

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Gary Hayzlett at 1:30 p.m. on March 17, 2009, in Room 783 of the Docking State Office Building.

All members were present except:

Representative Ballard - Excused
Representative Henry - Excused

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes
Jill Shelley, Kansas Legislative Research Department
Betty Boaz, Committee Assistant

Conferees appearing before the Committee:

Mike Hoeme, Director of Transportation, KCC
Eric Stafford, Associated General Contractors of Kansas, Inc.
Chris Wilson, Executive Director of KS Building Industry Association

Others attending:

See attached list.

Chairman Hayzlett called the meeting to order. He opened the hearing on **SB 152**.

SB 152 - Regulation of certain motor carriers by the corporation commission.

The Chairman recognized Mike Hoeme, Director of Transportation, KCC. (Attachment #1) According to Mr. Hoeme, **SB 152** amends KCC transportation safety statutes which obligate the KCC to adopt rules and regulations which relate to motor carrier safety. He said the purpose of this bill is to amend two existing exemptions which are commonly referred to as the "tools of trade" exemptions. He said recently law enforcement officials and motor carrier inspectors have become aware of a growing problem arising from unsecured loads carried by commercial motor vehicles covered under the "tools of trade" exemptions. Mr. Hoeme said the passing of **SB 152** will aid their efforts in preventing hazards by requiring all commercial drivers currently exempted under the "tools of trade" exemptions to adhere to the Protection Against Shifting and Falling Cargo regulations found in Title 49 C.F.R. Part 393. He said, in its current form, this law does not apply to those carriers who fall within the "tools of trade" exemptions.

Mr. Hoeme also said when they initially presented this bill to the Senate, it was their intention, for clarification purposes only, to strike section (c)(9) of this statute. However, at this time, due to recent questions about the applicability of this exemption, they have agreed to work with the Dealers Association to verify the usefulness of this exemption, so he asked to leave section (c)(9) intact.

There were no other proponents and no opponents were signed up for this bill. The Chairman noted there were several neutral conferees.

Chairman Hayzlett recognized Eric Stafford, Associated General Contractors of Kansas. (Attachment #2) According to Mr. Stafford **SB 152** would remove the "tools of the trade" exemptions for vehicles under 26,000 pounds transporting equipment to or from a jobsite. He said under current law, if a construction company is hauling equipment that has not been sold or not being transported for the purpose of sale within state lines to or from a jobsite, that truck is exempt from following the Federal Motor Carrier Safety Regulations and if it crosses state lines, it is then required to comply with Federal safety guidelines. He said the way **SB 152** reads now, for vehicles over 10,000 pounds, each load will need to be "properly covered" to prevent the load from falling or becoming a hazard to other vehicles. Mr. Stafford said they feel this language should be changed for clarification and if safety is the real goal then all vehicles should properly secure their loads, not just those over 10,001 pounds.

The Chairman recognized the next neutral conferee, Leslie Kaufman, Executive Director, Kansas Cooperative Council. (Attachment #3) According to Ms. Kaufman, their concern is only with the portion of **SB 152** which

CONTINUATION SHEET

Minutes of the House Transportation Committee at 1:30 p.m. on March 17, 2009, in Room 783 of the Docking State Office Building.

removes a specific exemption for vehicles servicing, repairing or transporting implements of husbandry. She said the Kansas Cooperative Council agrees that continuing current law rather than making this deletion is prudent. She said it will allow stakeholders to continue discussions with KCC on how to address concerns that may be connected with this provision.

The Chairman recognized Chris Wilson, Executive Director of Kansas Building Industry Association (KBIA). (Attachment #4) According to Ms. Wilson, KBIA did not support this bill as introduced because it appeared that removing the exemption would address the issue raised concerning loads that were not properly secured. She said the examples of improperly secured loads did not include homebuilders, yet all their members would have had to comply with additional regulations. Therefore they supported the amendment of the bill to retain the exemption and directly address the load securement issue.

Chairman Hayzlett drew the Committee's attention to a letter from Martha Neu Smith, Executive Director, KS Manufactured Housing who provided written comments expressing their neutral position on **SB 152**. (Attachment #5)

After all questions were answered the Chairman closed the hearing on **SB 152** and opened the hearing on **SB 153**.

SB 153 - Regulation of certain motor vehicles and motor carriers by the corporation commission.

The Chairman recognized Mike Hoeme. (Attachment #6) According to Mr. Hoeme, **SB 153** is a clean-up bill that will amend two KCC Transportation statutes. The proposed amendment will provide consistency by changing the terms "Motor Vehicle" and "Commercial Vehicle" to "Commercial Motor Vehicle" (CMV). He said this minor change will exempt those motor vehicles not meeting the definition of a CMV from the Commission's economic regulation.

Chairman Hayzlett recognized Leslie Kaufman, Executive Director of the Kansas Cooperative Council. (Attachment #7) According to Ms. Kaufman, approximately half of their members are agricultural co-ops, including cotton cooperatives. She said since the advent of cotton production in Kansas they have encountered several issues where Kansas' traffic and motor carrier regulations were not positioned to deal with the unique attributes of cotton production and transport. Ms. Kaufman said **SB 153** will provide additional clarity regarding cotton modules by exempting these units from requirements to obtain a certificate, license or permits or file rates, tariffs, and annual reports with the Kansas Corporation Commission.

There were no other proponents. The Chairman called for opponents to **SB 153**. The Chairman recognized Doug Lawrence on behalf of Midwest Crane and Rigging. (Attachment #8) According to Mr. Lawrence, because **SB 153** makes significant changes in definitions in section 1, and expands the use of the term "Commercial Motor Vehicle" in many definitions, they wanted to renew a request made in 2006 that the Committee include a statutory definition of "Commercial Motor Vehicle". The definition becomes even more important with the passage of **SB 153**.

After all questions were answered Chairman Hayzlett closed the hearing on **SB 153**.

The Chairman opened **SB 60** to the Committee for discussions, questions and motions. Representative Proehl made a motion to favorably pass SB 60, seconded by Representative Menghini. Representative Proehl made a substitute motion to add an amendment to specify that the exemption would apply only to the redevelopment district in Labette County, seconded by Representative Menghini, motion to amend this bill carried. Representative Proehl made a motion to favorably pass SB 60, as amended, seconded by Representative Swanson, and the motion carried.

There being no further business before the Committee, the meeting adjourned at 2:30 p.m. The next meeting will be on March 19, 2009.

HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: 3-17-09

| NAME | REPRESENTING |
|------------------|--------------------|
| Sean Miller | CAPITOL STRATEGIES |
| Judy Jenkinson | KCC |
| Woody Moses | KRNAT KRNM OF |
| Chris Wilson | KBIA |
| Denny Koch | POLSINER LAW |
| TAMM DAY | KCC |
| Marsha Jenkinson | KINHA |
| TERRY HODGREN | KS FARM BUREAU |
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*Kathleen Sebelius, Governor
Thomas E. Wright, Chairman
Michael C. Moffet, Commissioner
Joseph F. Harkins, Commissioner*

**Before the House Transportation Committee
Comments by the
Staff of the Kansas Corporation Commission
March 17, 2009**

Senate Bill 152

Chairperson Hayzlett and Distinguished Members of the Committee:

My name is Mike Hoeme. I am the Director of Transportation for the Kansas Corporation Commission. My division administers and enforces the economic and safety statutes and regulations governing motor carrier operations. I am appearing today on behalf of the KCC Staff in support of SB152.

SB152 amends KCC transportation safety statute K.S.A. 66-1,129 (Supplement 2008). K.S.A 66-1,129 is the motor carrier statute which obligates the KCC to adopt rules and regulations which relate to motor carrier safety.

The purpose of this bill is to amend two existing exemptions found in sections (c)(3)(A) and (B). These exemptions are commonly referred to as the "tools of trade" exemptions.

- K.S.A. 66-1,129 (c)(3)(A) currently exempts commercial motor vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,001 to 26,000 pounds transporting tools, property, or materials not for resale within the boundaries of our state from basic motor carrier safety requirements;
- K.S.A. 66-1,129 (c)(3)(B) also currently exempts commercial motor vehicles with a GVWR of 10,001 to 26,000 pounds transporting tools, property or materials that may be resold within a 25-mile radius of the principal place of business of the motor carrier, from adhering to basic motor carrier safety requirements;

Recently, Law Enforcement officials and Motor Carrier inspectors have become aware of a growing problem arising from unsecured loads carried by commercial motor vehicles covered under the tools of trade exemptions. During the last quarter of 2008 alone, roadside law enforcement documented the removal of over 300 hazards caused by commercial debris falling from vehicles onto our roadways and highways. The debris included lumber, carpet, empty and full buckets, ladders, scaffolding, wheel barrows, metal, pipe, angle iron, HVAC metal, sacks of concrete, bricks, paint etc. (Please see Attachment 1).

The passing of SB152, will aid our efforts in preventing these types of hazards by requiring all commercial drivers currently exempted under the "tools of trade" exemptions above, to adhere to the Protection Against Shifting and Falling Cargo regulations found in Title 49 C.F.R Part 393. Kansas has already adopted Title 49 C.F.R. Part 393 through K.S.A. 66-1,129 and K.A.R. 82-4-3i. Currently motor carriers who operate in interstate commerce and/or those carriers who transport property subject to resale outside of the 25 mile radius from the principal place of business are required to follow the Protection Against Shifting and Falling Cargo regulations. The problem is that in its current form, the

law does not apply to those carriers who fall within the "tools of trade" exemptions. Therefore, we are asking you to help us reduce hazards by closing this loop-hole.

Also, when we initially presented this bill to the Senate for approval, it was our intention, for clarification purposes only, to strike section (c)(9) of this statute, which relates to the operation of vehicles used for servicing, repairing, or transporting implements of husbandry. It was our belief that this is exemption which only applies to the implement dealerships, no longer held any real purpose other than to cause confusion. However, at this time, due to recent questions about the applicability of this exemption, we have agreed to work with the Dealers Association this year to verify the usefulness of this exemption. Therefore, we are requesting you to consider this bill with section (c)(9) intact.

As you consider these amendments, please be aware that as a state regulatory agency, the KCC is in the unique position to brag about our efforts to ensure that the motor carriers we regulate understand the rules and laws we are charged with enforcing. The Transportation Division offers free, three-hour compliance seminars on a weekly, rotating basis every month in Topeka, Hutchinson, Hays, and Garden City. The seminars are presented by the Commission's Transportation staff and are designed to help motor carriers comply with safety and economic regulations.

This concludes my testimony. Thank you for the opportunity to appear before you today. I am happy to entertain any questions you may have.

SENATE BILL No. 152

By Committee on Transportation

2-2

12 AN ACT concerning motor carriers; relating to regulation thereof;
13 amending K.S.A. 2008 Supp. 66-1,129 and repealing the existing
14 section.
15

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

17 Section 1. K.S.A. 2008 Supp. 66-1,129 is hereby amended to read as
18 follows: 66-1,129. (a) The commission shall adopt rules and regulations
19 necessary to carry out the provisions of this act. No public motor carrier
20 of property, household goods or passengers or private motor carrier of
21 property shall operate or allow the operation of any motor vehicle on any
22 public highway in this state except within the provisions of the rules and
23 regulations adopted by the commission. Rules and regulations adopted
24 by the commission shall include:

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

27 (2) Every driver of a public motor carrier, operating as a carrier of
28 intrastate commerce within this state, shall be at least 18 years of age.
29 Every driver of a private motor carrier, operating as a carrier of intrastate
30 commerce within this state, shall be at least 16 years of age. All such
31 drivers shall be competent to operate the motor vehicle under such
32 driver's charge.

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

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

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

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

43 (7) Motor carrier transportation requirements that are consistent

1-3

1 with continuation of the federal motor carrier safety assistance program
2 and other federal requirements concerning transportation of hazardous
3 materials.

4 ~~(8) Every public motor carrier or private motor carrier who
5 operates on any street, highway, road, alley or parking lot in the
6 state, a motor vehicle with a load of gravel which has the potential,
7 due to the nature of the load to spill, drop, blow or otherwise escape,
8 shall have a cover, which cover shall be securely fastened so as to
9 prevent such cover or the load from spilling, dropping, blowing, or
10 otherwise escaping or in any manner becoming a hazard to other
11 users of such street, highway, road, alley or parking lot.~~

12 ~~—(9) Every public motor carrier or private motor carrier who
13 operates a motor vehicle, including, but not limited to, trucks or
14 trailers, with a gross vehicle weight rating of 26,000 pounds or less,
15 with a load above the sidewalls of a truck bed or trailer which has
16 the potential because of the nature of the load, to drop, leak, blow
17 or otherwise escape from the motor vehicle shall be adequately
18 strapped to fasten the load securely to the vehicle.~~

19 (b) No rules and regulations adopted by the commission pursuant to
20 this section shall require the operator of any motor vehicle having a gross
21 vehicle weight rating or gross combination weight rating of not more than
22 10,000 pounds to submit to a physical examination, unless required by
23 federal laws or regulations.

24 (c) ~~Any Except as provided in paragraph (3), any~~ [Any] rules and
25 regulations of the commission, adopted pursuant to this section, shall not
26 apply to the following, while engaged in the carriage of intrastate com-
27 merce in this state:

28 (1) The owner of livestock or producer of farm products transporting
29 livestock of such owner or farm products of such producer to market in
30 a motor vehicle of such owner or producer, or the motor vehicle of a
31 neighbor on the basis of barter or exchange for service or employment,
32 or to such owner or producer transporting supplies for the use of such
33 owner or producer in or producer, or in the motor vehicle of a neighbor
34 on the basis of barter or exchange for service or employment.

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

40 (3) (A) ~~Except for motor vehicles under subparagraph (B), motor ve-~~
41 ~~hicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying~~
42 ~~tools, property or material belonging to the owner of the vehicle, and~~
43 ~~used in repair, building or construction work, not having been sold or~~

b-1

5-1

1 being transported for the purpose of sale, except vehicles transporting
2 hazardous materials which require placards.

3 ~~—(B) Except vehicles transporting hazardous materials which require~~
4 ~~placards, motor vehicles, with a gross vehicle weight rating of 26,000~~
5 ~~pounds or less, carrying tools, property or material belonging to the owner~~
6 ~~of the vehicle and used in repair, building or construction work and such~~
7 ~~tools, property or material are being transported to or from an active~~
8 ~~construction site located within a radius of 25 miles of the principal place~~
9 ~~of business of the motor carrier.~~

10 ~~—(4) Persons (A) Except for motor vehicles under subparagraph~~
11 ~~(B), motor vehicles, with a gross vehicle weight rating of 26,000~~
12 ~~pounds or less, carrying tools, property or material belonging to the~~
13 ~~owner of the vehicle, and used in repair, building or construction~~
14 ~~work, not having been sold or being transported for the purpose of~~
15 ~~sale, except vehicles transporting hazardous materials which re-~~
16 ~~quire placards, and except that such motor vehicles shall be subject~~
17 ~~to rules and regulations adopted pursuant to paragraphs (8) and~~
18 ~~(9) of subsection (a) of K.S.A. 66-1,129, and amendments thereto.~~

19 ~~(B) Except vehicles transporting hazardous materials which re-~~
20 ~~quire placards, motor vehicles, with a gross vehicle weight rating~~
21 ~~of 26,000 pounds or less, carrying tools, property or material be-~~
22 ~~longing to the owner of the vehicle and used in repair, building or~~
23 ~~construction work and such tools, property or material are being~~
24 ~~transported to or from an active construction site located within a~~
25 ~~radius of 25 miles of the principal place of business of the motor~~
26 ~~carrier, except that such motor vehicles shall be subject to rules and~~
27 ~~regulations adopted pursuant to paragraphs (8) and (9) of subsec-~~
28 ~~tion (a) of K.S.A. 66-1,129, and amendments thereto.~~

29 ~~[(C)⁽¹⁾] Such motor vehicles described in paragraphs (A) and~~
30 ~~(B) which are carrying a load shall be required to have a cover~~
31 ~~which shall be securely fastened to prevent the cover or load from~~
32 ~~spilling or becoming a hazard to other motor vehicle users.~~

33 ~~[(9) Such motor vehicles described in paragraphs (A) and (B)~~
34 ~~which are carrying a load above the sidewalls of a truck bed or~~
35 ~~trailer shall be adequately strapped to securely fasten the load to~~
36 ~~the vehicle.]~~

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

41 ~~(5)-(4)~~ (5) The operation of hearses, funeral coaches, funeral cars or
42 ambulances by motor carriers.

43 ~~(6)-(5)~~ (6) Motor vehicles owned and operated by the United States,

shall be subject to subpart I of 49 CFR 393, as adopted by rules and regulations of the state corporation commission pursuant to K.S.A. 66-1,129, and amendments thereto

1 the District of Columbia, any state, any municipality or any other political
2 subdivisions of this state.

3 ~~(7)(6)~~ (7) Any motor vehicle with a normal seating capacity of not
4 more than the driver and 15 passengers while used for vanpooling or
5 otherwise not for profit in transporting persons who, as a joint undertak-
6 ing, bear or agree to bear all the costs of such operations, or motor ve-
7 hicles with a normal seating capacity not more than the driver and 15
8 passengers for not-for-profit transportation by one or more employers of
9 employees to and from the factories, plants, offices, institutions, construc-
10 tion sites or other places of like nature where such persons are employed
11 or accustomed to work.

12 ~~(8)(7)~~ (8) Motor vehicles used to transport water for domestic pur-
13 poses, as defined by subsection (c) of K.S.A. 82a-701, and amendments
14 thereto, or livestock consumption.

15 ~~(9) The operation of vehicles used for servicing, repairing or trans-~~
16 ~~porting of implements of husbandry, as defined in K.S.A. 8-1427, and~~
17 ~~amendments thereto, by a person actively engaged in the business of~~
18 ~~buying, selling or exchanging implements of husbandry, if such operation~~
19 ~~is within 100 miles of such person's established place of business in this~~
20 ~~state, unless the implement of husbandry is transported on a commercial~~
21 ~~motor vehicle.~~

22 Sec. 2. K.S.A. 2008 Supp. 66-1,129 is hereby repealed.

23 Sec. 3. This act shall take effect and be in force from and after its
24 publication in the statute book.

Photo Taken From The Side Of A Truck



Photo Taken From The Back Of A Truck



Load Securement Consisting Of One Tie Down

Wire securing the air compressor?



Boxes Are Not Secure



Nothing To Prevent The Debris From Spilling



Numerous Load Securement Issues



No Load Securement At All



Numerous Load Securement Issues



No Adequate Securement

Bungee straps are used to keep the end gate partially closed.



Numerous Load Securement Issues



No Load Securement



Numerous Issues



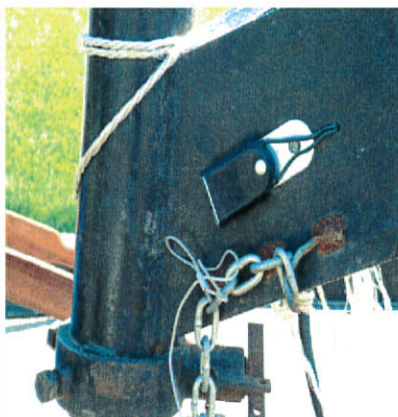
No Load Securement



Securement Issues!



Numerous Issues





Building a Better Kansas Since 1934
200 SW 33rd St. Topeka, KS 66611 785-266-4015

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE HOUSE COMMITTEE ON TRANSPORTATION
SB 152**

March 17, 2009

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Eric Stafford. I am the Director of Government Affairs for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

The AGC of Kansas stands neutral on Senate Bill 152 as amended.

As introduced, SB 152 would remove the "tools of the trade" exemption for vehicles under 26,000 pounds transporting equipment to or from a jobsite. Under current law, if a construction company is hauling equipment that has not been sold or not being transported for the purpose of sale within state lines to or from a jobsite, that truck is exempt from following the Federal Motor Carrier Safety Regulations. If that truck crosses state lines, it is then required to comply with the Federal safety guidelines.

SB 152 was amended in the Senate Transportation Committee and again on the Senate floor. The way SB 152 reads now, for vehicles over 10,000 pounds, each load will need to be "properly covered" to prevent the load from falling or becoming a hazard to other vehicles.

AGC believes it was the intent to require a tarp only for gravel loads and to make sure that other loads were properly secured or tied down. AGC feels this language should be changed for clarification. If safety is the real goal, AGC feels all vehicles should properly secure their loads, not just those over 10,001 pounds.

Again, the AGC of Kansas is neutral on SB 152 as amended. Thank you for your consideration.

House Transportation
Date: 3-17-09
Attachment # 2



Kansas Cooperative Council
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House Transportation Committee

March 16, 2009
Topeka, Kansas

SB 152 - motor carrier regulation -- removing an exemption or servicing or transporting implements of husbandry.

Thank you Chairman Hayzlett and members of the House Transportation Committee for the opportunity to comment on a portion of SB 152 which removes a certain exemption for implements of husbandry.

I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director. The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives. Approximately half of our members are agricultural co-ops. Agricultural transportation issues are important to our members and their producer owners.

Our concern today is only with the portion of the SB 152 which removes a specific exemption for vehicles servicing, repairing or transporting implements of husbandry. We understand the Kansas Corporation Commission is requesting the Committee amend the bill so that the provisions stricken in lines 15-21 on page 4 are reinstated. We certainly agree that continuing current law rather than making this deletion is prudent. It will allow stakeholders to continue discussions with the Kansas Corporation Commission on how to address concerns that may be connected with this provision.

Should your Committee decide to work this bill, we would respectfully request that the language referenced above be reinstated.

If you have any questions regarding our testimony, please feel free to call me (785-220-4068). Thank you for your consideration.

The Mission of the Kansas Cooperative Council is to promote, support and advance the interests and understanding of agricultural, utility, credit and consumer cooperatives and their members through legislation and regulatory efforts, education and public relations.

House Transportation
Date: 3-17-09
Attachment # 3



STATEMENT OF
THE KANSAS BUILDING INDUSTRY ASSOCIATION
REGARDING S.B. 152
HOUSE TRANSPORTATION COMMITTEE
REPRESENTATIVE GARY HAYZLETT, CHAIR
MARCH 17, 2009

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Building Industry Association (KBIA). KBIA is the professional trade association of the residential construction industry in Kansas, with over 2300 members. Kansas Building Industry Association appreciates the opportunity to submit this statement regarding S.B. 152.

KBIA did not support the bill as introduced, which would have removed the Federal Motor Carrier Safety Regulations exemption for vehicles under 26,000 pounds transporting equipment to or from a jobsite, because it appeared that removing the exemption would address the issue raised concerning loads that were not properly secured. The examples of improperly secured loads did not include homebuilders, yet our members would have all had to comply with additional regulations and be subject so substantial costs as a result of the original bill. So, we supported the amendment of the bill to retain the exemption and directly address the load securement issue.

The bill as amended may need to be clarified to ascertain that the language distinguish between those needing to be covered (i.e. gravel loads?) and those to be properly secured or tied down (all others?).

Thank you for the opportunity to comment regarding S.B. 152.

House Transportation
Date: 3-17-09
Attachment # 4



3521 SW 5th Street
Topeka, KS 66606
785-357-5256
785-357-5257 fax
kmha1@sbcglobal.net

TO: Representative Gary Hayzlett, Chairman
And Members of the House Transportation Committee

FROM: Martha Neu Smith
Executive Director

DATE: March 17, 2009

RE: SB 152 As Amended – Load Securement

Chairman Hayzlett and members of the Committee, my name is Martha Neu Smith and I am the Executive Director for Kansas Manufactured Housing Association (KMHA) and I appreciate the opportunity to provide written comments expressing our neutral position on SB 152 as amended – Load Securement Requirements for motor vehicles weighing less than 26,000 and carrying tools of the trade.

KMHA is a statewide trade association, which represents all facets of the manufactured and modular housing industry including manufacturers, retail centers, community owners and operators, finance and insurance companies, service and supplier companies and transport companies.

The amended bill is designed to address the problem of load securement brought forward by the Kansas Corporation Commission (KCC). We appreciate the changes and feel the amended bill more adequately addresses the situations described by the KCC than the original bill.

I would mention that it was our understanding that the “cover” requirement found on page 3, lines 29-32 was to address loads such as gravel or aggregate loads; however, with the current language it may apply to all loads meeting the description in paragraphs (A) and (B) on page 3 of the bill. If SB 152 moves forward, KMHA would support clarification of the types of loads that would require a cover.

Thank you for the opportunity to submit comments.

House Transportation
Date: 3-17-09
Attachment # 5

Before the House Transportation Committee
Comments by the
Staff of the Kansas Corporation Commission
March 17, 2009

Senate Bill 153

Chairperson Hayzlett and Distinguished Members of the Committee:

My name is Mike Hoeme. I am the Director of Transportation for the Kansas Corporation Commission. My division is responsible for administering and enforcing the economic and safety statutes and regulations governing motor carrier operations. I am appearing today on behalf of the KCC Staff and in support of SB153.

SB153 is a clean up bill that will amend two KCC Transportation statutes. First, the proposed amendment to K.S.A. 66-1,108 sections (i), (k), (l) and (m) will provide consistency by changing the terms "Motor Vehicle" and "Commercial Vehicle" to "Commercial Motor Vehicle" (CMV). This minor change will exempt those motor vehicles not meeting the definition of a CMV from the Commission's economic regulation

The proposed changes to K.S.A. 66-1,109 are as follows:

- The language referring to motor carriers of passengers operating as part of a general transit system in section (a) will be struck, because the exemption already exists in section (j);
- Section (d), referring to persons operating motor vehicles used only to transport property when no common carrier is available will be struck in its entirety. Prior to de-regulation in the mid 90's, common carriers could only operate on specific routes approved by the Commission. Today, common carriers may operate anywhere within the boundaries of our state;
- The word "paving" in section (m) will be struck for clarification purposes;
- Section (s) will be struck in its entirety, to be consistent with the proposed changes to K.S.A. 66-1,108; and
- Sections (e)(3), (x), and (y) propose to exempt non-profit organizations, the transportation of cotton modules from field to gin, and CMVs used in the custom harvesting of silage, from the Commission's economic regulation.

This concludes my testimony. Thank you for the opportunity to appear before you today. I am happy to entertain any questions you may have.

House Transportation
Date: 3-17-09
Attachment # 6

SENATE BILL No. 153

By Committee on Transportation

2-2

10 AN ACT concerning motor vehicles; concerning the regulation thereof;
11 relating to motor carriers; amending K.S.A. 2008 Supp. 66-1,108 and
12 66-1,109 and repealing the existing sections.
13

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

15 Section 1. K.S.A. 2008 Supp. 66-1,108 is hereby amended to read as
16 follows: 66-1,108. As used in this act:

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

19 (b) "gross combination vehicle weight rating" means the value spec-
20 ified by the manufacturer as the loaded weight of a combination (artic-
21 ulated) motor vehicle. In the absence of a value specified by the manu-
22 facturer, gross combination weight rating shall be determined by adding
23 the gross vehicle weight rating of the power unit and the total weight of
24 the towed unit and any load thereon;

25 (c) "gross vehicle weight rating" means the value specified by the
26 manufacturer as the loaded weight of a single motor vehicle;

27 (d) "ground water well drilling rigs" means any vehicle, machine,
28 tractor, trailer, semi-trailer or specialized mobile equipment propelled or
29 drawn by mechanical power and used on highways to transport water well
30 field operating equipment, including water well drilling and pump service
31 rigs equipped to access ground water;

32 (e) "household goods" means property and personal effects used or
33 to be used in a dwelling, when a part of the equipment or supply of such
34 dwelling and such other similar property, as the commission may provide
35 by rules and regulations, if the transportation of such effects or property
36 is:

37 (1) Arranged and paid for by the householder, including transporta-
38 tion of property from a factory or store when the property is purchased
39 by the householder with intent to use in such householder's dwelling; or

40 (2) arranged and paid for by another party.

41 (f) "Motor carrier" means any person operating as a for hire motor
42 carrier or a private motor carrier, and any of that person's agents, officers,
43 representatives, as well as employees responsible for hiring, supervising,

1 training, assigning or dispatching of drivers and employees concerned
2 with the installation, inspection and maintenance of motor vehicle equip-
3 ment or accessories or both;

4 (g) “motor vehicle” means any automobile, truck, trailer, semitrailer,
5 tractor, motor bus or any other self-propelled or motor-driven vehicle
6 used upon any of the public highways of the state for the purpose of
7 transporting persons or property;

8 (h) “person” means any individual, firm, partnership, limited liability
9 partnership, corporation, limited liability company, association or their
10 lessees, trustees or receivers;

11 (i) “private motor carrier” means a person who provides transporta-
12 tion of property or passengers, by commercial *motor* vehicle and is not a
13 for hire motor carrier;

14 (j) “public highways” means every public street, alley, road or high-
15 way or thoroughfare of any kind used by the public;

16 (k) “public motor carrier of household goods” means any person who
17 undertakes for hire to transport by *commercial* motor vehicle from place
18 to place, the household goods of others who may choose to employ or
19 contract with the motor carrier;

20 (l) “public motor carrier of passengers” means any person who un-
21 dertakes for hire to transport by *commercial* motor vehicle, from place to
22 place, persons who may choose to employ or contract with the motor
23 carrier; and

24 (m) “public motor carrier of property” means any person who un-
25 dertakes for hire to transport ~~commercial~~ by [**commercial**] motor vehi-
26 cle, from place to place, the property other than household goods of
27 others who may choose to employ or contract with the motor carrier.

28 Sec. 2. K.S.A. 2008 Supp. 66-1,109 is hereby amended to read as
29 follows: 66-1,109. This act shall not require the following carriers to obtain
30 a certificate, license or permit from the commission or file rates, tariffs,
31 annual reports or provide proof of insurance with the commission:

32 (a) Transportation by motor carriers wholly within the corporate lim-
33 its of a city or village in this state, or between contiguous cities or villages
34 in this state or in this and another state, or between any city or village in
35 this or another state and the suburban territory in this state within three
36 miles of the corporate limits, or between cities and villages in this state
37 and cities and villages in another state which are within territory desig-
38 nated as a commercial zone by the relevant federal authority, except that
39 none of the exemptions specified in this subsection (a) shall apply to
40 wrecker carriers ~~and none of such exemptions shall apply to motor car-~~
41 ~~riers of passengers, other than motor carriers of passengers operating as~~
42 ~~a part of the general transit system serving any such city or village in this~~
43 ~~or another state, operating on regular routes and time schedules between~~

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1 ~~any city or village in this or another state, and the suburban territory in~~
2 ~~this state;~~

3 (b) a private motor carrier who operates within a radius of 25 miles
4 beyond the corporate limits of its city or village of domicile, or who op-
5 erates between cities and villages in this state and cities and villages in
6 another state which are within territory designated as a commercial zone
7 by the relevant federal authority;

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

16 ~~(d) persons operating motor vehicles used only to transport property~~
17 ~~when no common carrier is accessible, but when common carrier service~~
18 ~~is available then this last exemption is limited to the transportation of~~
19 ~~such property from origin to the nearest practicable common-carrier re-~~
20 ~~ceiving or loading point, or from a common-carrier unloading point by~~
21 ~~way of the shortest practicable route to destination, providing such motor~~
22 ~~vehicle does not pass a practicable delivery or receiving point of a com-~~
23 ~~mon-carrier equipped to transport such load, or when used to transport~~
24 ~~property from the point of origin to point of destination thereof when~~
25 ~~the destination of such property is less distant from the point of origin~~
26 ~~thereof than the nearest practicable common-carrier receiving or loading~~
27 ~~point equipped to transport such load;~~

28 ~~(e)~~ (1) the transportation of children to and from school, ~~(2)~~ (2) to
29 motor vehicles owned by schools, colleges, and universities, religious or
30 charitable organizations and institutions, or governmental agencies, when
31 used to convey students, inmates, employees, athletic teams, orchestras,
32 bands or other similar activities;

33 ~~(f)~~ (e) a new vehicle dealer as defined by K.S.A. 8-2-101, and amend-
34 ments thereto, when transporting property to or from the place of busi-
35 ness of such dealer;

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

39 ~~(h)~~ (g) persons operating motor vehicles which have an ad valorem
40 tax situs in and are registered in the state of Kansas, and used only to
41 transport grain from the producer to an elevator or other place for storage
42 or sale for a distance of not to exceed 50 miles;

43 ~~(i)~~ (h) the operation of hearses, funeral coaches, funeral cars or am-

; or (3) motor vehicles owned by nonprofit organizations meeting the qualification requirements of section 501(c) of the internal revenue code of 1986, and amendments thereto, when transporting property or materials belonging to the owner of the vehicle



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- 1 balances by motor carriers;
- 2 ~~(j)~~ (i) motor vehicles owned and operated by the United States, the
3 District of Columbia, any state, any municipality or any other political
4 subdivision of this state, including vehicles used exclusively for handling
5 U.S. mail, and the operation of motor vehicles used exclusively by organ-
6 izations operating public transportation systems pursuant to 49 U.S.C.
7 sections 5307, 5310 and 5311;
- 8 ~~(k)~~ (j) any motor vehicle with a normal seating capacity of not more
9 than the driver and 15 passengers while used for vanpooling or otherwise
10 not for profit in transporting persons who, as a joint undertaking, bear or
11 agree to bear all the costs of such operations, or motor vehicles with a
12 normal seating capacity of not more than the driver and 15 passengers
13 for not-for-profit transportation by one or more employers of employees
14 to and from the factories, plants, offices, institutions, construction sites
15 or other places of like nature where such persons are employed or ac-
16 customed to work;
- 17 ~~(l)~~ (k) motor vehicles used to transport water for domestic purposes,
18 as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto,
19 or livestock consumption;
- 20 ~~(m)~~ (l) transportation of sand, gravel, slag stone, limestone, crushed
21 stone, cinders, calcium chloride, bituminous or concrete paving mixtures,
22 blacktop, dirt or fill material to a construction site, highway maintenance
23 or construction project or other storage facility and the operation of ready-
24 mix concrete trucks in transportation of ready-mix concrete;
- 25 ~~(n)~~ (m) the operation of a vehicle used exclusively for the transpor-
26 tation of solid waste, as the same is defined by K.S.A. 65-3402, and
27 amendments thereto, to any solid waste processing facility or solid waste
28 disposal area, as the same is defined by K.S.A. 65-3402, and amendments
29 thereto;
- 30 ~~(o)~~ (n) the transporting of vehicles used solely in the custom combin-
31 ing business when being transported by persons engaged in such business;
- 32 ~~(p)~~ (o) the operation of vehicles used for servicing, repairing or trans-
33 porting of implements of husbandry, as defined in K.S.A. 8-1427, and
34 amendments thereto, by a person actively engaged in the business of
35 buying, selling or exchanging implements of husbandry, if such operation
36 is within 100 miles of such person's established place of business in this
37 state;
- 38 ~~(q)~~ (p) transportation by taxi or bus companies operated exclusively
39 within any city or within 25 miles of the point of its domicile in a city;
- 40 ~~(r)~~ (q) a vehicle being operated with a dealer license plate issued
41 under K.S.A. 8-2406, and amendments thereto, and in compliance with
42 K.S.A. 8-136, and amendments thereto, and vehicles being operated with
43 a full-privilege license plate issued under K.S.A. 8-2425, and amendments

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1 thereto;

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

6 ~~(t) (r) the operation of vehicles used for transporting materials used~~
7 ~~in the servicing or repairing of the refractory linings of industrial boilers;~~

8 ~~(u) (s) transportation of newspapers published at least one time each~~
9 ~~week;~~

10 ~~(v) (t) transportation of animal dung to be used for fertilizer; and~~

11 ~~(w) (u) the operation of ground water well drilling rigs;~~ 

12 ~~(v) the transportation of cotton modules from the field to the gin; and~~

13 ~~(w) custom harvested silage, including, but not limited to, corn, wheat~~
14 ~~and milo.~~

15 Sec. 3. K.S.A. 2008 Supp. 66-1,108 and 66-1,109 are hereby
16 repealed.

17 Sec. 4. This act shall take effect and be in force from and after its
18 publication in the statute book.



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House Transportation Committee

March 16, 2009
Topeka, Kansas

SB 153 - motor carrier regulation--exempting cotton modules from certain requirements.

Thank you Chairman Hayzlett and members of the House Transportation Committee for the opportunity to comment in support of a provision of SB 153 dealing with cotton modules and custom harvested silage. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director.

The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives. Approximately half of our members are agricultural co-ops, including cotton cooperatives.

Cotton is a relatively new commodity in the Kansas crop mix. Since the advent of cotton production in Kansas, we have encountered several issues where our state's traffic and motor carrier regulations were not positioned to deal with the unique attributes of cotton production and transport. So far, we have been able to work through these with the assistance of legislators, regulating entities and fellow stakeholders.

We appreciate the willingness of regulators to try and understand the differences cotton modules possess relative to other means of conveying ag commodities. The bill before you now will provide additional clarity regarding cotton modules by exempting these units from requirements to obtain a certificate, license or permits or file rates, tariffs, and annual reports with the Kansas Corporation Commission. It will do the same for the transport of custom harvested silage. Thus, we respectfully request the committee support this initiative contained in SB 153.

If you have any questions regarding our testimony, please feel free to call me (785-220-4068). Thank you for your consideration.

The Mission of the Kansas Cooperative Council is to promote, support and advance the interests and understanding of agricultural, utility, credit and consumer cooperatives and their members through legislation and regulatory efforts, education and public relations.

House Transportation
Date: 3-17-09
Attachment # 1

Testimony
SB 153
On behalf of Midwest Crane and Rigging
By Doug Lawrence

Before House Transportation Committee

The last time Midwest Crane and Rigging appeared before this committee was in 2006. At that time, the company was seeking relief from what it believed was improper application of motor carrier requirements on self propelled cranes moving to and from job sites.

You may recall, the Kansas Corporation Commission had issued a show cause enforcement action against the company which was under appeal to Shawnee County District Court. At the time, a number of committee members were concerned that we were seeking to preempt a court ruling and preferred to wait until the judge had ruled.

Last year, District Court Judge Theis vacated the commission order as "arbitrary, capricious and unreasonable." He further remanded the matter back to the KCC for further proceedings if any. The Commission later dismissed the case entirely.

Because SB 153 makes significant changes in definitions in section 1, and expands the use of the term Commercial Motor Vehicle in many definitions, we renew a request we made in 2006, and before the Senate Transportation Committee this year that the committee include a statutory definition of commercial motor vehicle. That definition becomes even more important with passage of SB 153.

We have been advised that the KCC is in the process of a major redraft of rules and regulations in this area. And we have seen the definition of "Commercial Motor Vehicle" as initially proposed. That definition is much closer to the federal definitions than the current regulations use.

Still, we believe that a statutory definition of this term is preferable.

In early January, the KCC sent a notification to all interstate motor carriers about Unified Carrier Registration. That notice is attached to my testimony. This notification includes a definition of commercial motor vehicle as adopted in federal law. This definition is very similar to the KCC's current proposed rules and regulations. The principal difference is the use of the term CARGO instead of PROPERTY. We think this definition more logically complies with Judge Theis's ruling, and has the added benefit of being drawn directly from federal law as it relates to motor carriers.

Contact Information

Bill Miller
Midwest Crane and Rigging
15585 S Keeler
Olathe, KS 66051

House Transportation
Date: 3-17-09
Attachment # 8

UNIFIED CARRIER REGISTRATION SYSTEM

IMPORTANT NOTICE FOR ALL INTERSTATE MOTOR CARRIERS

If you operate a truck or bus in interstate or international commerce, or if you make the arrangements for the transportation of cargo and goods, a federal law became effective in 2007 that applies to you.

The Unified Carrier Registration (UCR) System requires individuals and companies that operate commercial motor vehicles in interstate or international commerce to register their business with Kansas and pay an annual fee based on the size of their fleet. Companies providing both motor carrier services as well as broker, freight forwarder or leasing services are required to pay the fee level set at the motor carrier level.

If you offer services as a freight forwarder, broker or leasing company and you make arrangements for the transportation of cargo and goods in interstate or international commerce, the federal Unified Carrier Registration Agreement (UCR) applies to your business.

The UCR requires individuals and companies that provide freight forwarding, brokering or leasing services in interstate or international commerce to register their business with Kansas and pay an annual fee of \$39.00. The revenues generated will be used for enforcement of motor carrier safety programs.

A "commercial motor vehicle" is defined as a self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo, if the vehicle:

- (a) has a gross vehicle weight of 10,001 pounds or more;
- (b) is designed to transport 11 or more passengers (including the driver); or
- (c) is used in transporting hazardous materials in a quantity requiring placarding.

Registration is open and enforcement is in effect for 2007 and 2008. 2009 enforcement will become effective January 1, 2009. Please register your operation as soon as possible in order to operate in interstate commerce.

THE FEE BRACKETS FOR MOTOR CARRIERS ARE AS FOLLOWS:

(Note if you have operated in multiple states under the SSRS program in the past, the fees for this program are significantly smaller)

| Fleet Size (Include Trailers) | | Fee Per Company |
|-------------------------------|-----|-----------------|
| From | To | (\$) |
| 0 | 2 | \$39.00 |
| 3 | 5 | 116.00 |
| 6 | 20 | \$231.00 |
| 21 | 100 | \$806.00 |

| | | |
|-----------------|-------|-------------|
| 101 | 1,000 | \$3,840.00 |
| More than 1,000 | | \$37,500.00 |

Example: A motor carrier operating four tractors, eight trailers and nine straight trucks has a fleet size of twenty-one commercial motor vehicles and pays \$806.00.

To avoid delays it is highly recommended that you register on-line. Go to <http://www.ucr.in.gov/> and follow the step by step instructions. The online system is operated by the State of Indiana and there are two convenience fees with each renewal (\$3 to the State of Indiana and either a \$1 e-check fee or 2.5% of the total due for credit cards (Visa & Mastercard)).

If you plan on registering by mail or in person complete the **application** and **instructions** and print/mail to.

Kansas Corporation Commission
 1500 SW Arrowhead Road
 Topeka, Kansas 66604

Questions: (785)-271-3145 Option 3

Office Hours are 8 am to 5 pm, Monday – Friday
 The office will be closed for **holidays**.

The Kansas Corporation Commission can accept checks; credit cards (Visa/Mastercard/Discover/American Express) and cash (Please do not mail cash).

IMPORTANT NOTICE: If you operated in 2007 and did not register in the UCR, you must pay both your 2007 and 2008 UCR fees to avoid possible enforcement action. 2007 and 2008 fees can be paid in conjunction with the 2009 fees.

390.5 Definitions

Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—

- (1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
- (2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
- (3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- (4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

The Federal Motor Carrier Safety Administration defines a CMV requiring a CDL as Such in 383.5

Commercial motor vehicle (CMV) means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle-

- (a) Has a gross combination weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit(s) with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- (b) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 pounds or more); or
- (c) Is designed to transport 16 or more passengers, including the driver; or
- (d) Is of any size and is used in the transportation of hazardous materials as defined in this section.

Kansas Administrative Regulation 82-4-1

(c) "Commercial motor vehicle" means any of the following, except when used in 49 C.F.R. Part 382:

- (1) A vehicle that has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;
- (2) a vehicle designed to transport 16 or more passengers, including the driver;
- (3) a vehicle designed to transport more than six passengers, including the driver operating in intrastate commerce for hours of service regulation under 49 C.F.R. Part 395 only; or
- (4) a vehicle used in the transportation of hazardous materials in a quantity requiring placarding under 49 C.F.R. Part 172, Subpart F.