

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:40 A.M. on March 3, 2005 in Room 527-S of the Capitol.

All members were present except:  
Anthony Hensley- excused

Committee staff present:  
Hank Avila, Kansas Legislative Research Department  
Bruce Kinzie, Revisors of Statutes  
Maggie Breen, Committee Secretary

Conferees appearing before the committee:  
Mike Hoeme, Kansas Corporation Commission  
  
Ken Gudenkauf, Kansas Department of Transportation  
Carmen Alldritt, Department of Revenue, Division of Revenue

Others attending:  
See attached list.

**HB 2123 - Transfer power, duties and functions of KCC relating to railroads to KDOT**

Proponents:

Mike Hoeme, Director of Transportation Division of the KCC, testified as a proponent to **HB 2123**. In the bill, KCC proposes to transfer its limited Railroad statutes and authority over to the Kansas Department of Transportation. In 1999, many of the enabling statutes regarding the KCC's authority to regulate railroads were repealed or preempted. Consequently, over the past 18 months, the KCC has worked with KDOT and the railroads on this proposed legislation to rationalize existing state law with current practices and regulatory duties. It is agreed that KDOT is better equipped with the engineering and technical knowledge needed to exercise residual authority over the railroads that has not been assumed by the federal government. It will also eliminate many duplicate processes. There is a minimal financial impact on the Commission for giving up this area of regulation. The bill will 1) remove any reference to Railroads as a common carrier, 2) repeal the statutes regarding KCC authority that are re-enacted under Article 2 of Chapter 66 in order to transfer the authority to KDOT, and 3) make repeals necessary due to federal preemption. There is also one slight change they would like to propose. On page 2, line 26 and 27 under "common carriers," the words "express companies" and "sleeping-car companies" should be struck as they relate to railroads and it was not the intent to leave any reference to railroads in the definition of "common carriers." (Attachment 1)

Ken Gudenkauf, Legislative Liaison, KDOT, stated that **HB 2123** is basically a cleanup bill and they have the staff to take care of what's being transferred to them and they agree with it. They have worked closely with the KCC in accomplishing this transfer. They also agree with the amendment being made. (Attachment 2)

Senator Wilson said he assumed the Railroad Industry was in agreement to the bill. Pat Hubbell who has been associated with the railroads for 37 years said the industry was in agreement.

Senator Palmer questioned why it was being called a cleanup bill when it was really a big policy change. Mr. Hubbell said it really wasn't a policy change because the DOT has been handling all of the functions where the money comes through for grade crossing protection and really everything that's been going on with the industry. Plus all of the regulatory part if handled by the Service Transportation Board in Washington. That's all preempted.

**Final Action**

Senator Wilson moved to adopt the amendment to **HB 2123**. Senator Schmidt seconded the motion. Motion carried.

Senator Schmidt moved to pass **HB 2123** favorably as amended. Senator Wilson seconded the motion. Motion Carried.

## CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on March 3, 2005 in Room 527-S of the Capitol.

### **HB 2215- Commercial driver's licenses, hazmat fee fund**

Proponents:

Carmen Alldritt, Department of Revenue, Division of Vehicles, said that **HB 2215** is technical cleanup of 2004 legislation. The bill does three things. First, it creates a Hazardous Materials (hazmat) fee fund for the deposit and expenditure of fees collected when a person applies for hazmat endorsement on a Commercial Drivers License. The fees are then used for payment of the driver's background and fingerprint checks. Second, it brings Kansas into compliance with Transportation Security Administration (TSA) procedure concerning the notification of renewal. TSA has changed the notification time period from 180 days to 60 days, and 90 days to 30 days. And third, to insert a technical amendment which Bruce Kinzie has prepared. The amendment is cleanup dealing with Commercial Drivers License disqualifications, to correctly reference the federal requirements. (Attachment 3)

Bruce said the amendment is dealing with the Commercial Drivers License (CDL), not necessarily with the hazmat part of it. Two years ago we did the disqualification division for CDL. Direction came out from the federal government to do a more stringent disqualification. There were some internal references under K.S.A. 8-259, where it says you don't have to have an administrative hearing to have your license disqualified. Some of the provisions were under the CDL. So, if you were convicted under a particular charge you didn't get an administrative hearing before they suspended your license. Those references were incorrect. The first section of the amendment corrects them. It lists those provisions where your license is going to be disqualified, suspended, or revoked without having an administrative hearing, depending on what you were convicted under. The second change is the section where the disqualifications are actually set out. On page 2, Sec. 1, (1) (C) talks about being involved in a fatality, it says "is convicted of causing." (Attachment 4)

Senator Wilson moved to adopt the above amendments to HB 2215. Senator Schmidt seconded the motion. Motion carried.

Senator Wilson moved to pass the bill favorably as amended. Senator Schmidt seconded the motion.

Senator Petersen said he would be more comfortable if the committee waited until the next meeting before passing the amended bill. Senator Wilson withdrew his motion. Senator Schmidt withdrew her second.

Chairman Donovan asked Tom Whitaker, Kansas Motor Carriers Association, for his comments. Mr. Whitaker said they support the legislation, they don't have any choice. It's a fee funded bill. The drivers have to pay the \$90 fee in addition to the regular license fee.

### **Division of Revenue Press Release**

Carmen Alldritt covered a press release given by Revenue Secretary Joan Wagon granting a grace period for returning deployed military personnel. It allows returning military personnel to drive vehicle with expired registration for a period of 7 days, allowing adequate time to properly register the vehicle. This has been done before and greatly appreciated so the press release, dated February, 2004, was re-released this week as there is another group returning at this time. (Attachment 5)

Senator Schmidt moved to approve the minutes for the February 22 committee meeting. Senator Peterson seconded the motion. Motion carried.

The meeting adjourned at 9:12 a.m.

The next meeting is scheduled for March 8.





# KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR

BRIAN J. MOLINE, CHAIR

ROBERT E. KREHBIEL, COMMISSIONER

MICHAEL C. MOFFET, COMMISSIONER

Testimony of Mike Hoeme  
Director of Transportation  
Kansas Corporation Commission  
House Bill 2123  
March 3, 2005

Good morning Mr. Chairman and members of the committee. My name is Mike Hoeme. 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 2123.

The KCC proposes to transfer its limited Railroad statutes and authority over to the Kansas Department of Transportation (KDOT). In 1999, many of the enabling statutes regarding the KCC's authority to regulate railroads were repealed or federally preempted. Consequently, over the past eighteen months the KCC has worked with KDOT and the railroads on this proposal to rationalize existing state law with current practices and regulatory duties. We all agree that KDOT is better equipped with the engineering and technical knowledge needed to exercise the residual authority over the railroads that has not been assumed by the federal government. In addition, HB 2123 will eliminate many duplicate processes.

There will be a minimal financial impact on the Commission for giving up this area of regulation. During FY 2004, the Commission assessed the railroads for \$22,500. Currently, during the first three quarters of FY 2005, the amount assessed and paid by the railroads is \$7,500. At this time, KCC administrative staff time is spent compiling and updating the Kansas Railroad map and the Kansas Railroad safety statistics, both of which are also maintained by KDOT.

As you can imagine, given that railroads have been a part of the Kansas transportation system since the state began, a good number of statues have been enacted to regulate the industry, and thus many amendments are required. Generally, the amendments required will fall under one of the following classifications:

- Amendments to remove any reference to Railroads as a common carrier
- Repeal of statutes regarding KCC authority that are then re-enacted under Article 2 of Chapter 66 in order to transfer the authority to KDOT
- Repeals necessary due to federal preemption

SENATE TRANSPORTATION  
3-03-05  
ATTACHMENT 1

In addition, we would propose a very slight change to the bill that is before you. On page 2, lines 26 & 27 under "common carriers", the words "express companies" and "sleeping-car companies" should be struck, as they related to railroads and it was not our intent to leave any reference to railroads in the definition of "common carriers."

The KCC realizes the changes proposed are significant, however, as noted above, this transfer of authority will eliminate many duplicate processes between the two agencies and allow a more efficient and effective process to begin.

This concludes my testimony, and I will stand for any questions you may have.



# KANSAS

DEPARTMENT OF TRANSPORTATION  
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## TESTIMONY BEFORE THE SENATE TRANSPORTATION COMMITTEE

### REGARDING HOUSE BILL 2123 RELATING TO RAILROADS

MARCH 3, 2005

Mr. Chairman and Committee Members:

Good morning. My name is Ken Gudenkauf Legislative Liaison for the Kansas Department of Transportation (KDOT). I appreciate the opportunity to testify on House Bill 2123.

House Bill 2123 would amend K.S.A. Chapter 66 so that all powers, duties, and functions of the Kansas Corporation Commission (KCC), as it relates to the regulation of railroads, would be transferred to and conferred and imposed upon KDOT. Statutes within K.S.A. Chapter 66 which are preempted by federal law will be repealed. Virtually all railroad regulation is done at the federal level through the Federal Railroad Administration.

This is primarily a cleanup bill and the Kansas Department of Transportation agrees, with the Kansas Corporation Commission's request, to take on the few remaining railroad responsibilities from the Commission. If this bill becomes law, current KDOT staff will be able to take on the additional responsibilities and there should be no effect on the agency budget.

Essentially, the Kansas Department of Transportation will become the repository for various filings by Class I railroads operating in Kansas and the primary point of contact with the Surface Transportation Board as it relates to railroad filings for abandonment and decisions by the Surface Transportation Board affecting rail transportation in Kansas. The Kansas Department of Transportation will review, prior to July 1, 2005, and shall take custody of all Kansas Corporation Commission records, memoranda, writings, entries, prints, or combinations thereof relating to railroads.

KDOT has worked closely with the KCC in accomplishing this transfer of authority and supports House Bill 2123.

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SENATE TRANSPORTATION  
3-03-05  
ATTACHMENT 2





K A N S A S

IOAN WAGNON, SECRETARY OF REVENUE

DEPARTMENT OF REVENUE  
DIVISION OF VEHICLES

KATHLEEN SEBELIUS, GOVERNOR

March 2, 2005

Testimony on HB2215  
Senate Committee on Transportation  
Carmen Alldritt  
Director of Vehicles

Thank you Chairman Donovan and members of the Committee. I am Carmen Alldritt and serve as the Director of Vehicles. House Bill 2215 is technical clean up of 2004 legislation.

This bill will create a Hazardous Materials (hazmat) fee fund for the deposit and expenditure of fees collected when an individual applies for a hazmat endorsement on a Commercial Drivers License. The fees are utilized for the payment of the driver's background and fingerprint checks.

The second item would bring Kansas into compliance with Transportation Security Administration procedure concerning notification of renewal. TSA has changed the notification time periods from 180 days to 60 days, and 90 days to 30 days.

I would also ask your consideration to insert technical clean up which deals with Commercial Drivers License disqualifications, to correctly reference the federal requirements.

Alan Anderson, our Chief of Driver Licensing, and Marcy Ralston, the Manager of our Driver Control Bureau, are with me today to answer any technical questions.

Thank you for the opportunity to speak on behalf of HB 2215.

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 2215

Sec. \_\_\_\_ . K.S.A. 8-259 is hereby amended to read as follows: 8-259. (a) Except in the case of mandatory revocation under K.S.A. 8-254 or 8-286, and amendments thereto, mandatory suspension for an alcohol or drug-related conviction under subsection (b) of K.S.A. 8-1014, and amendments thereto, mandatory suspension under K.S.A. 8-262, and amendments thereto, or mandatory disqualification of the privilege to drive a commercial motor vehicle under subsection ~~(a)(1), (2) or (3)~~ (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(2)(a), (a)(3)(A) or (a)(3)(B) of K.S.A. 8-2,142, and amendments thereto, the cancellation, suspension, revocation, disqualification or denial of a person's driving privileges by the division is subject to review. Such review shall be in accordance with the act for judicial review and civil enforcement of agency actions. In the case of review of an order of suspension under K.S.A. 8-1001 et seq., and amendments thereto, or of an order of disqualification under subsection ~~(a)(4)~~ (a)(1)(D) of K.S.A. 8-2,142, and amendments thereto, the petition for review shall be filed within 10 days after the effective date of the order and venue of the action for review is the county where the administrative proceeding was held or the county where the person was arrested. In all other cases, the time for filing the petition is as provided by K.S.A. 77-613, and amendments thereto, and venue is the county where the licensee resides. The action for review shall be by trial de novo to the court. The court shall take testimony, examine the facts of the case and determine whether the petitioner is entitled to driving privileges or whether the petitioner's driving privileges are subject to suspension, cancellation or revocation under the provisions of this act. Unless the petitioner's driving privileges have been extended pursuant to subsection (o) of K.S.A. 8-1020, and amendments thereto, the court on review ~~shall--consider--the--petitioner's traffic-violations-record-and-liability-insurance-coverage-before granting~~ may grant a stay or other temporary remedy pursuant to



K.S.A. 77-616, and amendments thereto, after considering the petitioner's traffic violations record and liability insurance coverage. If a stay is granted, it shall be considered equivalent to any license surrendered. If a stay is not granted, trial shall be set upon 20 days' notice to the legal services bureau of the department of revenue. No stay shall be issued if a person's driving privileges are canceled pursuant to K.S.A. 8-250, and amendments thereto.

(b) The clerk of any court to which an appeal has been taken under this section, within 10 days after the final disposition of such appeal, shall forward a notification of the final disposition to the division.

Sec. 1. K.S.A. 2004 Supp. 8-2,142 is hereby amended to read as follows: 8-2,142. (a) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year upon a first occurrence of any one of the following:

(1) While operating a commercial motor vehicle:

(A) The person is convicted of violating K.S.A. 8-2,144, and amendments thereto;

(B) the person is convicted of violating subsection (b) of K.S.A. 8-2,132, and amendments thereto;

(C) the person ~~has-caused~~ is convicted of causing a fatality through the negligent operation of a commercial motor vehicle; or

(D) the person's test refusal or test failure, as defined in subsection ~~(\*)~~ (1); or

(2) while operating a noncommercial motor vehicle:

(A) The person is convicted of a violation of K.S.A. 8-1567, and amendments thereto; or

(B) the person's test refusal or test failure, as defined in K.S.A. 8-1013, and amendments thereto; or

(3) while operating any motor vehicle:

(A) The person is convicted of leaving the scene of an accident; or

(B) the person is convicted of a felony, other than a felony described in subsection (e), while using a motor vehicle to

commit such felony.

(b) If any offenses, test refusal or test failure specified in subsection (a) occurred in a commercial motor vehicle while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.

(c) A person shall be disqualified for life upon the second or a subsequent occurrence of any offense, test refusal or test failure specified in subsection (a), or any combination thereof, arising from two or more separate incidents.

(d) The secretary of revenue may adopt rules and regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) may be reduced to a period of not less than 10 years.

(e) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle or noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.

(f) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

(g) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a noncommercial motor vehicle arising from separate incidents occurring within a three-year period, if such convictions result in the revocation, cancellation or suspension of the person's driving privileges.

(h) (1) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order shall be disqualified from driving a commercial motor vehicle for a period

of not less than:

(A) Ninety days nor more than one year, if the driver is convicted of a first violation of an out-of-service order;

(B) one year nor more than five years if, during any 10-year period, the driver is convicted of two violations of out-of-service orders in separate incidents; or

(C) three years nor more than five years if, during any 10-year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents.

(2) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order while transporting a hazardous material required to be placarded under 49 U.S.C. 5101 et seq. or while operating a motor vehicle designed to transport more than 15 passengers, including the driver, shall be disqualified from driving a commercial motor vehicle for a period of not less than:

(A) One hundred and eighty days nor more than two years if the driver is convicted of a first violation of an out-of-service order; or

(B) three years nor more than five years if, during any 10-year period, the driver is convicted of any subsequent violations of out-of-service orders in separate incidents.

(i) (1) A person who is convicted of operating a commercial motor vehicle in violation of a federal, state or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing shall be disqualified from driving a commercial motor vehicle for the period of time specified in paragraph (2):

(A) For persons who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(B) for persons who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(C) for persons who are always required to stop, failing to

stop before driving onto the crossing;

(D) for all persons failing to have sufficient space to drive completely through the crossing without stopping;

(E) for all persons failing to obey a traffic control device or the directions of an enforcement official at the crossing; or

(F) for all persons failing to negotiate a crossing because of insufficient undercarriage clearance.

(2) A driver shall be disqualified from driving a commercial motor vehicle for not less than:

(A) Sixty days if the driver is convicted of a first violation of a railroad-highway grade crossing violation;

(B) one hundred and twenty days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents; or

(C) one year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

(j) After suspending, revoking or canceling a commercial driver's license, the division shall update its records to reflect that action within 10 days. After suspending, revoking or canceling a nonresident commercial driver's privileges, the division shall notify the licensing authority of the state which issued the commercial driver's license or nonresident commercial driver's license within 10 days.

(k) Upon suspension, revocation, cancellation or disqualification of a commercial driver's license under this act, the license shall be immediately surrendered to the division if still in the licensee's possession. If otherwise eligible, and upon payment of the required fees, the licensee may be issued a noncommercial driver's license for the period of suspension, revocation, cancellation or disqualification of the commercial driver's license under the same identifier number.

(l) As used in this section, "test refusal" means a person's refusal to submit to and complete a test requested pursuant to K.S.A. 8-2,145, and amendments thereto; "test failure" means a

person's submission to and completion of a test which determines that the person's alcohol concentration is .04 or greater, pursuant to K.S.A. 8-2,145, and amendments thereto.



# K A N S A S

JOAN WAGNON, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF REVENUE  
OFFICE OF THE SECRETARY

For Immediate Release  
February 18, 2004

**Revenue Secretary Wagnon announces grace period for returning deployed military personnel.**

(Topeka) To express appreciation to the soldiers who were deployed out of state or country for ongoing military efforts, the Kansas Department of Revenue will begin providing a grace period of seven days for expired vehicle registration from the date they arrived back in Kansas.

Military personnel will be allowed to drive a vehicle with expired registration for a period not to exceed seven days allowing adequate time to arrange affairs and properly register the vehicle in their home county. This extension only applies to operation of a vehicle within the State of Kansas. While operating a vehicle with expired registration during this period, military personnel will need to be able to provide the following information if stopped by a Kansas law enforcement officer:

- A copy of their deployment orders or an official form from their home military installation showing the date of return to the United States and,
- current liability insurance on the vehicle they are driving.

Furthermore, any penalties on registration will be waived. If the vehicle is leased and property tax is due, the Kansas Department Revenue recommend that Kansas County Treasurers waive any penalties, but will ultimately be left up to the treasurer's discretion.

Again, this grace period only applies to respective vehicle and while operated within the state of Kansas.

END

Peggy Stalcup 785.368.8798





# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
DIVISION OF VEHICLES

KATHLEEN SEBELIUS, GOVERNOR

**Policy name:** Grace period for military deployed for recent war effort

**Effective date:** February 17, 2004

**Policy statement:** Military personnel will be allowed to drive a vehicle with expired registration for a period not to exceed seven days allowing adequate time to arrange affairs and properly register the vehicle in their home county.

To express our appreciation to the soldiers who were deployed for the recent war effort, we are going to grant a grace period of seven days for expired vehicle registration from the date they arrived back in Kansas.

They must be able to provide a copy of their deployment orders and the date of return to the United States.

They must have current liability insurance on the vehicle they are driving.

This grace period extension does not apply to vehicles that are taken out of state with expired registration. We are not responsible for out of state travel.

Any penalties on registration will be waived. If the vehicle is a leased vehicle and property tax is due, we recommend that the counties waive the penalties; however, that will be left up to the discretion of the County Treasurer.

04-014