

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 A.M. on January 17, 2006 in Room 527-S of the Capitol.

All members were present.

Committee staff present:

Michele Alishahi, Kansas Legislative Research Department
Bruce Kinzie, Revisors of Statutes
Maggie Breen, Committee Secretary

Conferees appearing before the committee:

Alan Cobb, Americans for Prosperity
Carmen Alldritt, Director, Division of Motor Vehicles
Tom Whitaker, Kansas Motor Carriers Association
John Federico, Recreational Vehicles Industry Association

Others attending:

See attached list.

Chairman Donovan welcomed the committee back and said he looks forward to another productive year.

Chairman Donovan made reference to the joint committee meeting with the House on January 11. The House stayed in session and voted on approving the issuance of \$150 million KDOT bonds to the finance council. It is also required that the Senate Transportation approve the bonds. Chairman Donovan said he had planned for the committee to vote immediately this morning but agreed to let Alan Cobb speak briefly to the committee, as he couldn't participate last week due to his son having a medical procedure.

Alan Cobb, Americans for Prosperity, said he knew the committee has heard most of Dr. Bartley Hildreth of Wichita State University's excellent study on the rate of Kansas debt growth. He pointed out that adding the \$60 million, that has already been approved, to the \$150 million will move Kansas from the seventeenth to the sixteenth highest state debt per capita. We already have a negative debt rating. Clearly this will further harm it. There are only eight states that have a negative debt rating, Kansas being one of them. Twenty states are actually decreasing their debt as a percent of income. And finally, a note of trivia: the debt and interest payment exceeds the total amount of debt from 1992. Kansas is the second highest state in debt growth. Wyoming is number one but is still a relatively low debt state. Alan said he thinks these are things to ponder. While he know this won't change this vote, he thinks it is of great importance to watch over the next couple of years. (Attachment 1)

Chairman Donovan opened the floor for comments. He said he didn't disagree with Alan's comments but emphasized that Kansas' ability to pay its debt is still looked at, by people who buy the bonds, as being strong. While he would much prefer not to incur the debt but it wasn't possible.

Senator O'Connor said she didn't originally support the tax increase for the Transportation Plan. However, once the legislature voted and expressed its will, she accepts the will of the legislature. Now, it needs to fund what it promised to fund. We would not be facing this if the demand transfers had been honored. She said she would reluctantly have to support this further going into debt.

Senator Wilson said he's really concerned with how much debt we're incurring in this state. He said he wonders if Kansas voters would have approved this debt explosion. He said he has a big problem, not with highways, but with how debt is increasing in the state and he hopes we don't continue adding to it. He is reluctantly going to vote for it.

Senator Palmer said she wanted to reiterate her comments regarding the debt of our state. She thinks we are putting ourselves in critical, critical, shape and its like going on a on a credit card for the future of our children and we have to stop it. She doesn't like what's going on at all. She understands why its going on but she wants some assurance from somebody that KDOT is not going to come back and ask for more bonds because they don't have enough money. She thinks the Highway Patrol should be removed from KDOT.

CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on January 17, 2006 in Room 527-S of the Capitol.

Senator Journey said that its important that all of us remember the concept that the assets being created by this borrowing will be used by our grandchildren also. To spread out the obligations over the years of its useful live is a reasonable thing to do. These are not general obligation bonds. This, the expansion and enhancement of infrastructure in the state, is a primary and necessary factor in determining real economic development. Had the bonding been for general governmental functions, he would be adamantly opposed to it. He supports the bonds.

Senator Hensley said Senator Journey made some valid points. This is a commitment we have made to communities across Kansas and we need to adhere to that commitment. We put together a plan that was passed by the 2004 legislature. And what we are doing, in reality, is making sure we carry out those promises. The thing he would question in Mr. Cobb's information is, of the debt we have outstanding, how much of that is attributed to the pension obligation bonds. The legislature decided to enact these bonds, and it was very bipartisan. They were in the neighborhood of \$500 million. We have to take that into consideration. We continue to have a good credit rating.

Senator Peterson said he is supporting this bond because infrastructure is so important to our state. This did not come easy. It was his assurance from the secretary, that none of this bonding was going to operational costs, that sealed his final decision. He has some concerns for the Highway Patrol being under the KDOT and some of the shared costs.

Senator O'Connor, with reluctance, made a motion to recommend to the finance council that the \$150 million bond be issued. Senator Hensley seconded the motion. The motion carried.

Chairman Donovan said he very much appreciated everyone's participation. He thanked them for their comments and their votes. He said he understands their concern.

Chairman Donovan opened the floor for introduction of bills.

Carmen Alldritt, Division of Vehicles, said she has two bills the Department of Revenue would like introduced. The first one gives a definition to self-propelled crane. (Became **SB 374**) The second one deals with commercial drivers license and will bring us in compliance with all the federal requirements. (Became **SB 371**) (Attachments 2 & 3)

Senator Wilson made a motion to introduce both bills. Senator O'Connor seconded the motion. The motion carried.

Tom Whitaker, Kansas Motor Carriers Association (KMCA), requested a bill that is a joint effort between KMCA and the Department of Revenue, Division of Vehicles to introduce what is known as PRISM, the Performance and Registration Information System Management. It ties registration and commercial motor vehicles to the carrier's DOT number. In a case where the federal government would say that a company is an eminent hazard to have on the highways, it gives the state the authority to revoke their registration at that point. It only applies to vehicles that are apportioned registration. It does not apply to vehicles that are registered at the county. The implementation of this is paid for by grant money. (Became **SB 373**) (Attachment 4)

Senator O'Connor made a motion to introduce the bill. Senator Wilson seconded the motion. The motion carried.

John Federico, on behalf of the Recreational Vehicle Industry Association (RVIA), requested the introduction of a bill that would change Kansas statute to allow for certain appurtenances to be affixed to side of recreational vehicles. (Became **SB 372**)

Senator O'Connor made a motion to introduce the bill. Senator Wilson seconded the motion. The motion carried.

Meeting adjourned at 9:06 a.m. Next meeting will be Thursday, January 19.

**SENATE TRANSPORTATION COMMITTEE
GUEST LIST**

DATE: January 17, 2006

NAME	REPRESENTING
Derck Hein	Hein Law Firm
Deann Williams	KS MOTOR CARRIERS ASSOC.
ALAN COBB	AFP-ICS
Scott Heidner	ACEK Kansas
Tom PALACE	PMCA OF KS.
Bob Totten	K-C-A
John Federico	RVIA
Woody Moses	KAPA
Jim MacMurray	KDFA
Glen Coulter	Kans. Good Roads
Bill Brody	Eco. LifeLines
John Peters	Eco LifeLines
Reed W. Davis	KDOT
DOO Mel	KDOT
Tom Whitaker	Ks MOTOR CARRIERS ASSOC
Al Gerstner	KDOR
Ed De Soignie	Heavy Constructors Association
Ken Gulenkant	KDOT



January 17, 2006

Mr. Chairman and members of the committee,

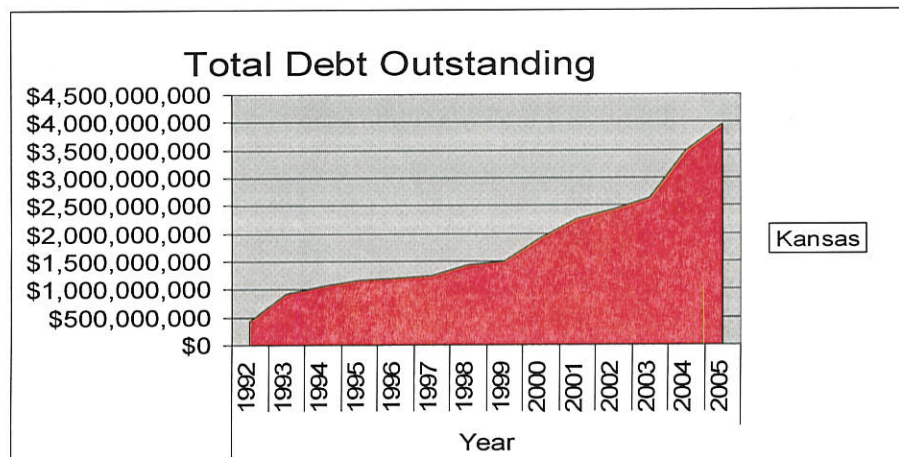
Thank you for allowing me to belatedly speak for a few minutes on the subject of Kansas' state debt burden.

While our Transportation Secretary is already talking about another massive borrowing program for highways when the current plan expires, it is incumbent upon us to fully examine that absolute explosion in Kansas debt since 1992.

- If the additional \$210 MM in borrowing is approved, Kansas will move to the 16th highest state debt per capita from 17th.
- This April, the next Moody's report will be released. Kansas' 2005 debt is much higher than 2004 so Kansas is sure to look even worse, even without the \$210 MM, in all the Moody's state rankings (per capita/% of personal income etc..)
- Moody's can give a state three debt ratings that they recommend investors look at when investing in a state, positive, stable or negative.
- Kansas received a negative rating, one of only 8 states to receive that lowest rating. is

Kansas Debt Facts

- Kansas debt has increased 832% since 1992, from \$424 million in 1992 to \$3.95 billion in 2005. Kansas debt increased 32% between 2003 and 2004 alone.
- Kansas 2005 total debt service (principle + interest) of **\$429 million was slightly higher than the total debt outstanding in 1992 (\$424 million)**. (Kansas Division of Budget, June 2005)
- Kansas ranks the 2nd in the growth of debt as a percent of personal income: 1992-2004 (560% increase).
- During this same time ('92-'04) **20 states actually DECREASED** their debt as a percent of personal income. (Moody's Investors Service, 2004)





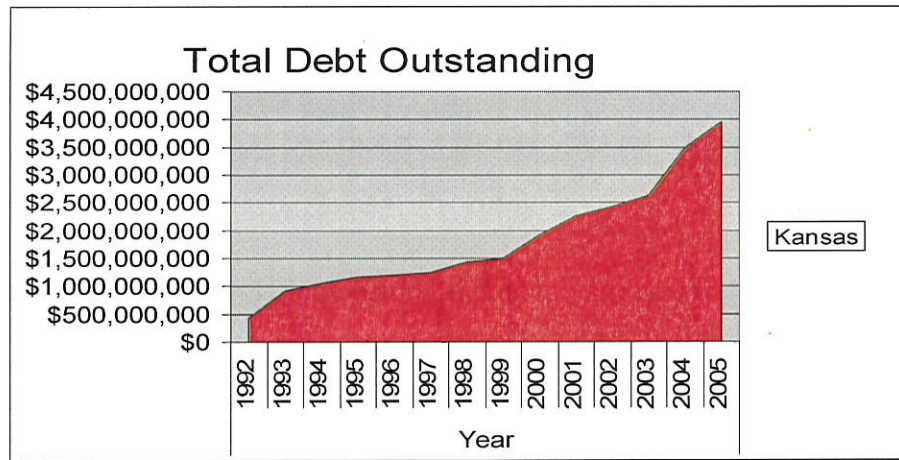
2348 SW Topeka, Suite 201 Topeka, Kansas 66611
785-354-4237 785-354-4239 FAX
www.afpks.org

Kansas Debt Explosion

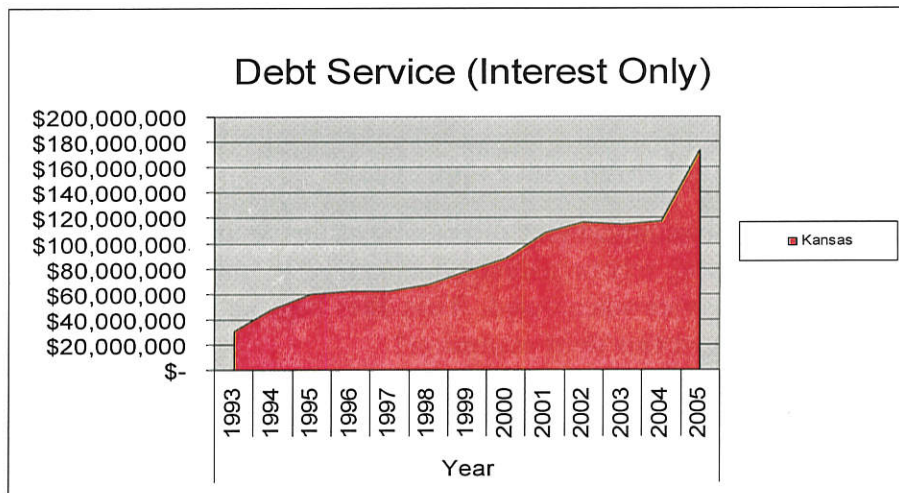
"We must not let our rulers load us with perpetual debt."
-- Thomas Jefferson (letter to Samuel Kercheval, 7/12/1816)

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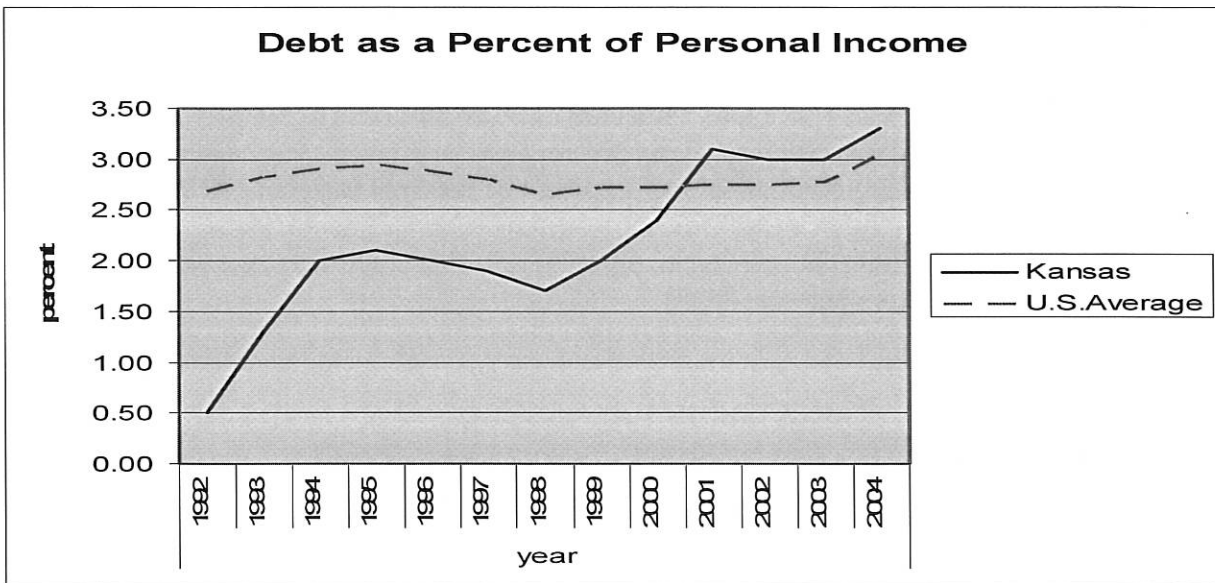


- In 2005, Kansas will pay \$173,172,403 in debt service interest payments (*Kansas Division of Budget, June 2005*).



- Kansas' debt per capita is much higher than ALL its surrounding states. (*Moody's Special Comment, June 23, 2004*)
 - Kansas \$963 per person
 - Missouri \$461 per person
 - Oklahoma \$315 per person
 - Nebraska \$43 per person

- Kansas debt as a percent of personal income has increased 560% between 1992-2004. During this same time, the US average increase was only 13%. (*Moody's Investor Service 2004*)



- Kansas' debt as a percent of personal income is considerably higher than ALL the surrounding states (*Moody's Special Comment, June 23, 2004*).
 - Kansas 3.3%
 - Missouri 1.6%
 - Oklahoma 1.2%
 - Colorado 0.9%
 - Nebraska 0.1%

Kansas Constitution: Let the People Decide.

The Kansas Constitution gives the legislature authority to issue up to \$1 million in General Obligation debt. Beyond that level, Kansas citizens, in a direct vote of the electors, are to decide whether to allow the state to move further into indebtedness.

Kansas Debt Explosion: Would Kansans have approved?

- The Kansas Legislature has circumvented a direct vote of the people by issuing bonds that are not General Obligation, but instead, rely on a devoted stream of revenue and assurance of the legislature to pay the debt service when owed. **This does beg the hypothetical question: Would Kansas voters have approved this debt explosion?**

PROPOSED BILL NO. (374)

By

AN ACT relating to the registration of vehicles; concerning self-propelled cranes; amending K.S.A. 8-128 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 8-128 is hereby amended to read as follows: 8-128. (a) The following need not be registered under this act, any:

- (1) Implement of husbandry;
- (2) all-terrain vehicle;
- (3) road roller or road machinery temporarily operated or moved upon the highways;
- (4) municipally owned fire truck;
- (5) privately owned fire truck subject to a mutual aid agreement with a municipality;
- (6) school bus owned and operated by a school district or a nonpublic school which has the name of the municipality, school district or nonpublic school plainly painted thereon;
- (7) farm trailer used in carrying not more than 6,000 pounds owned by a person engaged in farming, which trailer is used exclusively by the owner to transport agricultural products produced by such owner or commodities purchased by the owner for use on the farm owned or rented by the owner of such trailer and the weight of any such farm trailer, plus the cargo weight of 6,000 pounds or less, shall not be considered in determining the gross weight for which the truck or truck tractor propelling the same shall be registered; or
- (8) farm trailer used and designed for transporting hay or forage from a field to a storage

area or from a storage area to a feedlot, which is only incidentally moved or operated upon the highways, except that this paragraph shall not apply to a farm semitrailer.

(b) ~~Self-propelled cranes where the crane operator on a job site operates the controls of such crane from a permanent housing or module on the crane and the crane is not constructed~~ identified with a product identification number and not a vehicle identification number, with the boom or hoist controls operated from a permanent enclosure or housing integrated into the manufacturer's design and not designed or manufactured with a bed that would allow for the transportation of property, except the property that is required for safe and stable operation of the crane itself and earth moving equipment which are equipped with pneumatic tires may be moved on the highways of this state from one job location to another, or to or from places of storage, delivery or repair, without complying with the provisions of the law relating to registration and display of license plates but shall comply with all the other requirements of the law relating to motor vehicles.

(c) Oil well servicing, oil well clean-out or oil well drilling machinery or equipment need not be registered under this act but shall comply with all the other requirements of the law relating to motor vehicles.

(d) A truck permanently mounted with a hydraulic concrete pump and placing boom may be moved on the highways of this state from one job location to another, or to or from places of storage delivery or repair, without being registered under this act, but shall comply with all the other requirements of the law relating to motor vehicles. The provisions of this subsection shall not apply to ready-mix concrete trucks.

Sec. 2. K.S.A. 8-128 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

PROPOSED BILL NO. (371)

By

AN ACT amending the Kansas uniform commercial drivers' license act; providing for penalties; relating to certain notifications; amending K.S.A. 8-2,131 and 8-2,138 and K.S.A. 2005 Supp. 8-2,128 and 8-2,142 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) A driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than \$1,100 nor more than \$2,750, in addition to any disqualification under K.S.A. 8-2,142, and amendments thereto.

(b) An employer who is convicted of violating subsection (b)(3) of K.S.A. 8-2,131, and amendments thereto, shall be subject to a civil penalty of not less than \$2,750 nor more than \$11,000.

(c) An employer who is convicted of a violation of subsection (b)(4) of K.S.A. 8-2,131, and amendments thereto, shall be subject to a civil penalty of not more than \$10,000.

(d) Civil penalties shall be enforced and collected by an attorney for the division of vehicles in the appropriate district court.

(e) Civil penalties shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

(g) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

New Sec. 2. (a) It shall be unlawful and constitute a class B misdemeanor for any person to violate any of the provisions of the Kansas uniform commercial drivers' license act, unless a different penalty is prescribed by this act.

(b) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

Sec. 3. K.S.A. 2005 Supp. 8-2,128 is hereby amended to read as follows: 8-2,128. As used in this act:

(a) "Alcohol" means any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol and isopropanol;

(b) "alcohol concentration" means:

(1) The number of grams of alcohol per 100 milliliters of blood; or

(2) the number of grams of alcohol per 210 liters of breath;

(c) "commercial driver's license" means a commercial license issued pursuant to K.S.A. 8-234b, and amendments thereto;

(d) "commercial driver license system" means the information system established pursuant to the commercial motor vehicle safety act of 1986 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers;

(e) "instruction permit" means a permit issued pursuant to K.S.A. 8-294, and amendments thereto;

(f) "commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property, if:

(1) The vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating, as determined by rules and regulations adopted by the secretary, but shall not be

more restrictive than the federal regulation;

(2) the vehicle is designed to transport 16 or more passengers, including the driver; or

(3) the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. 172, subpart F;

(g) "controlled substance" means any substance so classified under K.S.A. 65-4101, and amendments thereto;

(h) "conviction" means an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law and in a court of original jurisdiction or an administrative proceeding, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated;

(i) "disqualification" means a prohibition against driving a commercial motor vehicle, including the suspension, revocation or cancellation of the privilege to drive a commercial motor vehicle;

(j) "drive" means to drive, operate or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of K.S.A. 8-2,137, 8-2,138, 8-2,142, 8-2,144 and 8-2,145, and amendments thereto, "drive" includes operation or physical control of a motor vehicle anywhere in the state;

(k) "driver" means any person who drives, operates or is in physical control of a commercial motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a commercial driver's license;

(l) "driver's license" means any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

- (1) Any temporary license or instruction;
- (2) the privilege of any person to drive a motor vehicle whether or not such person holds a valid license; or
- (3) any nonresident's operating privilege;
- (m) "employer" means any person, including the United States, a state or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle;
- (n) "endorsement" means an authorization to an individual's commercial driver's license required to permit the individual to operate certain types of commercial motor vehicles;
- (o) "felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year;
- (p) "gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle. The gross vehicle weight rating of a combination (articulated) vehicle (commonly referred to as the "gross combination weight rating") is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of the towed unit or units;
- (q) "~~hazardous materials" has the meaning as that found in section 103 of the hazardous materials transportation act, 49 U.S.C. 1801 *et seq.*~~ means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73;
- (r) "motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheel chairs;

(s) "out-of-service order" means a temporary prohibition against driving a commercial motor vehicle, which is imposed when a driver has any measured or detected alcohol concentration while on duty, or operating, or in physical control of a commercial motor vehicle or a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle or a motor carrier operation, is out-of-service pursuant to 49 C.F.R. Part 386.72, 392.5, 395.13, 396.9 or such compatible laws, or the North American out-of-service criteria;

(t) "residence" means the place which is adopted by a person as the person's place of habitation and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's residence;

(u) "secretary" means the secretary of the Kansas department of revenue;

(v) "serious traffic violation" means:

(1) Excessive speeding, is defined as 15 miles per hour or more over the posted speed limit;

(2) reckless driving, as defined under K.S.A. 8-1566, and amendments thereto;

(3) a violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(4) changing lanes of traffic illegally or erratically, as defined under K.S.A. 8-1548, and amendments thereto;

(5) following another vehicle too closely, as defined under K.S.A. 8-1523, and amendments thereto;

(6) a violation of subsection (a) of K.S.A. 8-2,132, and amendments thereto; or

(7) any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, which the secretary determines by rule and regulation to be serious;

(w) "state" means a state of the United States and the District of Columbia;

(x) "state of domicile" means that state where a person has such person's true, fixed and permanent home and principal residence and to which such person has the intention of returning whenever such person is absent;

(y) "tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks, as defined in 49 C.F.R. 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons;

(z) "United States" means the 50 states and the District of Columbia;

(aa) "division" means the division of vehicles of the Kansas department of revenue;

(bb) "director" means the director of the division of vehicles of the Kansas department of revenue;

(cc) "foreign country" means any jurisdiction other than the United States;

(dd) "nonresident commercial driver's license" means a license issued pursuant to K.S.A. 8-2,148, and amendments thereto;

(ee) "fatality" means the death of a person as a result of a motor vehicle accident;

(ff) "noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle in subsection (f);

(gg) "school bus" means a commercial motor vehicle used to transport preprimary, primary or secondary school students from home to school, from school to home or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

Sec. 4. K.S.A. 8-2,131 is hereby amended to read as follows: 8-2,131. (a) An employer shall require the applicant to provide the information specified in subsection (c) of K.S.A. 8-2,130, and amendments thereto.

(b) No employer shall knowingly allow, permit or authorize a driver to drive a commercial motor vehicle ~~during any period:~~

(1) During any period in which the driver has a driver's license suspended, revoked or canceled by a state; has lost the privilege to drive a commercial motor vehicle in a state or has been disqualified from driving a commercial motor vehicle;

(2) during any period in which the driver has more than one driver's license, except during the ten-day period beginning on the date the employee is issued a driver's license; ~~or~~

(3) during any period in which the employee, the motor vehicle such employee is driving or the motor carrier operation is subject to an out-of-service order; or

(4) in violation of a federal, state or local law or regulation pertaining to railroad-highway grade crossings.

Sec. 5. K.S.A. 8-2,138 is hereby amended to read as follows: 8-2,138. (a) Within ~~10~~ 30 days after ~~receiving a report of~~ the conviction of any nonresident holder of a commercial driver's license for any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in ~~a commercial motor~~ any type of vehicle, the division shall notify the driver licensing authority in the licensing state of the conviction.

(b) Within 30 days after the conviction of any nonresident who is not a holder of a

commercial driver's license, but who is licensed to drive by another state, for any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the division shall notify the driver licensing authority in the licensing state of the conviction.

(c) Within 30 days of receiving notification from the licensing authority of another state of a conviction under subsection (a) or (b), the division shall record such conviction on the driver's record.

(d) On and after September 30, 2008, the notification required in subsections (a) and (b) and the recordation of convictions under subsection (c) shall be made within 10 days of the conviction.

Sec. 6. K.S.A. 2005 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 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 (l); 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. The beginning date for any three-year period within a ten-year period, required by this subsection, shall be the issuance date of the

citation which resulted in a conviction.

(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. The notification shall include both the disqualification and the violation that resulted in the disqualification, suspension, revocation or cancellation.

(k) Upon receiving notification from the licensing authority of another state, that it has disqualified a commercial driver's license holder licensed by this state, or has suspended, revoked or canceled such commercial driver's license holder's commercial driver's license, the division shall record such notification and the information such notification provides on the driver's record.

~~(k)~~ (l) 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.

~~(k)~~ (m) 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.

Sec. 7. K.S.A. 8-2,131 and 8-2,138 and K.S.A. 2005 Supp. 8-2,128 and 8-2,142 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.



Kansas Motor Carriers Association

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LEGISLATIVE BILL REQUEST

Requested by the Kansas Motor Carriers Association
Before the Senate Transportation Committee
Senator Les Donovan, Chairman
Tuesday, January 17, 2006

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 requesting legislation to implement the Performance and Registration Information Systems Management (PRISM) program in Kansas. PRISM allows the state to tie interstate commercial motor vehicle identification numbers to a motor carrier's identification number issued by the Federal Motor Carrier Safety Administration.

PRISM has been implemented in 32 states. The proposed legislation would allow the Kansas Department of Revenue to revoke or suspend the vehicle registration of commercial motor vehicles if the motor carrier responsible for its safety has been prohibited from operating in interstate commerce by the Federal Motor Carrier Safety Administration.

The Department's ability to revoke or suspend motor vehicle registrations through PRISM only applies to those vehicles registered in Kansas under the provisions of the International Registration Program (apportioned registration) and not to vehicles registered at the county level.

The proposed legislation is supported by KMCA, the Kansas Department of Revenue and the Federal Motor Carriers Safety Administration.

We respectfully request the Senate Transportation Committee introduce the PRISM implementation legislation. Thank you for the opportunity to appear before you today. I would be pleased to respond to any questions you may have.