

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 A.M. on January 24, 2008 in Room 527-S of the Capitol.

All members were present.

Committee staff present:

Hank Avila, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Mike Corrigan, Revisor of Statutes
Mary Jane Brueck, Committee Assistant

Conferees appearing before the committee:

Others attending:

See attached list.

The Chairman called for bill introductions:

Tom Day, representing the Kansas Corporation Commission, requested introduction of a bill to amend seven Transportation statutes that specifically reference or cite 49 U.S.C. 14504 which was repealed effective January 1, 2007, and replaced with 49 U.S.C. 14504a. The new federal statute gives states the authority to collect motor carrier registration fees under the new Uniform Carrier Registration System. Sen. Peterson moved the introduction; seconded by Sen. Wilson. The motion carried. (Attachment 1)

Tom Day, representing the Kansas Corporation Commission, also requested an amendment to KSA 66-1,129a that would permit the KCC to sell a vehicle that is later abandoned by the carrier and recover whatever costs are incurred by the KCC. Sen. Schmidt moved the introduction; seconded by Sen. Gilstrap. The motion carried. (Attachment 2)

Tom Whitaker, executive director of the Kansas Motor Carriers Association, requested the introduction of a bill to allow additional vehicles to be registered under the provisions of KSA 8-1,152 concerning fleet motor vehicles. Sen. Wilson moved the introduction; seconded by Sen. Schmidt. The motion carried. (Attachment 3)

Tom Whitaker said he supports the Kansas Corporation Commission bills.

Chairman Donovan asked if and others were interested in introducing bills. There were none.

Chairman Donovan has a letter from an attorney in Wichita who is asking to allow a person who owns a hunting or fishing cabin, or another residence in Kansas to be allowed to register a vehicle, pay the property tax, and keep insurance active, and keep the vehicle in Kansas.

Chairman Donovan announced a meeting Monday, January 28 at 9:00 a.m. in the old Supreme Court Chamber. The House Transportation Committee and House Taxation Committee are having a joint meeting and everyone is invited to attend. It will probably be a two hour meeting about the future of how to fund transportation in the United States, and certainly in this state. A gentleman from Georgia Tech University will talk about future viability of looming issues and taxing methods to fund transportation. Also, a lady from the US Chamber of Commerce will talk about federal funds.

On January 30 in 519-S at 1:30 P.M. KDOT is giving a presentation to the House Transportation Committee on work zone safety.

Chairman Donovan went through the bill book to see what bills are still active. He saw no bills that will be kept active. He will entertain changing that status if anyone has a desire to reopen a bill for consideration.

CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on January 24, 2008 in Room 527-S of the Capitol.

Sen. Palmer brought up calls she receives from the Sheriff's Office regarding young people using ATVs in her district causing disturbances and concern for safety. Chairman Donovan suggested she have the Sheriff's Department give her more specific information about the concerns.

Being no further business, the meeting was adjourned at 8:55 a.m. The next meeting is January 31, 2008.

1/24/08

GUESTS

Tom Whitaker
Jori Besch
Jenny Keetner
Tom Day
Karl Winger
Scott Heitner
Sean Miller

KS MOTOR CARRIAGES ASSN
PMCA of KS
KDOT
KCC
Kearney & Associates
Caches Brader
CAPITOL STRATEGIES

January 24, 2008

Honorable Les Donovan, Chairman
Senate Transportation Committee
Statehouse, Room 261-E
Topeka, Kansas 66612

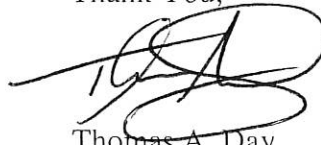
Dear Senator Donovan:

The Kansas Corporation Commission would respectfully request the Senate Transportation Committee to introduce two proposals for legislation. The first proposal is a bill that will amend seven Transportation statutes that specifically reference or cite 49 U.S.C. 14504. This federal statute was repealed effective January 1, 2007, and replaced with 49 U.S.C. 14504a. The new federal statute gives states the authority to collect motor carrier registration fees under the new Uniform Carrier Registration System. (Draft bill attached--7rs1587)

The second proposal will amend KSA 66-1,129a. Presently, 66-1,129 (b) gives the Director of Transportation the authority to impound a vehicle for good cause shown. The problem is, once we have impounded the vehicle, if the carrier/owner does not pay the fines to get the vehicle out of impoundment, whomever we asked to do the impound is stuck with the vehicle. The statute does not give the Director of Transportation or anyone else at the KCC the authority to sell the vehicle and recover costs of impoundment. The proposed amendment to 66-1,129a would permit the KCC to sell a vehicle that is later abandoned by the carrier and recover whatever costs are incurred by the KCC. (Draft language attached)

The Corporation Commission respectfully seeks introduction of these bills through the Senate Transportation Committee. Should you have questions, please feel free to call me at 271-3190.

Thank You,



Thomas A. Day
Legislative Liaison

____ BILL NO. ____

By

AN ACT relating to motor carriers; concerning the regulation thereof; amending K.S.A. 66-1,139a and K.S.A. 2007 Supp. 44-765, 66-1,115, 66-1,116, 66-1,128, 66-1,139 and 66-1a01 and repealing the existing sections.

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

Section 1. K.S.A. 2007 Supp. 44-765 is hereby amended to read as follows: 44-765. (a) As used in this section:

(1) "Driver" means an individual who operates a motor vehicle which is leased to a licensed motor carrier pursuant to a lease agreement.

(2) "Lease agreement" means a written contract by which an owner grants the use of one or more motor vehicles and agrees to furnish a driver for each such motor vehicle.

(3) "Licensed motor carrier" means any person that holds a certificate of convenience and necessity, a certificate of public service, private carrier permit or an interstate license as an interstate exempt carrier from the state corporation commission, or is required to register motor carrier equipment pursuant to 49 U.S.C. §~~14504~~ 14504a.

(4) "Motor vehicle" means any automobile, truck-trailer, semitrailer, tractor or any other self-propelled or motor driven vehicle used upon any of the public highways of Kansas for the purpose of transporting property.

(5) "Owner" means a person to whom title to a motor vehicle has been issued.

(6) "Owner-operator" means any owner which leases one or more motor vehicles to a licensed motor carrier pursuant to a lease agreement.

(7) "Person" means any individual, partnership, corporation, limited liability company or any other business entity.

(b) For purposes of the employment security law, it is hereby declared to be the policy of this state that, consistent with requirements of 49 C.F.R. §376.12(c)(1), an independent contractor relationship between an owner-operator and a licensed motor carrier may exist when the licensed motor carrier complies with the applicable statutory and regulatory requirements governing a licensed motor carrier's use of leased vehicles in the transportation of property. To that end, in determining whether an employment relationship exists between a licensed motor carrier and a driver, the fact that the licensed motor carrier, pursuant to a lease agreement, requires the driver to comply with applicable provisions of the regulations of the state corporation commission, federal motor carrier safety administration or other federal agency having jurisdiction of motor carriers shall not be considered as the licensed motor carrier's exercise of control over the driver.

Sec. 2. K.S.A. 2007 Supp. 66-1,115 is hereby amended to read as follows: 66-1,115. It shall be unlawful for any private motor carrier to operate as a carrier of property or passengers within this state either in intrastate commerce or in interstate commerce without first having obtained from the commission a license or permit or without being registered pursuant to ~~49 U.S.C. 14504~~ federal statutes. An application shall be made to the commission in writing stating such information as the commission may request. Upon receipt of such information and on compliance with the rules and regulations and payment of fees, the commission shall issue a license or permit to such applicant.

Sec. 3. K.S.A. 2007 Supp. 66-1,116 is hereby amended to read as follows: 66-1,116. (a) It shall be unlawful for a public motor carrier of property, of household goods or of passengers to operate in interstate commerce regulated by the relevant federal agency without registering its motor

vehicles in its base state pursuant to ~~49 U.S.C. 14504~~ federal statutes in order to operate in Kansas.

(b) It shall be unlawful for a public motor carrier of property, of household goods or of passengers or a private motor carrier of property which is exempt from federal regulations, to operate in interstate commerce within this state, without having furnished the commission, in writing such information as the commission may request covering observance of state police regulations and the payments of the fees. This act shall apply to all persons and motor vehicles engaged in interstate commerce only to the extent permitted by the constitution and laws of the United States.

Sec. 4. K.S.A. 2007 Supp. 66-1,128 is hereby amended to read as follows: 66-1,128. (a) Except as provided in subsection (c) or pursuant to ~~49 U.S.C. 14504~~ federal statutes, no certificate, permit, or license shall be issued by the commission to any public motor carrier of property, household goods or passengers or private motor carrier of property, until the applicant has filed with the commission a liability insurance policy approved by the commission, in such reasonable amounts as the commission determines by rules and regulations is necessary to adequately protect the interest of the public with due regard to the number of persons and amount of property involved. Such amounts shall not be less than \$100,000 for personal injury or death to any one person in any one accident, \$300,000 for injury or death to two or more persons in any one accident and \$50,000 for loss to property of others in any one accident, which liability insurance shall bind the obligors to pay compensation for injuries to persons and loss of or damage to property resulting from the negligent operation of such carrier.

(b) The liability insurance policy required to be filed by any resident applicant shall be in an insurance company or association authorized to transact business in this state. Such policy of any nonresident applicant may be afforded by an insurance company not authorized to do business in this

state which has given the commissioner of insurance of this state a power of attorney authorizing such commissioner to accept service on its behalf of notice or process in any action upon such policy. Such company not authorized to do business in this state shall have on file with such commissioner a form as prescribed by subsection (b) of K.S.A. 40-3106, and amendments thereto. A certificate of any insurance company or association, in a form approved by the commission certifying that there is in effect the liability insurance required by this section, may be filed in lieu of the insurance policy itself. In the event such certificate is filed, such company shall furnish to the commission upon its request a duplicate original of the insurance policy and all endorsements thereon. No other or additional bonds or licenses than those prescribed in this act shall be required of any motor carrier by any city or town or other agency of the state.

(c) Any public motor carrier of property, household goods or passengers or private motor carrier of property in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner of insurance. Upon application of any such carrier, the commissioner of insurance may issue a certificate of self-insurance, if the commissioner is satisfied that such carrier is possessed and will continue to be possessed of ability to pay any judgment obtained against such carrier arising out of the ownership, operation, maintenance or use of any motor vehicle registered in such carrier's name.

(d) Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds. Failure to pay any judgment against a self-insurer, arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, within 30 days after such judgment shall have become final, shall constitute reasonable grounds for the

cancellation of a certificate of self-insurance.

Sec. 5. K.S.A. 2007 Supp. 66-1,139 is hereby amended to read as follows: 66-1,139. (a) All interstate regulated public motor carriers of property, of household goods or of passengers who operate a motor vehicle in Kansas shall register their motor vehicles in their base state pursuant to ~~49 U.S.C. 14504~~ federal statutes, unless exempted under the provision of K.S.A. 66-1,109, and amendments thereto.

(b) All intrastate public motor carriers of property, household goods or passengers private motor carriers of property shall register with the commission all trucks or truck tractors as defined by K.S.A. 8-126, and amendments thereto, and all other passenger vehicles used to transport persons for hire, used in the operation of their business as such, except those used in operations exempted under the provisions of K.S.A. 66-1,109, and amendments thereto.

(c) Interstate motor carriers which have been granted authority by the commission to transport commodities exempt from the jurisdiction of the relevant federal authority and who operate for hire or who operate as private motor carriers shall register all trucks or truck tractors as defined by K.S.A. 8-126, and amendments thereto, and all other passenger vehicles used to transport persons for hire, used in the operation of their business as such, except those used in operations exempted under the provisions of K.S.A. 66-1,109, and amendments thereto. For the purpose of assisting in paying the cost of supervision and regulation of motor carriers, every such carrier shall annually pay to the commission for each calendar year a regulatory fee of \$10 for each truck, truck tractor or passenger vehicle registered with the commission. No fee shall be charged for a trailer or semitrailer. Interstate motor carriers that are already registered pursuant to subsection (a), shall not be required to register under this subsection.

(d) All applications for registration shall be made on forms furnished by the commission. Applications for registration of interstate common or contract motor carriers shall include on the application the quantity of trucks, truck tractors or passenger vehicles used by the motor carriers on which a fee is required to be paid. Applications for registration of intrastate common motor carriers, private motor carriers, and interstate exempt motor carriers shall include the complete vehicle identification numbers and the year and make of all trucks, truck tractors or passenger vehicles used by the motor carrier, on which a fee is required to be paid, and the application shall be accompanied by the required fee. The fees shall be due January 1 and shall be paid not later than January 15. Upon receipt of the application and fee, the commission shall issue to the carrier appropriate credentials for each vehicle registered.

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

Sec. 6. K.S.A. 66-1,139a is hereby amended to read as follows: 66-1,139a. All amounts collected under K.S.A. 66-1,139, and amendments thereto, for the purpose of registration of motor vehicles, pursuant to ~~49 U.S.C. 14504~~ federal statutes, shall be remitted by the state corporation commission to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the base state registration clearing fund which is hereby created. Payments due and owing to participating states pursuant to ~~49 U.S.C. 14504~~ federal statutes and refunds for overpayment shall be made from such fund. The state corporation commission shall

reconcile such clearing fund monthly with balances remitted in accordance with this section.

Sec. 7. K.S.A. 2007 Supp. 66-1a01 is hereby amended to read as follows: 66-1a01. (a) The state corporation commission shall charge and collect fees for the purposes and in the amounts as prescribed in this section. Such fees shall be paid to the state corporation commission at the time of filing the original papers or application in the case.

(b)(1) For the purposes of certificates issued under K.S.A. 66-125, and amendments thereto, to authorize the issuance of stock, bonds or other evidences of indebtedness, except as otherwise provided in this paragraph (1), the commission shall charge and collect an application fee of \$10 to accompany each application and processing fees which shall be set by rules and regulations adopted by the commission and shall reflect the costs incurred by the commission to process such application.

Notwithstanding the foregoing provisions of this paragraph (1), whenever an application is made for a certificate to authorize the issuance of stocks, bonds or other evidences of indebtedness and the relevant federal authority has authorized the issuance of the same issue of such stocks, bonds or other evidences of indebtedness, the commission shall charge and collect an application fee of \$10 to accompany each application and a processing fee of \$25 which shall be paid on or before issuance of such certificate.

(2) Whenever an application is made for a certificate of convenience and authority to provide interexchange telecommunications services or competitive local exchange carrier services, the commission shall charge and collect an application fee of \$250 which shall accompany the application.

(3) With regard to the regulation of motor carriers, the commission shall charge and collect fees in accordance with the following schedule:

For application for motor common carrier certificate, license or authority.	not to exceed \$250
For application for intrastate private and interstate exempt motor carrier registration.	100
For application for extension, rerouting, removal of restrictions or transfer of motor common carrier certificate and motor common carrier license.	100
For single-state registration of motor carrier vehicles for motor carriers, and renewals of those registrations, with the state of Kansas as their base state.	10 per vehicle
Annual renewal fees for all certificates and registrations, due by December 31 of each year.	10 per vehicle
If increases proposed in rates, fares or charges when hearing is required.	25
Late fee for failure to timely complete renewals.	cost of initial application

(4) The commission shall charge a fee for copies, other than mimeographed or printed copies, of applications, orders, certificates, schedules and duplicate motor-carrier equipment identification cards and a fee for copies of passenger, household goods or property motor common carrier lists, both fees in amounts approved by the director of accounts and reports under K.S.A. 45-219, and amendments thereto.

(c) There is hereby created in the state treasury the public service regulation fund. The commission shall remit all moneys received by or for it in payment of the fees imposed for certificates authorizing the issuance of stock, bonds or other evidences of indebtedness under paragraph (1) of subsection (b) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon the receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the public service regulation fund. All expenditures from the public service regulation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state corporation commission or by a person or persons designated by such

chairperson.

(d) There is hereby created in the state treasury the motor carrier license fees fund. The commission shall remit all moneys received by or for it in payment of the fees imposed for regulation of motor carriers under paragraphs (2) and (3) of subsection (b) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon the receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the motor carrier license fees fund. All expenditures from the motor carrier license fees fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state corporation commission or by a person or persons designated by such chairperson.

Sec. 8. K.S.A. 66-1,139a and K.S.A. 2007 Supp. 44-765, 66-1,115, 66-1,116, 66-1,128, 66-1,139 and 66-1a01 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

K.S.A. 66-1,129 is hereby amended to read as follows

66-1,129a. Motor carriers, suspension, revocation or amendment of certificate; notice; hearing; impoundment of motor carrier's vehicles; requirements. (a)

The commission, at any time for good cause shown, may suspend the operation of any motor carrier subject to economic or safety rules and regulations adopted by the commission. Upon notice and an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act, the commission may revoke, amend, initiate sanctions or fine any motor carrier who has a certificate, license or permit issued by the commission or is subject to the safety rules and regulations adopted by the commission. Any motor carrier suspended prior to a hearing must be afforded the opportunity of a hearing on the matter. If such a hearing is requested, the hearing shall be held within 10 days of the request.

(b) The director of the commission's transportation division, at any time for good cause shown, may request the Kansas highway patrol to impound a motor carrier's vehicle or vehicles when that motor carrier has:

- (1) Failed to comply with an out-of-service order;
- (2) failed to comply with a cease or desist order;
- (3) failed to obtain commission authority to operate;
- (4) failed to pay a commission-assessed civil penalty; or
- (5) has otherwise failed to comply with a commission order.

Any motor carrier whose vehicle is impounded prior to a hearing must be afforded the opportunity of a hearing on the matter. If such a hearing is requested, the hearing shall be held within 10 days of the request.

(c) The commission is authorized to enter into any contracts or agreements necessary with the superintendent of the Kansas highway patrol, in order to provide facilities and personnel to accomplish the impounding of vehicles.

(d) If the owner of a motor vehicle which has been impounded pursuant to this section refuses to pay any towing, impoundment, storage or other fees relating to the impoundment of such vehicle or fails to take possession of such vehicle within 30 days following the date of the expiration of the impoundment period, such vehicle shall be deemed abandoned and the vehicle may be disposed of by the person having possession of such vehicle.

- i. If the person having possession of such vehicle is a public agency, disposition of such vehicle shall be in compliance with the procedures for notice and public auction provided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amendments thereto.
- ii. For the purposes of disposing of a vehicle that has been impounded by the state corporation commission under the authority granted by section (b), if the state corporation commission is in possession of the vehicle, the state corporation commission shall be considered a public agency for the purposes of disposing of an abandoned vehicle under the provisions of K.S.A. 8-1102, and amendments thereto.
- iii. If the person having possession of such vehicle is not a public agency, disposition of such vehicle shall be in compliance with K.S.A. 8-1103 through 8-1108, and amendments thereto.

(e) Notwithstanding the provisions in K.S.A. 8-1102 (c) (3) after the sale by a public agency, including the state corporation commission of a vehicle that was impounded at the direction of the Director of the Transportation Division of the state corporation commission pursuant to paragraph (b) of this section, all moneys derived from the sale of such motor vehicle, after payment of the expenses of the impoundment and sale, shall be deposited into the state general fund.

January 24, 2008

Honorable Les Donovan, Chairman
Senate Transportation Committee
Statehouse, Room 261-E
Topeka, Kansas 66612

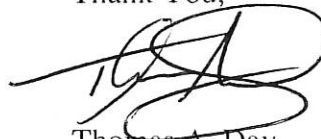
Dear Senator Donovan:

The Kansas Corporation Commission would respectfully request the Senate Transportation Committee to introduce two proposals for legislation. The first proposal is a bill that will amend seven Transportation statutes that specifically reference or cite 49 U.S.C. 14504. This federal statute was repealed effective January 1, 2007, and replaced with 49 U.S.C. 14504a. The new federal statute gives states the authority to collect motor carrier registration fees under the new Uniform Carrier Registration System. (Draft bill attached--7rs1587)

The second proposal will amend KSA 66-1,129a. Presently, 66-1,129 (b) gives the Director of Transportation the authority to impound a vehicle for good cause shown. The problem is, once we have impounded the vehicle, if the carrier/owner does not pay the fines to get the vehicle out of impoundment, whomever we asked to do the impound is stuck with the vehicle. The statute does not give the Director of Transportation or anyone else at the KCC the authority to sell the vehicle and recover costs of impoundment. The proposed amendment to 66-1,129a would permit the KCC to sell a vehicle that is later abandoned by the carrier and recover whatever costs are incurred by the KCC. (Draft language attached)

The Corporation Commission respectfully seeks introduction of these bills through the Senate Transportation Committee. Should you have questions, please feel free to call me at 271-3190.

Thank You,



Thomas A. Day
Legislative Liaison

BILL NO. _____

By

AN ACT relating to motor carriers; concerning the regulation thereof; amending K.S.A. 66-1,139a and K.S.A. 2007 Supp. 44-765, 66-1,115, 66-1,116, 66-1,128, 66-1,139 and 66-1a01 and repealing the existing sections.

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

Section 1. K.S.A. 2007 Supp. 44-765 is hereby amended to read as follows: 44-765. (a) As used in this section:

(1) "Driver" means an individual who operates a motor vehicle which is leased to a licensed motor carrier pursuant to a lease agreement.

(2) "Lease agreement" means a written contract by which an owner grants the use of one or more motor vehicles and agrees to furnish a driver for each such motor vehicle.

(3) "Licensed motor carrier" means any person that holds a certificate of convenience and necessity, a certificate of public service, private carrier permit or an interstate license as an interstate exempt carrier from the state corporation commission, or is required to register motor carrier equipment pursuant to 49 U.S.C. §~~14504~~ 14504a.

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(7) "Person" means any individual, partnership, corporation, limited liability company or any other business entity.

(b) For purposes of the employment security law, it is hereby declared to be the policy of this state that, consistent with requirements of 49 C.F.R. §376.12(c)(1), an independent contractor relationship between an owner-operator and a licensed motor carrier may exist when the licensed motor carrier complies with the applicable statutory and regulatory requirements governing a licensed motor carrier's use of leased vehicles in the transportation of property. To that end, in determining whether an employment relationship exists between a licensed motor carrier and a driver, the fact that the licensed motor carrier, pursuant to a lease agreement, requires the driver to comply with applicable provisions of the regulations of the state corporation commission, federal motor carrier safety administration or other federal agency having jurisdiction of motor carriers shall not be considered as the licensed motor carrier's exercise of control over the driver.

Sec. 2. K.S.A. 2007 Supp. 66-1,115 is hereby amended to read as follows: 66-1,115. It shall be unlawful for any private motor carrier to operate as a carrier of property or passengers within this state either in intrastate commerce or in interstate commerce without first having obtained from the commission a license or permit or without being registered pursuant to ~~49 U.S.C. 14504~~ federal statutes. An application shall be made to the commission in writing stating such information as the commission may request. Upon receipt of such information and on compliance with the rules and regulations and payment of fees, the commission shall issue a license or permit to such applicant.

Sec. 3. K.S.A. 2007 Supp. 66-1,116 is hereby amended to read as follows: 66-1,116. (a) It shall be unlawful for a public motor carrier of property, of household goods or of passengers to operate in interstate commerce regulated by the relevant federal agency without registering its motor

vehicles in its base state pursuant to ~~49 U.S.C. 14504~~ federal statutes in order to operate in Kansas.

(b) It shall be unlawful for a public motor carrier of property, of household goods or of passengers or a private motor carrier of property which is exempt from federal regulations, to operate in interstate commerce within this state, without having furnished the commission, in writing such information as the commission may request covering observance of state police regulations and the payments of the fees. This act shall apply to all persons and motor vehicles engaged in interstate commerce only to the extent permitted by the constitution and laws of the United States.

Sec. 4. K.S.A. 2007 Supp. 66-1,128 is hereby amended to read as follows: 66-1,128. (a) Except as provided in subsection (c) or pursuant to ~~49 U.S.C. 14504~~ federal statutes, no certificate, permit, or license shall be issued by the commission to any public motor carrier of property, household goods or passengers or private motor carrier of property, until the applicant has filed with the commission a liability insurance policy approved by the commission, in such reasonable amounts as the commission determines by rules and regulations is necessary to adequately protect the interest of the public with due regard to the number of persons and amount of property involved. Such amounts shall not be less than \$100,000 for personal injury or death to any one person in any one accident, \$300,000 for injury or death to two or more persons in any one accident and \$50,000 for loss to property of others in any one accident, which liability insurance shall bind the obligors to pay compensation for injuries to persons and loss of or damage to property resulting from the negligent operation of such carrier.

(b) The liability insurance policy required to be filed by any resident applicant shall be in an insurance company or association authorized to transact business in this state. Such policy of any nonresident applicant may be afforded by an insurance company not authorized to do business in this

state which has given the commissioner of insurance of this state a power of attorney authorizing such commissioner to accept service on its behalf of notice or process in any action upon such policy. Such company not authorized to do business in this state shall have on file with such commissioner a form as prescribed by subsection (b) of K.S.A. 40-3106, and amendments thereto. A certificate of any insurance company or association, in a form approved by the commission certifying that there is in effect the liability insurance required by this section, may be filed in lieu of the insurance policy itself. In the event such certificate is filed, such company shall furnish to the commission upon its request a duplicate original of the insurance policy and all endorsements thereon. No other or additional bonds or licenses than those prescribed in this act shall be required of any motor carrier by any city or town or other agency of the state.

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(d) Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds. Failure to pay any judgment against a self-insurer, arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, within 30 days after such judgment shall have become final, shall constitute reasonable grounds for the

cancellation of a certificate of self-insurance.

Sec. 5. K.S.A. 2007 Supp. 66-1,139 is hereby amended to read as follows: 66-1,139. (a) All interstate regulated public motor carriers of property, of household goods or of passengers who operate a motor vehicle in Kansas shall register their motor vehicles in their base state pursuant to ~~49 U.S.C. 14504~~ federal statutes, unless exempted under the provision of K.S.A. 66-1,109, and amendments thereto.

(b) All intrastate public motor carriers of property, household goods or passengers private motor carriers of property shall register with the commission all trucks or truck tractors as defined by K.S.A. 8-126, and amendments thereto, and all other passenger vehicles used to transport persons for hire, used in the operation of their business as such, except those used in operations exempted under the provisions of K.S.A. 66-1,109, and amendments thereto.

(c) Interstate motor carriers which have been granted authority by the commission to transport commodities exempt from the jurisdiction of the relevant federal authority and who operate for hire or who operate as private motor carriers shall register all trucks or truck tractors as defined by K.S.A. 8-126, and amendments thereto, and all other passenger vehicles used to transport persons for hire, used in the operation of their business as such, except those used in operations exempted under the provisions of K.S.A. 66-1,109, and amendments thereto. For the purpose of assisting in paying the cost of supervision and regulation of motor carriers, every such carrier shall annually pay to the commission for each calendar year a regulatory fee of \$10 for each truck, truck tractor or passenger vehicle registered with the commission. No fee shall be charged for a trailer or semitrailer. Interstate motor carriers that are already registered pursuant to subsection (a), shall not be required to register under this subsection.

(d) All applications for registration shall be made on forms furnished by the commission. Applications for registration of interstate common or contract motor carriers shall include on the application the quantity of trucks, truck tractors or passenger vehicles used by the motor carriers on which a fee is required to be paid. Applications for registration of intrastate common motor carriers, private motor carriers, and interstate exempt motor carriers shall include the complete vehicle identification numbers and the year and make of all trucks, truck tractors or passenger vehicles used by the motor carrier, on which a fee is required to be paid, and the application shall be accompanied by the required fee. The fees shall be due January 1 and shall be paid not later than January 15. Upon receipt of the application and fee, the commission shall issue to the carrier appropriate credentials for each vehicle registered.

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

Sec. 6. K.S.A. 66-1,139a is hereby amended to read as follows: 66-1,139a. All amounts collected under K.S.A. 66-1,139, and amendments thereto, for the purpose of registration of motor vehicles, pursuant to ~~49 U.S.C. 14504~~ federal statutes, shall be remitted by the state corporation commission to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the base state registration clearing fund which is hereby created. Payments due and owing to participating states pursuant to ~~49 U.S.C. 14504~~ federal statutes and refunds for overpayment shall be made from such fund. The state corporation commission shall

reconcile such clearing fund monthly with balances remitted in accordance with this section.

Sec. 7. K.S.A. 2007 Supp. 66-1a01 is hereby amended to read as follows: 66-1a01. (a) The state corporation commission shall charge and collect fees for the purposes and in the amounts as prescribed in this section. Such fees shall be paid to the state corporation commission at the time of filing the original papers or application in the case.

(b) (1) For the purposes of certificates issued under K.S.A. 66-125, and amendments thereto, to authorize the issuance of stock, bonds or other evidences of indebtedness, except as otherwise provided in this paragraph (1), the commission shall charge and collect an application fee of \$10 to accompany each application and processing fees which shall be set by rules and regulations adopted by the commission and shall reflect the costs incurred by the commission to process such application.

Notwithstanding the foregoing provisions of this paragraph (1), whenever an application is made for a certificate to authorize the issuance of stocks, bonds or other evidences of indebtedness and the relevant federal authority has authorized the issuance of the same issue of such stocks, bonds or other evidences of indebtedness, the commission shall charge and collect an application fee of \$10 to accompany each application and a processing fee of \$25 which shall be paid on or before issuance of such certificate.

(2) Whenever an application is made for a certificate of convenience and authority to provide interexchange telecommunications services or competitive local exchange carrier services, the commission shall charge and collect an application fee of \$250 which shall accompany the application.

(3) With regard to the regulation of motor carriers, the commission shall charge and collect fees in accordance with the following schedule:

For application for motor common carrier certificate, license or authority.	not to exceed \$250
For application for intrastate private and interstate exempt motor carrier registration.	100
For application for extension, rerouting, removal of restrictions or transfer of motor common carrier certificate and motor common carrier license.	100
For single-state registration of motor carrier vehicles for motor carriers, and renewals of those registrations, with the state of Kansas as their base state.	10 per vehicle
Annual renewal fees for all certificates and registrations, due by December 31 of each year.	10 per vehicle
If increases proposed in rates, fares or charges when hearing is required.	25
Late fee for failure to timely complete renewals.	cost of initial application

(4) The commission shall charge a fee for copies, other than mimeographed or printed copies, of applications, orders, certificates, schedules and duplicate motor-carrier equipment identification cards and a fee for copies of passenger, household goods or property motor common carrier lists, both fees in amounts approved by the director of accounts and reports under K.S.A. 45-219, and amendments thereto.

(c) There is hereby created in the state treasury the public service regulation fund. The commission shall remit all moneys received by or for it in payment of the fees imposed for certificates authorizing the issuance of stock, bonds or other evidences of indebtedness under paragraph (1) of subsection (b) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon the receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the public service regulation fund. All expenditures from the public service regulation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state corporation commission or by a person or persons designated by such

chairperson.

(d) There is hereby created in the state treasury the motor carrier license fees fund. The commission shall remit all moneys received by or for it in payment of the fees imposed for regulation of motor carriers under paragraphs (2) and (3) of subsection (b) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon the receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the motor carrier license fees fund. All expenditures from the motor carrier license fees fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state corporation commission or by a person or persons designated by such chairperson.

Sec. 8. K.S.A. 66-1,139a and K.S.A. 2007 Supp. 44-765, 66-1,115, 66-1,116, 66-1,128, 66-1,139 and 66-1a01 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

K.S.A. 66-1,129 is hereby amended to read as follows

66-1,129a. Motor carriers, suspension, revocation or amendment of certificate; notice; hearing; impoundment of motor carrier's vehicles; requirements. (a)

The commission, at any time for good cause shown, may suspend the operation of any motor carrier subject to economic or safety rules and regulations adopted by the commission. Upon notice and an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act, the commission may revoke, amend, initiate sanctions or fine any motor carrier who has a certificate, license or permit issued by the commission or is subject to the safety rules and regulations adopted by the commission. Any motor carrier suspended prior to a hearing must be afforded the opportunity of a hearing on the matter. If such a hearing is requested, the hearing shall be held within 10 days of the request.

(b) The director of the commission's transportation division, at any time for good cause shown, may request the Kansas highway patrol to impound a motor carrier's vehicle or vehicles when that motor carrier has:

- (1) Failed to comply with an out-of-service order;
- (2) failed to comply with a cease or desist order;
- (3) failed to obtain commission authority to operate;
- (4) failed to pay a commission-assessed civil penalty; or
- (5) has otherwise failed to comply with a commission order.

Any motor carrier whose vehicle is impounded prior to a hearing must be afforded the opportunity of a hearing on the matter. If such a hearing is requested, the hearing shall be held within 10 days of the request.

(c) The commission is authorized to enter into any contracts or agreements necessary with the superintendent of the Kansas highway patrol, in order to provide facilities and personnel to accomplish the impounding of vehicles.

(d) If the owner of a motor vehicle which has been impounded pursuant to this section refuses to pay any towing, impoundment, storage or other fees relating to the impoundment of such vehicle or fails to take possession of such vehicle within 30 days following the date of the expiration of the impoundment period, such vehicle shall be deemed abandoned and the vehicle may be disposed of by the person having possession of such vehicle.

- i. If the person having possession of such vehicle is a public agency, disposition of such vehicle shall be in compliance with the procedures for notice and public auction provided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amendments thereto.
- ii. For the purposes of disposing of a vehicle that has been impounded by the state corporation commission under the authority granted by section (b), if the state corporation commission is in possession of the vehicle, the state corporation commission shall be considered a public agency for the purposes of disposing of an abandoned vehicle under the provisions of K.S.A. 8-1102, and amendments thereto.
- iii. If the person having possession of such vehicle is not a public agency, disposition of such vehicle shall be in compliance with K.S.A. 8-1103 through 8-1108, and amendments thereto.

(e) Notwithstanding the provisions in K.S.A. 8-1102 (c) (3) after the sale by a public agency, including the state corporation commission of a vehicle that was impounded at the direction of the Director of the Transportation Division of the state corporation commission pursuant to paragraph (b) of this section, all moneys derived from the sale of such motor vehicle, after payment of the expenses of the impoundment and sale, shall be deposited into the state general fund.



Kansas Motor Carriers Association

Trucking Solutions Since 1936

Bill Request

before the

SENATE TRANSPORTATION COMMITTEE

Senator Les Donovan, Chairman

Thursday, January 24, 2008

Michael Topp
TT&T Salvage & Towing, Inc.
President

Mike Miller
Miller Trucking, LTD
Chairman of the Board

Larry Dinkel
Mitten Trucking, Inc.
First Vice President

Greg Orscheln
Midwest Express Corp.
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Jason Hammes
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Distribution
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Larry "Doc" Criqui
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Bill Johnston
Northcutt, Inc.
Allied Industries Chairman

Tom Whitaker
Executive Director

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 1,200 member-firms requesting the Senate Transportation Committee introduce a bill to allow additional vehicles to be registered under the provisions of KSA 8-1,152 concerning fleet motor vehicles.

This section of Kansas law only applies to fleets of 250 or more vehicles which weigh 26,000 lbs. or less. Our proposal would allow a fleet that meets current requirements for fleet registration to include vehicles over 26,000 lbs. that do not travel beyond the borders of Kansas.

We thank you for the opportunity to request this legislation and ask for your favorable consideration.