggling
- Immigration Violations
- RICO (Racketeer Influenced and Corrupt Organizations Act) Violations
- Distribution of, intent to distribute, possession, or importation of a controlled substance (State laws on the quantity of marijuana required for the offense to be considered a felony, vary. Typically, however, to be convicted of felony marijuana possession a person must possess a quantity of marijuana greater than an amount considered for "personal use".)
- Dishonesty, fraud, or misrepresentation, including identity fraud (e.g., felony-level: embezzlement, tax evasion, perjury, and false statements to the Federal government)
- Unlawful possession, use, sale, distribution, or manufacture of an explosive device, firearm, or other weapon
- Conspiracy or attempt to commit any of these crimes

**A driver will be disqualified from holding a hazmat endorsement if he or she was ever convicted or found not guilty by reason of insanity of any of the following crimes:**

- Terrorism
- Espionage
- Sedition

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\* Convicted means any plea of guilty or nolo contendere or any finding of guilt

- Treason
- Arson
- Unlawful possession, use, sale, distribution, or manufacture of an explosive
- A crime involving a severe transportation security incident (i.e., security incident involving a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area)
- Improper transportation of a hazardous material (Minor infractions involving transportation of hazardous materials will not disqualify a driver. For instance, no driver will be disqualified for minor roadside infractions or placarding violations.)
- Conspiracy or attempt to commit any of these crimes



# Kansas Farm Bureau

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## PUBLIC POLICY STATEMENT

### SENATE TRANSPORTATION COMMITTEE

Re: SB 383—Hazardous Materials Certification of Commercial Drivers Licenses

February 12, 2004  
Topeka, Kansas

Terry D. Holdren  
Associate State Director—KFB Governmental Relations

Chairman Donovan and members of the Senate Transportation Committee, thank you for the opportunity to share our thoughts regarding Senate Bill 383. As you know Kansas Farm Bureau, (KFB) is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

SB 383 provides measures to ensure that commercial drivers in Kansas holding hazardous materials certification comply with federal regulations regarding fingerprinting, background checks, and security screening processes. Our policy, on a national level, offers strong support for the efforts of our government to protect our citizens and ensure the safety of our nation and our food supply. We are however concerned about the impact of this legislation on our members, and would ask that the committee carefully consider the following points before acting on this legislation.

- What application process is the department contemplating? We are concerned about the potential for lengthy forms and high fees for our members who are not transporting hazardous materials from facility to facility, but rather from farm to field. Are there partnerships with law enforcement that could be developed to reduce the cost for background investigation and the application fees?



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- Are there new quantity thresholds in mind that would require hazardous materials certification? Current requirements for the development of a safety plan for hazardous materials begin at 119 gallons. If regulations for placarding and certification developed under this legislation require certification at those weights, our members would certainly be adversely impacted. Practically applied, each farmer in the state who owns a farm or ranch service truck with a fuel tank would be required to have every driver of that 1/2 ton or 3/4 ton vehicle certified to transport hazardous materials.
- What is the target group for identification by these regulations? Our members transport relatively small quantities of hazardous materials on a fairly infrequent basis. The nature of their use and destination on the farm are not intended to be independently in the stream of commerce in a manner that would compromise the safety of our nation.

Our policy and our members are certainly supportive of any efforts to guarantee the safety and security of the nation. We are responsible individuals who will and do act accordingly when handling materials. However, it is imperative that the nature and use of agriculture be considered in any law and rule making and that the true impact be studied and understood.

Thank you for the opportunity to share these concerns today. Kansas Farm Bureau is willing to work with the committee to clarify language that balances homeland security with the ability to produce a safe, affordable food supply.

**Testimony for the Kansas State Senate Transportation Committee**

Presented February 12, 2004 in Support of Senate Bill #385.

It is a privilege and an honor to have the opportunity to address the Senate Transportation Committee and to offer our comments in support of Senate Bill #385. Sponsored by this Committee it is intended to amend K.S.A. 8-2118. It has two operative sections that are changes of existing law. The first change doubles the fines for the traffic infraction of speeding when in a school zone. A few years ago this body voted to do the same when violators were in a construction zone. Currently many cities across the State have done the same as intended in this Bill.

The second change creates a new infraction for willfully failing or refusing to obey the direction of a uniformed adult school crossing guard. The attorney Generals Opinion cited as #23-278 reflects the definition of the statutory authority of local School Boards to designate them. While other statutes could conceivably be used to prosecute similar violations having a specific law encourages law enforcement action.

Respectfully, submitted.

Senator Phillip B. Journey  
26<sup>th</sup> District

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veal serious auricular abnormalities, we feel that the above mentioned procedure should be followed if the pupil's parents take no steps to remedy the same.

JCJ

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OPINION 73-278, August 16, 1973, to Ted R. Morgan, County Attorney, Lakin  
*Re: SAME—School Patrols*

You ask whether the board of education of a unified school district may employ persons to patrol school crossing areas on public streets.

Previous Attorney Generals' Opinions have concluded that the board is without such authority. However, our examination of K. S. A. 72-8222 convinces us that the boards do have such authority.

Said statute provides thusly:

"The board of education of any school district or the board of trustees of any community junior college may employ school security officers to aid and supplement law enforcement agencies of this state and of the community in which such school district or community junior college is located. Such protective function shall extend to all school district property and the protection of students, teachers and other employees together with the property of such persons on or in any school property. *While engaged in such protective function, as hereinbefore provided, each school security officer so employed shall possess and exercise all general law enforcement powers and privileges in every county in which there is located any part of the territory of such school district or community junior college.*" [Emphasis supplied.]

We feel that the emphasized portion of the above quoted statute is broad enough to authorize a security officer to protect students at crossings whether located on school property or not.

Accordingly, a school security officer has the authority to patrol school crossing areas in any county wherein school district property is located.

We hereby withdraw that portion of any opinion that is contrary to what we say here.

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OPINION 73-280, August 16, 1973, to Keith Bray, Superintendent, Hillsboro  
*Re: SAME—Board of Education, Quorum*

You ask whether a vote of three yes, one no, one abstain and two absent is sufficient to pass a resolution of the board of education of a unified school district.

No.

K. S. A. 72-8205 provides in pertinent part thusly:

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Mark Desetti, Written testimony  
Senate Transportation Committee  
February 12, 2004  
**Senate Bill 385**

Members of the committee, thank you for the opportunity to submit written testimony in support of Senate Bill 385.

The Kansas National Education Association appreciates this effort to ensure that school zones are safe zones for our students. Parents must be able to send their children to school with the knowledge that children will arrive safely. And children must be confident that the adults they turn to for protection are indeed authorized and empowered to provide protection.

Senate Bill 385 will help to ensure that motorists will respect school zones and the guards who work to protect our children in those zones. We urge you pass SB 385 out of committee favorable for passage.

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