

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on February 6, 2009, in Room 446-N of the Capitol.

All members were present except:

- Senator Terry Bruce - excused
- Senator Steve Morris - excused

Committee staff present:

- Jason Thompson, Revisor of Statutes Office
- Corey Carnahan, Kansas Legislative Research Department
- Raney Gilliland, Kansas Legislative Research Department
- Alissa Vogel, Committee Assistant

Conferees appearing before the committee:

- Don Jarrett, Chief Counsel, Johnson County Board of County Commissioners
- Melissa Mundt, Assistant City Administrator, City of Gardner
- Tom Whitaker, Executive Director of the Kansas Motor Carriers Association
- Keaton Kelso, President, Kansas Outfitters Association

Others attending:

See attached list.

A motion was made by Senator Abrams to approve the minutes of January 29, 2009. Senator Lee seconded the motion, and the motion carried.

Raney Gilliland, Legislative Research Department, provided Committee members with a brief overview of **SB 182 - Air quality, urban counties, diesel emissions**. He explained that **SB 182** would authorize the Board of County Commissioners in any urban county, in which an intermodal facility is located or proposed to be located, to adopt regulations to control and reduce diesel emissions produced by heavy-duty vehicles located or operated in the county.

He stood for questions.

Don Jarrett, Chief Counsel to the Johnson County Board of County Commissioners, spoke as a proponent to **SB 182**. (Attachment 1) He appeared on behalf of the Commission with concerns regarding air quality containment issues, after the development of intermodal facilities in Johnson County. As warehouses and distribution centers develop, heavy-duty truck traffic will increase and emissions from engine idling will pose public health and welfare risks to citizens. Allowing the County to regulate idling emissions, supplementing KDHE regulations, will allow the County to be more responsive and timely to its citizens' needs.

He stood for questions.

Senator Lee requested information on the breakdown of the pollution that is emitted by heavy-duty vehicles in intermodal facilities.

Senator McGinn requested that KDHE provide the Committee with rules and regulations regarding emissions of heavy-duty vehicles.

Senator Abrams requested a document that would define "necessary idling time" and "unnecessary idling time."

Melissa Mundt, Assistant City Administrator for the City of Gardner, stood in support of **SB 182**. (Attachment 2) She informed the Committee that, prior to building an intermodal facility in Gardner, an ordinance was passed that restricted idling times for vehicles throughout the city. The ordinance promotes efforts to help improve air quality at a city-wide level. The City of Gardner is now working with Johnson

CONTINUATION SHEET

Minutes of the Senate Natural Resources Committee at 8:30 a.m. on February 6, 2009, in Room 446-N of the Capitol.

County to develop a more regional initiative. **SB 182** would allow for uniformity of idling regulations throughout the county, thus promoting the health and welfare at a regional level.

Ms. Mundt stood for questions.

Tom Whitaker, Executive Director of the Kansas Motor Carriers Association (KMCA), stood in opposition to **SB 182**. (Attachment 3) KMCA believes that the bill creates a second layer of bureaucracy that is unnecessary and detrimental to the trucking industry. He informed the Committee that the KMCA is communicating with KDHE to assist in the development of regulations that will reduce emissions in the Kansas City area, while keeping productivity high and freight moving. The KMCA believes that the authority to establish idling regulations should remain at the state or federal level, in order to create uniformity across the state. **SB 182** would create a patchwork of regulations throughout the state.

He stood for questions.

Senator Abrams requested information comparing idling times of vehicles in typical commercial enterprises versus intermodal enterprises.

Senator McGinn closed the hearing on **SB 182** and opened the hearing on **SB 189 - Creating an outfitter license**.

Raney Gilliland provided the Committee with an explanation of **SB 189** and defined language within the bill. **SB 189** would enact new authority that would require those that provide outfitter services in the state of Kansas to obtain a valid outfitter license.

He stood for questions. Discussion was held on the reasoning behind the authority given to the Department of Commerce (DOC) to issue outfitter licenses and impose fines, rather than the Department of Wildlife and Parks.

Keaton Kelso, President of the Kansas Outfitters Association, stood as a proponent to **SB 189** and supports the creation of an outfitters license. (Attachment 4) He stated that **SB 189** is an improvement over the outfitter licensing requirements that were repealed in 2005. As where the former system proved unsuccessful, the proposed bill would create a license and bonding process to protect landowners, outfitters and clients. The new system would include: landowner exemption, liability insurance to protect outfitters, outfitter bonds to protect the consumer from fraud or bankruptcy and a criminal background check of the outfitter.

The outfitter industry is a multi-million dollar business, and the Kansas Outfitters Association believes that there must be standards set to ensure equal treatment of all outfitters throughout the State of Kansas.

The Kansas Outfitters Association supports the DOC's authority to issue outfitter licenses for the following reasons: the DOC regulates tourism found in the outfitter industry, **SB 189** is a business structured law and there are conflicts of interest within the Department of Wildlife and Parks that would prevent an unbiased execution of law.

He stood for questions.

Senator McGinn informed the Committee that hearings will continue next week on **SB 183 - Solid waste management plans** and **SB 189**. Possible action will be taken on **SB 64 - Water appropriation act amendments** and **SB 182** next week.

The next meeting is scheduled for February 12, 2009.

The meeting was adjourned at 9:30 a.m.

# SENATE NATURAL RESOURCES COMMITTEE

## Guest Roster

2/6/09

(Date)

Ken Corbett	RAVENWOOD Lodge & KS HOA
Keaton Kelso	K&K Outfitters. KS Outfitters Assoc.
Kendall Kelso	K&K Outfitter K'S Outfitters ASSOC
KETH D. RANGBORN	KEARNEY & ASSOC.
Mary Jane Stankiewicz	K&A
Stuart Little	Johnson County
Steve Swaffer	KFB
John Donley	KS Lost Ass'n
Joe Mossmann	Hein Law Firm
Lindsey Douglas	KDA
Constantine Cotsoradis	KDA
Lane Letourneau	KDA
JOHN C. BOTTENBERG	DEFFENBACH
Tom Gooss	KPAE
Meghan Walsh	Intern, Francisco
J.J. DeSinger	Intern of J. Schmidt
Jonathan	LKM
Tom Whitaker	KMCA
Chris Tymeson	KDWP
Whitney Johnson	KS Sport Hunting Assn.
SEAN MILLER	CAPITOR STRATEGIES
Bill Bider	KDHE
Rick Brunetti	KDHE

**Please use black ink only!!**

# JOHNSON COUNTY TESTIMONY

## DIESEL EMISSIONS BILL 182

- **Chairman McGinn and member of the Committee, good morning. I am Don Jarrett, Chief Counsel to the Johnson County Board of County Commissioners. I am appearing today on behalf of the Commission. Thank you for the opportunity to testify.**
- **Johnson County strongly supports Senate Bill 182. As you heard, the bill would authorize the Board of County Commissioners to adopt local regulations to reduce the impact of diesel emissions from heavy-duty trucks operating in the County.**
- **The bill is drafted to apply only to Johnson County as home to a new rail/truck intermodal facility and logistics park near Gardner.**
- **The intermodal facility and logistics park will clearly benefit the economy of Johnson County and all the counties and cities in northeast KS. It will also lead to development of new commercial warehouses and distribution centers.**
- **However, these warehouses and distribution centers draw heavy-duty trucks to the County. Most of those trucks burn diesel fuel. The emissions from those vehicles pose public health and welfare risks to our citizens living or working nearby.**
- **This bill authorizes the County Commission to address these impacts at the County level, so we can be responsive and timely to our citizens' needs.**
- **Because heavy duty trucks have not been required to meet stricter federal tailpipe standards until recently, one "average" heavy duty truck on the road today creates the same amount of air pollution as 150 "average" cars which have been subject to stricter tailpipe standards for years. An older dirtier diesel truck can emit almost eight tons of pollution per year, or up to 240 tons of pollution over the life of the engine.**
- **Engine idling is responsible for a significant proportion of all emissions from heavy-duty diesel trucks. Idling occurs for a variety of reasons, and some idling is unavoidable and necessary. However, studies indicate that most all vehicles have unnecessary idling time. The average unnecessary idling time for heavy-duty diesel trucks is .3 to .7 hours per day.**

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- **Diesel trucks are a significant contributor to ground-level ozone (smog), the federal standard for which the Kansas City region, including Johnson County, exceeds an average of 15-20 times each summer. Diesel trucks are also responsible for 62 percent of fine particle (particulate) pollution. Emissions from diesel trucks contribute to serious public health problems in the U.S. including premature death. Numerous studies link diesel exhaust to increased incidence of lung cancer. Diesel emissions can also pose a nuisance and interfere with quality of life due to smell, noise and visibility. The congregation of heavy duty trucks in a localized area only increases the impacts.**
- **Should Senate Bill 182 pass, it would be the Johnson County Board of County Commissioners' plan to develop, adopt and enforce prudent, reasonable limitations on heavy-duty diesel truck operations, primarily by reducing unnecessarily engine idling. The bill would not authorize the Commission to establish or modify truck engine design or tailpipe standards.**
- **The bill would allow the Commission to apply the regulations uniformly throughout the County so that all residents benefit from the same public health and welfare protections regardless of where they live. This also avoids a complicated patchwork of city-only diesel truck emissions requirements that are more difficult for trucking and warehousing companies to comply with.**
- **Any county regulations adopted by the Commission will be developed in close consultation with the KS Department of Health & Environment (KDHE), city officials, local law enforcement agencies, heavy-duty truck operators, warehouse owners, developers and other interested parties.**
- **County regulations will supplement KDHE regulations which are expected to follow a national model rule that does not take into account the concentration of heavy-duty truck and warehousing operations in the County. Enforcement of the county regulations would occur at the county level, not at the state level. This will allow for much more expedient correction of persistent violations.**
- **This concludes my testimony. Thanks again for the opportunity to comment, and I would be happy to answer any questions from the Committee.**



**Testimony  
to  
Senate Committee on Natural Resources**

**Melissa Mundt, Assistant City Administrator, City of Gardner, Kansas**

**February 6, 2009  
Senate Bill No. 182**

**Honorable Chairperson McGin and Committee Members:**

The City of Gardner is here today to support Johnson County's efforts with Senate Bill 182. Gardner passed Ordinance 2269 on May 5, 2008, that restricts idling times for vehicles throughout the City. This ordinance was passed in response to a project that is being developed in the City of Gardner called Logistics Hub KC and the BNSF Intermodal Facility. Visit [http://www.gardnerkansas.gov/go/intermodal\\_home.php](http://www.gardnerkansas.gov/go/intermodal_home.php) for more information on this project. This development will result in hundreds to thousands of truck trips in the community on a daily basis once it opens in late 2011. These trucks are primarily fueled by diesel. If they are not monitored/regulating they would potentially idle for long periods resulting in local pollution, if not regional pollution. The City wants to protect not only its residents but the air quality of the eastern Kansas region through its efforts to restrict the amount of time that all vehicles are allowed to idle within its City limits. The ordinance passed last May promotes those efforts and helps the region's air quality at its core. Below is a copy of the wording within the Gardner's City Code as it relates to idling of most all vehicle types:

RESTRICTED IDLING ZONES—Areas within City limits that are considered moderate to high emission zones.

2. Idling Prohibited; Motor Vehicles

A. No person shall cause, suffer, allow or permit the engine of a motor vehicle to idle for more than ten (10) consecutive minutes if the vehicle is within one of the designated areas of limited idling zones that include: 1. Any City parking lot or city property, 2. Any City owned or operated park area including but not limited to the municipal golf course, 3. Pick-up or drop-off areas on all school property, parking lots, and commercial delivery/loading zones, 4. Commercial and Industrial delivery zones, including but not limited to private drives or area leading to the delivery zone.

B. Subsection A of this section shall not apply to the following: 1. Emergency vehicles in emergency situations, 2. Motor vehicles stopped in a line of traffic, 3. Motor vehicles being repaired, 4. RV's, school buses, other modes of public transit, and charter buses, 5. Temperatures below 32 degrees and in excess of 85 degrees.

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C. Upon conviction of a first offense of this section, the defendant shall be fined not less than \$50.00 or nor more than \$1,000.00. Upon conviction for a second offense, within a twenty-four (24) month period, the defendant shall be fined not less than \$100.00 or nor more than \$1,000.00. Upon conviction of a third offense of this section, within a twenty-four (24) month period, the defendant shall be fined not less than \$250.00 or nor more than \$1,000.00. No portion of any minimum fine assessed pursuant to this section shall be suspended nor shall the defendant be placed on parole from any portion of the penalty assessed.

In addition to Gardner's efforts to reduce idling within its borders, the City has been working directly with Johnson County to develop a more regional initiative to reduce emissions from idling. As you are probably aware in 2007, the Kansas City region violated clean air standards that can trip expensive federal regulations to improve air quality. As Johnson County has noted in its testimony, the development in Gardner will result in development of new commercial warehouses and distribution centers. In Gardner alone, there is over 7 million sq. ft. of warehousing anticipated. The City just recently approved 1.1 million sq. ft. warehousing for Coleman LLC, which is not part of the 7 million that will be located adjacent to the BNSF facility. The importance of this information is that this is a significant development related to the region's air quality and it is important that not only Gardner be working to enhance air quality. Therefore, Gardner supports the assistance of the Legislature to allow Johnson County to assist in regulating emissions that will promote the health and welfare of those beyond Gardner's city limits at a regional level.

**Based on Gardner's adopted Legislative Agenda for 2009, we emphasize our support of SB 182 and look forward to continuing efforts with Johnson County and others to improve air quality in eastern Kansas and beyond.**



# Kansas Motor Carriers Association

Trucking Solutions Since 1936

## Legislative Testimony

Presented before the

**SENATE NATURAL RESOURCES COMMITTEE**

**Senator Carolyn McGinn, Chairman**

**Friday, February 6, 2009**

### **MADAM CHAIRMAN AND MEMBERS OF THE SENATE NATURAL RESOURCES COMMITTEE:**

I am Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear here this morning representing our 1,100 member-firms and the Kansas trucking industry in opposition to Senate Bill No. 182.

SB 182 creates a second layer of bureaucracy for the regulations of air quality in the Kansas City metro area. The bill allows the board of county commissioners to adopt regulations to control and reduce diesel emissions by heavy-duty trucks operating in such county. Regulations concerning air quality in the non-attainment area in Johnson and Wyandotte counties are currently adopted through the Kansas Department of Health and Environment. To add this second layer of bureaucracy allowed in SB 182 is unneeded and unwanted.

KDHE is currently developing regulations to limit idling by diesel powered equipment. KMCA is communicating with KDHE to assist in the development of regulations that will reduce emissions in the Kansas City area while keeping productivity high and America's freight moving.

SB 182 also allows the county to impose a system of fees and charges necessary to pay the cost to administer and enforce the regulations. Would this provision allow the county to institute their own cap and trade program or implement a carbon tax? Would that "fee" just be assessed to the truck or would they expand it to include other facilities and emission sources.

Finally, the bill allows regulations adopted by the county to be more stringent than those adopted by the state. This could create a patchwork of regulations with which the trucking industry would be required to comply. Trucks don't stay in one place. If the truck is not moving, it's not generating any revenue.

Madam Chairman, the Kansas Motor Carriers Association respectfully requests that the Senate Natural Resources Committee report Senate Bill No. 182 unfavorably, and stop the addition of more layers of government to accomplish the same goal. Thank you for the opportunity to appear before you today. I would be pleased to answer any questions you may have.

**Larry Dinkel**  
Jim Mitten Trucking, Inc.  
President

**Michael Topp**  
TT&T Salvage & Towing, Inc.  
Chairman of the Board

**Jason Hammes**  
Frito Lay Service &  
Distribution  
First Vice President

**Sherwin Fast**  
Great Plains Trucking  
Second Vice President

**Larry Graves**  
Farmers Oil, Inc.  
Treasurer

**Larry "Doc" Criqui**  
Kansas Van & Storage  
Criqui Corp.  
Corporate Secretary

**Ken Leicht**  
Rawhide Trucking, Inc.  
ATA State Vice President

**Mike Miller**  
Miller Trucking, LTD  
ATA Alternate State VP

**Calvin Koehn**  
Circle K Transport, Inc.  
Public Relations Chairman

**Tony Gaston**  
Rawhide Trucking  
ProTruck PAC Chairman

**Jeff Robertson**  
JMJ Projects, Inc.  
Foundation Chairman

**Bill Johnston**  
Northcutt, Inc.  
Allied Industries Chairman

**Tom Whitaker**  
Executive Director



## Testimony

**To: The Honorable Carolyn McGinn, Chair and the members  
of the Senate Committee on Natural Resources**

**From: Keaton Kelso  
President, Kansas Outfitters Association**

**Re: SB 189 (Proponent Testimony for Outfitters License)**

Madam Chair and Members:

As President of the Kansas Outfitters Association, owner and operator of K&K Outfitters of Mulberry, Kansas, and business partner with over 74 landowners in Kansas, I want to support the creation of an outfitters license in Kansas.

In the past four years since the deregulation of outfitters and guides our association has been looking at other states as a template for the current bill. I want to go over some the essential points of the bill.

1. Big Game Only – This would include all outfitters that would provide hunting opportunities for whitetail deer, mule deer, antelope, and or elk in the State of Kansas.
2. Landowner Exemption – Landowners providing hunting opportunities on land owned would be exempt.
3. Liability Insurance – Every outfitter in Kansas should hold an insurance policy of not less than \$1,000,000 to protect themselves, landowners that may lease ground to them and clients that hunt with them.
4. Bond – Every outfitter in Kansas should hold a bond of not less than \$25,000 to protect the consumer on fraud and bankruptcy.
5. Criminal Background – No outfitter in Kansas should be able to operate with a felony and/or three (3) misdemeanor wildlife violations in the past 5 years.

Our association doesn't want to burden outfitters with unnecessary regulations, but we all feel that the above points are essential to a thriving and professional industry in Kansas. Outfitters in Kansas should be held to some type of standard; these items are common in the industry and shouldn't be seen as an unreasonable burden for doing business.

Sincerely,

Keaton Kelso  
President  
Kansas Outfitters Association

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