

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 8:37 a.m. on February 12, 2009, in Room 136-N of the Capitol.

All members were present except:

Senator Les Donovan- excused  
Senator Vicki Schmidt- excused

Committee staff present:

Mike Corrigan, Office of the Revisor of Statutes  
Hank Avila, Kansas Legislative Research Department  
Jill Shelley, Kansas Legislative Research Department  
Cindy Shepard, Committee Assistant

Conferees appearing before the committee:

Mike Hoeme, Director of Transportation, Kansas Corporation Commission  
Tom Whitaker, Executive Director, Kansas Motor Carriers Association  
Craig Lundgren, Senior Patrolman, Olathe Police Department  
Gary Donnell, Senior Patrolman, Olathe Police Department  
Eric Stafford, Director of Governmental Affairs, Associated General Contractors of Kansas, Inc.  
Bill Miller, American Subcontractors Association  
Kevin Gregg, Director of Industry Relations, Kansas Motor Carriers Association

Others attending:

See attached list.

Chairman Umbarger opened the hearing on **SB 152 - Regulation of certain motor carriers by the corporation commission.**

Mike Hoeme, Director of Transportation for the Kansas Corporation Commission (KCC), testified on behalf of the KCC staff in support of **SB 152**. Director Hoeme indicated that the bill amends KCC transportation safety statute K.S.A. 66-1,129, striking three exemptions. Currently, commercial motor carriers with a Gross Vehicle Weight Rating (GVWR) of 10,001 to 26,000 pounds are exempt from safety regulations including maintaining driver qualification files, recording hours of service, and keeping maintenance records. In addition, these exempt motor carriers, do not fall under applicable safety regulations such as load securement and roadside inspections (Attachment 1).

Tom Whitaker, Executive Director of the Kansas Motor Carriers Association (KMAC), representing the Kansas trucking industry, appeared as a proponent of **SB 152**. He stated that the bill removes the exemption for motor vehicles with a GVWR of 26,000 pounds or less from the safety rules and regulations, when carrying tools, property or material belonging to the owner of the vehicle, commonly known as the "tools of trade" exemption. KMAC supports legislation that subjects all "commercial vehicles" to the safety rules and regulations of the KCC. These vehicles are already subject to the federal motor carrier safety rules and regulations if such vehicle crosses state lines (Attachment 2).

Craig Lundgren, and Gary Donnell, Senior Patrolmen for the Olathe Police Department, spoke in support of **SB 152**. As Level I Motor Carrier Inspectors, they estimate over half of the serious violations found on inspections conducted in the past eight years, were on construction related vehicles. It is time to make safety the priority in decisions made regarding truck traffic in Kansas (Attachment 3).

Eric Stafford, Director of Governmental Affairs for the Associated General Contractors of Kansas, Inc. (AGC), testified in opposition to **SB 152**. He stated that the AGC feels removing the exemptions is a broad approach that would not address the real problem of load securement. It would be the recommendation of the AGC to focus on strengthening enforcement of load securement and tie down requirements, verses a blanket approach that would subject our members to unnecessary regulations and exposure to litigation. Private citizens or companies operating less than 10,001 pounds would still pose the same risk as they do under current law (Attachment 4).

CONTINUATION SHEET

Minutes of the Senate Transportation Committee at 8:37 a.m. on February 12, 2009, in Room 136-N of the Capitol.

Bill Miller, representing American Subcontractors Association, spoke in opposition of **SB 152**. Mr. Miller indicated that this bill would place small businesses under the jurisdiction of the KCC and subject them to heavy-handed enforcement (Attachment 5).

Written testimony in opposition of **SB 152** was submitted by:

Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association (Attachment 6)

Phil Perry, representing Home Builders Association of Greater Kansas City (Attachment 7)

There being no further conferees, the hearing on **SB 152** was closed.

The hearing on **SB 153 - Regulation of certain motor vehicles and motor carriers by the corporation commission** was opened.

Mike Hoeme, appeared on behalf of the KCC, in support, indicating **SB 153** is a cleanup bill that will amend two KCC Transportation statutes (Attachment 8).

Kevin Gregg, Director of Industry Relations for the Kansas Motor Carriers Association, testified as a proponent of the bill. He stated the technical changes in **SB 153** will remove redundancies in statutes and clarify definitions in K.S.A. 66-1, 108-109 (Attachment 9).

Bill Miller, American Subcontractors Association, spoke in opposition of **SB 153**. His argument with the bill is the same as with **SB 152**, and if the committee chooses to work the bill, Mr. Miller would offer an amendment to correct deficiencies within the bill (Attachment 10).

Written testimony in support of **SB 153** was submitted by:

Leslie Kaufman, Executive Director, Kansas Cooperative Council (Attachment 11)

There being no further conferees, the hearing on **SB 153** was closed.

The Chairman turned the committee's attention to final action on **SB 60 - Redevelopment districts within a federal enclave; sale of real property**.

Staff reviewed the bill heard on February 6 and indicated there were no proposed amendments. Senator Hensley moved, Senator Petersen seconded, to recommend SB 60 favorably for passage. Motion carried.

The meeting was adjourned at 9:27 a.m. The next meeting is scheduled for February 13, 2009.

# SENATE TRANSPORTATION COMMITTEE GUEST LIST

DATE: 2-12-09

NAME	REPRESENTING
Doug Lawrence	Midwest Cranes, Region
Bill Miller	BUILDING ERECTING SERVICES
Tom Burgess	ASA
TOM DAY	KCC
TOM WHITAKER	KMCA
MIKE HOEME	KCC
GARY DONNELL	OLATHE POLICE
Craig Lundgren	Olathe Police
DAN MEYER	KHP
GARY DAVENPORT	KCC
KEVIN GREGG	KMCA
Melissa Walburn	KCC
Deann Williams	KDOR
Ty Drago	United Transportation Union
Terry Heidner	KDOT
Leslie Kaufman	Ks Co-op Council



*Kathleen Sebelius, Governor*  
*Thomas E. Wright, Chairman*  
*Michael C. Moffet, Commissioner*  
*Joseph F. Harkins, Commissioner*

**Before the Senate Transportation Committee**  
**Comments by the**  
**Staff of the Kansas Corporation Commission**  
**February 12, 2009**

**Senate Bill 152**

Chairperson Umbarger 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. The bill strikes K.S.A. 66-1,129 (c)(9) which relates to the operation of vehicles used for servicing, repairing, or transporting implements of husbandry. Eliminating this provision will more clearly delineate the regulatory jurisdictions of the KCC and the Department of Agriculture regarding the safe transportation of nurse tanks.

The bill also removes two existing exemptions from K.S.A 66-1,129 (c)(3)(A) and (B). K.S.A. 66-1,129 (c) (3) (A) 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; K.S.A. 66-1,129 (c) (3) (B) 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.

Currently, motor carriers such as contractors, electricians, plumbers, heating and air, oilfield construction, pipeline construction, monument companies, construction debris transporters, and construction supply companies who operate commercial motor vehicles are exempt under the provisions of K.S.A. 66-1,129 (c) (3) (A) and (B).

Safety regulations that would apply to these currently exempt commercial motor vehicles include maintaining driver qualification files, recording hours of service, and keeping maintenance records, which are basic safety requirements that are elements of sound business practice. More specifically, the KCC safety requirements include:

- Application for employment to document a driver's employment history;
- Motor Vehicle Records (MVR), annual review of driving record and certification of moving violations;
- Inquiry to previous employers to (3 years accident history);
- DOT medical examiners certificate, which documents that a driver meets minimum health standards that support the driver is safe to operate a commercial motor vehicle (valid up to two years);
- Road test to determine if the driver can safely operate the motor vehicle;
- Maintain time records for each driver;
- Maintenance files;



- Daily post-trip inspections are applicable if the company operates more than one CMV;
- Annual inspection performed on each CMV (company can self certify);
- Addition of the USDOT number to the current marking requirements of K.S.A. 8-143e;
- Applicable safety regulations such as brakes acting on every wheel, load securement, and roadside inspections etc.

The Transportation Division offers free compliance seminars. The seminars are held weekly on a rotating basis in Topeka, Hutchinson, Hays, and Garden City. The seminars, beginning at 9:00 a.m. and lasting approximately three hours, are presented by the Commission's Transportation staff and are designed to help Motor Carriers comply with Safety and Economic Regulations.

As you consider removing these exemptions, please be aware:

- During the last quarter of 2008 alone, roadside law enforcement documented debris removal activity. Over 300 items were required to be removed from our streets and/or highways and roads. Debris included lumber, carpet, empty and full buckets, ladders, scaffolding, wheel barrows, metal, pipe, angle iron, HVAC metal, sacks of concrete, bricks, paint etc. (See Attachment 1);
- Exempt commercial motor vehicles have been involved in serious accidents:
  - On August 8, 2005, the Kansas Highway Patrol (KHP) responded to a two fatality accident determined to be the result of a fatigued driver who crossed the center line. The motor carrier responsible for the operation of this truck, GVWR rated between 10,001 and 14,000 pounds, would continue to be exempt if these exemptions are not eliminated.<sup>1</sup>
  - Already this year, the KHP responded to a pickup trailer separation resulting in a rollover accident. The vehicle was attempting to merge when the pickup and trailer separated on K-7. (See attachment 2)
  - You may recall another news story out of Washington State. Last November, a charter bus carrying 38 high school football players overturned on a major interstate injuring a half-dozen players when the state police determined that an unsecured 10-foot ladder fell off a pick-up truck causing the bus to brake and swerve. The bus then hit the rear of a semi-trailer before striking a small hill and flipping on its side. Several other motorists had to maneuver around the debris to avoid the accident. The vehicle that lost the ladder did not stop.

Construction-related companies operating commercial motor vehicles which exceed the 26,000 pound weight rating or who travel beyond the 25-mile radius of the principal place of business of the motor carrier are subject to the KCC safety regulations. The KCC conducts compliance reviews which may result in the Commission issuing fines and penalty assessments for safety violations identified during reviews. Construction-related carriers have a 55% show cause, or penalty violation, rate compared to the overall average show cause, or penalty violation rate of 35%.

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

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<sup>1</sup> The driver was employed by Apac-Kansas, Inc.

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





9-6  
1-6

### No Load Securement



### Securement Issues!

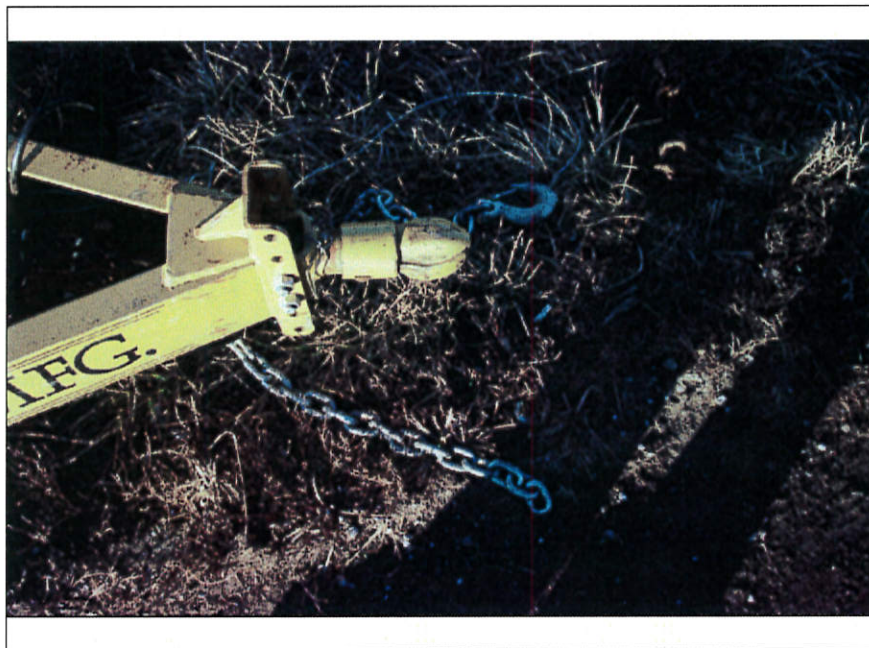


### Numerous Issues

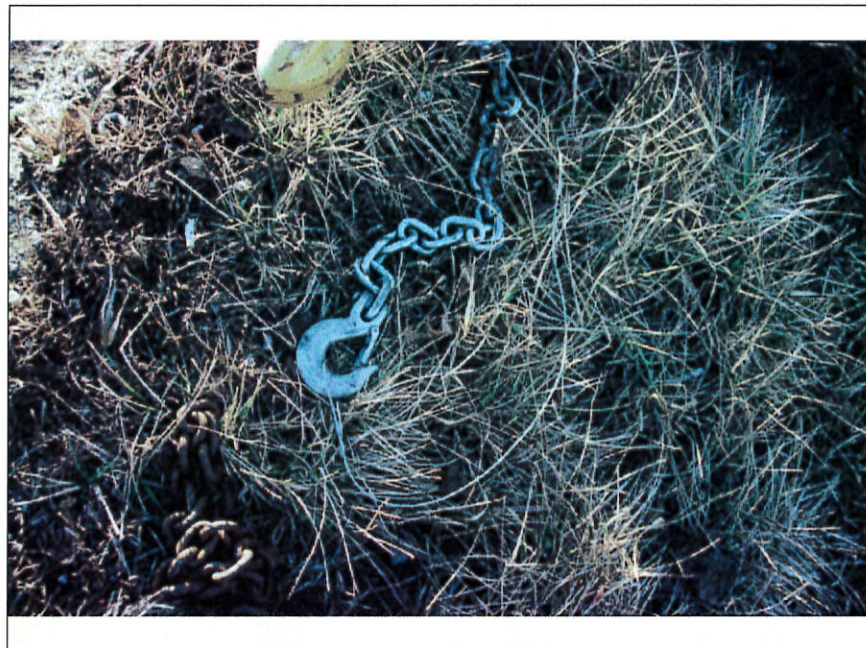




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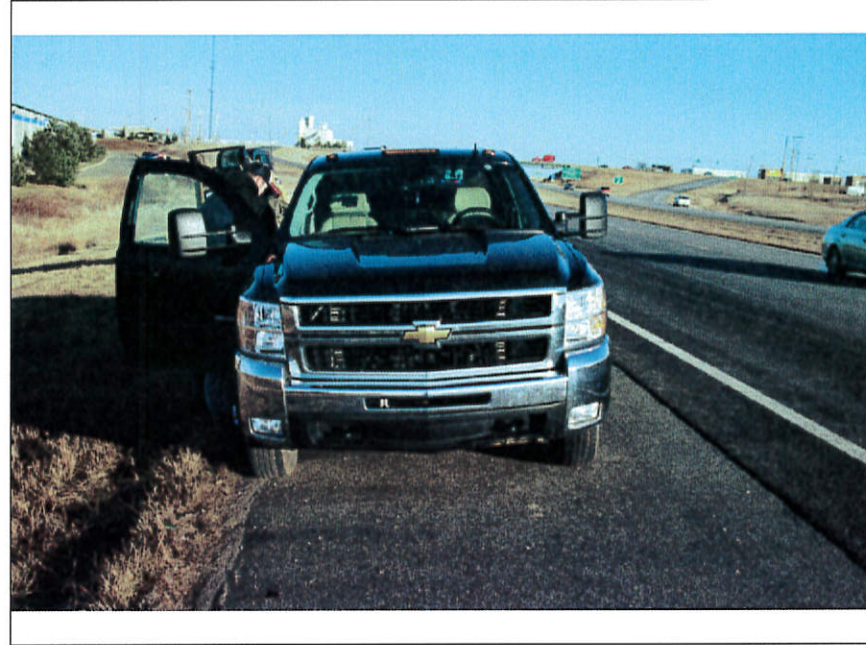
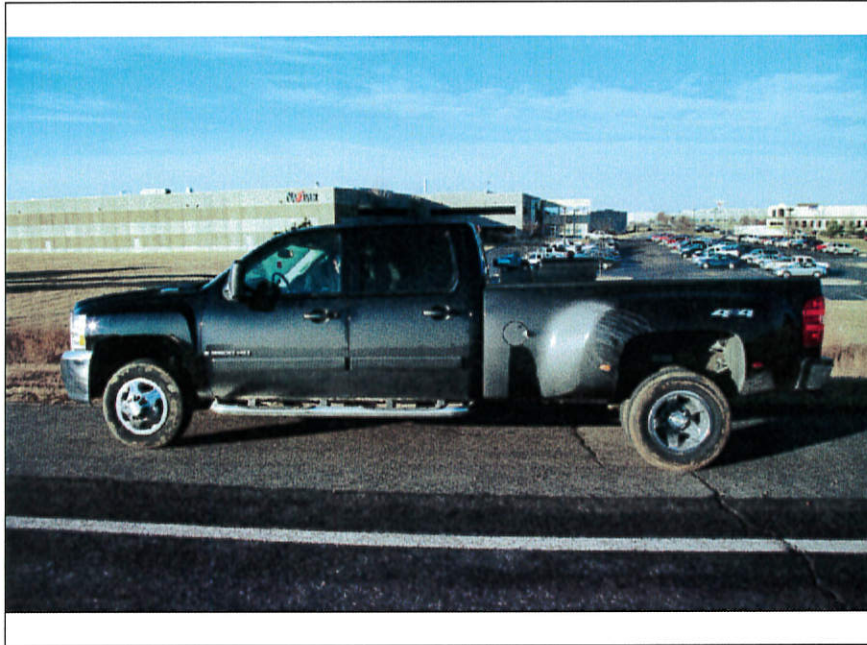








6-1









# Kansas Motor Carriers Association

Trucking Solutions Since 1936

## Legislative Testimony

Before The

### SENATE TRANSPORTATION COMMITTEE

Senator Dwayne Umbarger, Chairman

February 12, 2009

### 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 1,100 member-firms and the Kansas trucking industry in support of Senate Bill No. 152.

SB 152 removes the exemption from the safety rules and regulations adopted by the Kansas Corporation Commission for motor vehicles with a gross vehicle weight rating (GVWR) of 26,000 lbs. or less when carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, or transporting tools and property to be sold within 25 miles. This is commonly known as the "tools of trade" exemption.

KMCA supports legislation that subjects all "commercial vehicles" to the safety rules and regulation of the KCC. The safety rules and regulations apply to vehicles or combinations of vehicles with a GVWR in excess of 10,000 pounds. The Commission's rules and regulations would not apply to vehicles such as a plumber's van or a single half-ton pickup truck.

Tools of trade vehicles in excess of 10,000 pounds GVWR are already subject to the federal motor carrier safety rules and regulations if such vehicle crosses the state line. There is also a fairness issue contained in SB 152. If the operator of a lawn mowing service transports their lawnmowers to a mowing job and are in excess of 10,000 lbs. the company is currently subject to the safety regulations. The same vehicle transporting equipment and product to install an underground sprinkling system is exempt because the transportation is to a construction site. SB 152 will resolve this inequity.

The Kansas Motor Carriers Association supports SB 152 and respectfully requests that the Senate Transportation Committee act favorably on this legislation. I thank you for the opportunity to appear before you this morning and would be pleased to respond to 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



# OLATHE POLICE DEPARTMENT



**Before the Senate Transportation Committee  
Comments by the  
Olathe Police Department Traffic Unit  
February 12, 2009**

**Senate Bill 152**

Speaking as proponents of SB 152:

Senior Patrolman Gary Donnell, Olathe Police Department  
Senior Patrolman Craig Lundgren, Olathe Police Department

Chairperson Umbarger and Distinguished Members of the Committee: Hello, Im Senior Patrolman Craig Lundgren and with me is Senior Patrolman Gary Donnell, both of us are Level I Motor Carrier Inspectors with the Olathe Kansas Police Department's Traffic Unit.

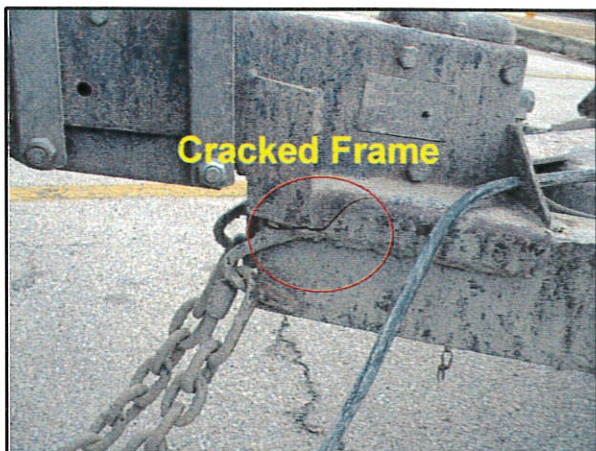
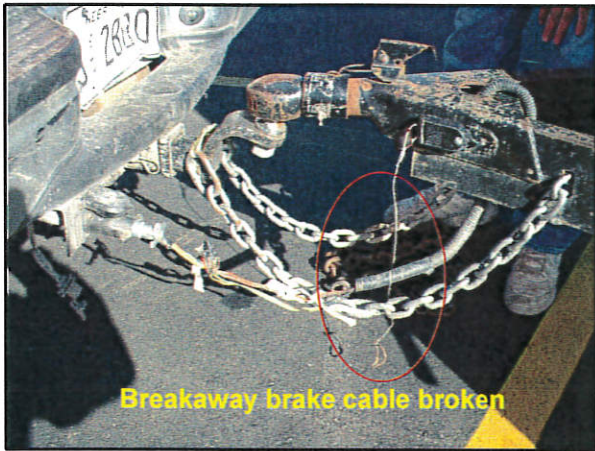
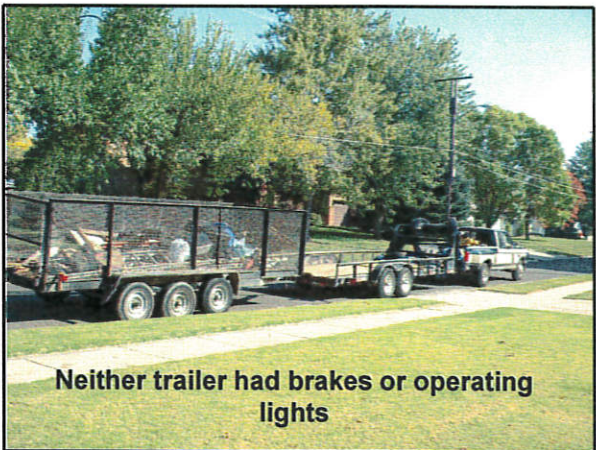
We are here to speak in support of the legislation to remove the exemption in 66-1,129(c) #3 (A) and (B). The Olathe Police Department became involved in the enforcement of the Motor Carrier regulations approximately 8 years ago. In the course of conducting hundreds of motor carrier inspections over that period of time, we would estimate that more than half of those that had serious violations, were construction related in nature. We additionally estimate that the more severe safety violations we discovered were on construction related trucks. We also estimate at least a third of the truck accidents we investigate involve construction related vehicles.

Other than the obvious dangers these vehicles present to the public, the exemption also causes confusion among the industry. We have personally encountered Kansas company officials frustrated when they are confronted with trying to ascertain whether they are legally exempt or not. A truck that might be exempt most days will not be on the day that the job requires them to enter Missouri. Or if their equipment is in need of repair and they rent equipment for a job, now they are no longer covered under the exemption. These are just but a few of the problems, these exemptions are creating.

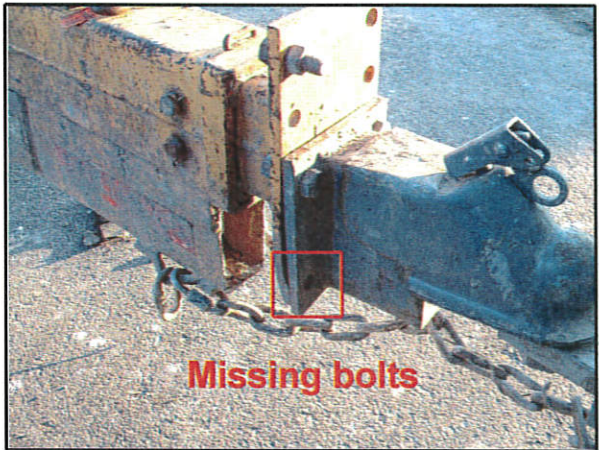
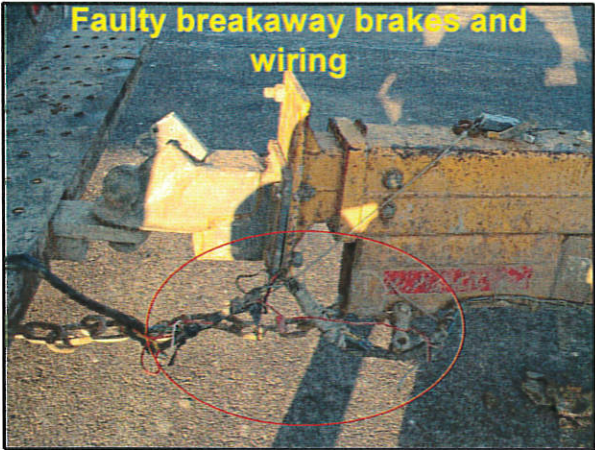
Whatever the reasons may have been when these exemptions were created, they no longer exist. It is clearly time to make safety the priority in decisions made regarding truck traffic in Kansas.

We have included a packet of photos that show examples of just some of the violations we are encountering on vehicles that under the current laws are exempt from inspection if they are a Kansas company. Thank you for the opportunity to speak before you. We would be happy to answer any questions you might have.

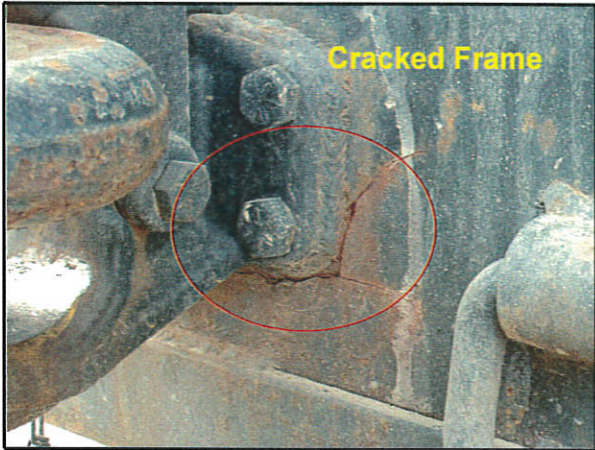












Cracked Frame



Unsecured boxes of nails



Improper load securement / No lights



Numerous Violations



Extreme hazard to pedestrians / cyclists



Overloaded / Unsafe securement





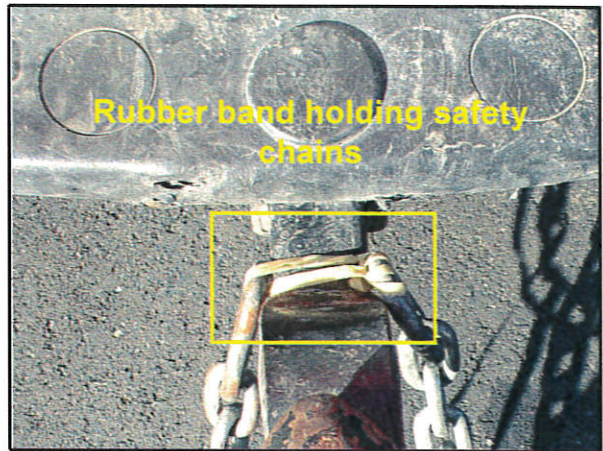
Unsecured Load



Unsecured / Spilling Load



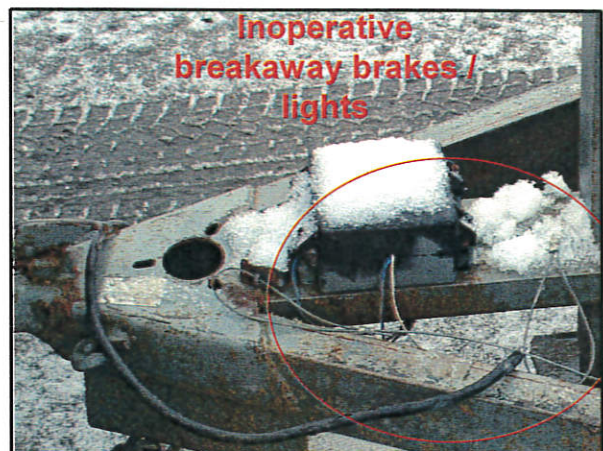
Unsecured Load



Rubber band holding safety chains

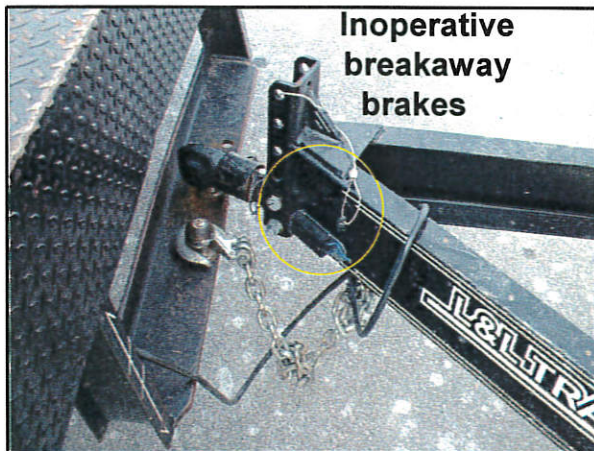
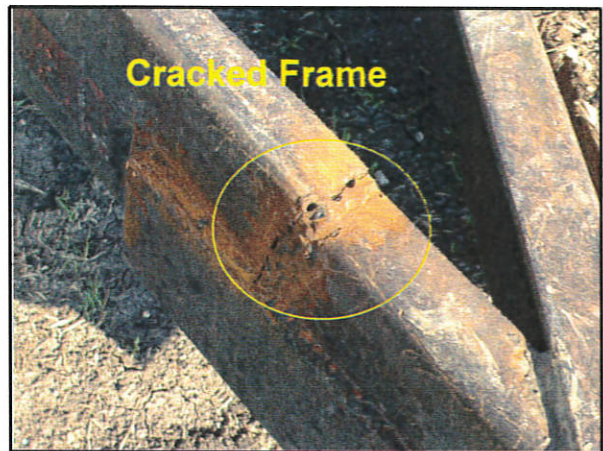
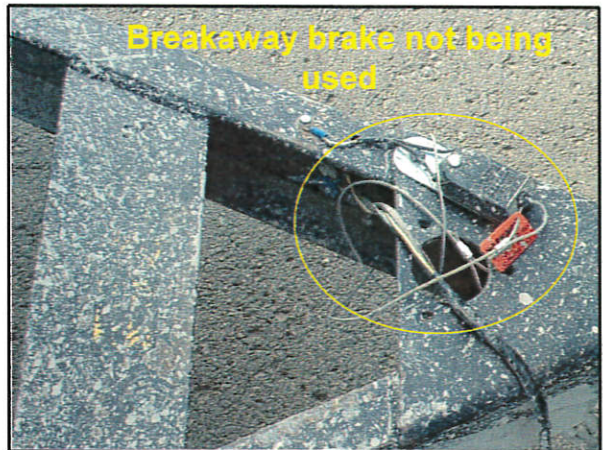
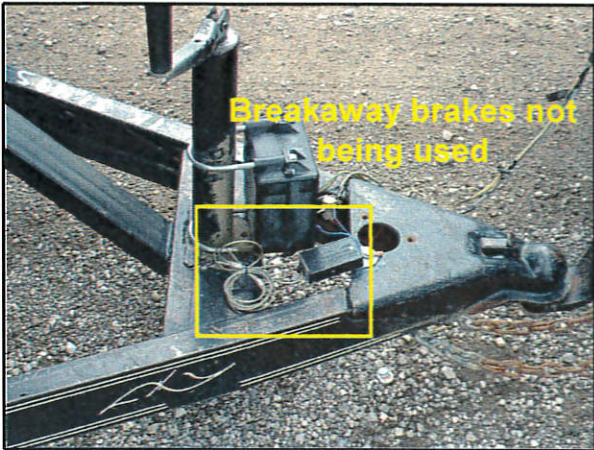


Missing breakaway brake components



Inoperative breakaway brakes / lights

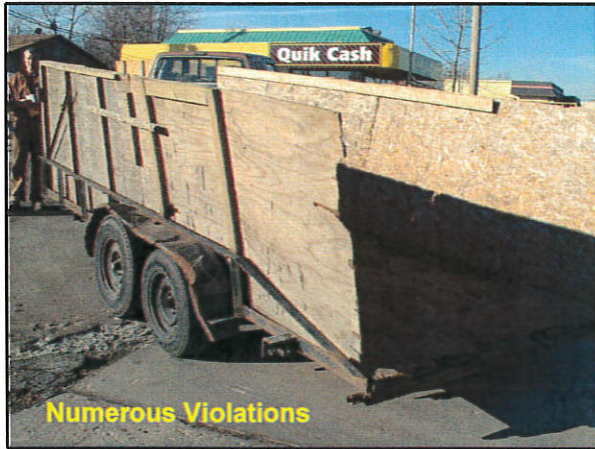








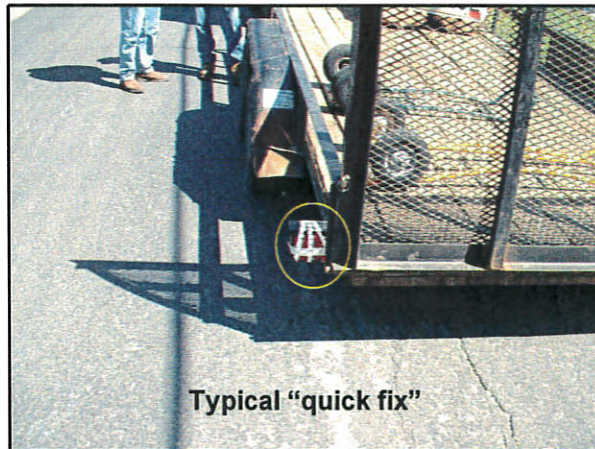
**Bald Tires**



**Numerous Violations**



**Missing bearing cap**



**Typical "quick fix"**



**Missing bearing cap**

**Overloaded / under inflated tires**

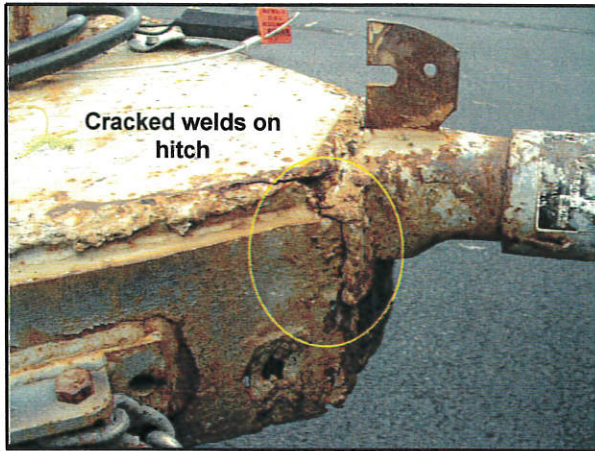




**Overloaded / Improperly secured**



**Overloaded Tires**



**Cracked welds on hitch**



**Only one chain for securement**



**Unsecured Load**



**Torn Strap**







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

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

February 12, 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 opposes Senate Bill 152 and asks that you do not recommend it favorably for passage.**

AGC was contacted by the Kansas Corporation Commission in December asking for input from the construction industry on SB 152 which would remove the "tools of the trade" exemption for motor vehicles under 26,000 pounds.

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.

The KCC expressed their intent is to make the roads safer for the general public. AGC feels removing this exemption is a broad approach that would not address the real problem of load securement. If SB 152 were to pass, AGC members would face burdensome requirements in areas where they are not trained, while private citizens or companies operating less than 10,001 pounds would still pose the same risk as they do under current law.

AGC members take safety very seriously. AGC held two seminars last year on this exact issue to help members with compliance requirements. It would be the recommendation of the AGC to focus on strengthening enforcement of load securement and tie down requirements, versus a blanket approach that would subject our members to unnecessary regulations and exposure to litigation.

Several of the burdensome regulations AGC members would be required to follow are

- Driver Qualifications Files (in each file needs to be an application for employment, motor vehicle record from the DMV, request for check of previous employer, physical examination, etc)
- Driver's record of duty/hours of service (time records of time on/time off and total hours to make sure they do not exceed maximum hours allotted)
- Vehicle inspection, repair and maintenance records (records must be maintained for one year plus six months, daily post-trip inspection one each commercial vehicle, recorded and maintained for 90 days, annual inspection completed on each vehicle, etc)
- Marking requirements

**Again, the AGC of Kansas respectfully requests that you do not recommend SB 152 favorably for passage.** Thank you for your consideration.

Senate Transportation  
2-12-09  
Attachment 4



# BUILDING ERECTION SERVICES COMPANY

15585 S. KEELER • P.O. BOX 970 • OLATHE, KANSAS 66051-0970

Feb. 12, 2009

(913) 764-5560 • FAX (913) 764-2317

Senate Transportation Committee  
Chairperson Umbarger, Vice Chairperson Marshall, And Committee

My name is Bill Miller. I represent the American Subcontractors Association and myself as President of Building Erection Services Co. ASA is an association of subcontractors and suppliers in Western Missouri and Eastern Kansas. Building Erection Services Co. is a construction subcontractor with offices in Olathe and Topeka, Kansas and an office in St. Joseph, Missouri.

I am here to speak in opposition to Senate Bills 152 and 153. These bills have an extremely adverse effect on every service business in the State of Kansas.

If enacted, this will be a broad brush inclusion of construction companies, lawn services, cleaning companies, home appliance repair companies, and even college and high school students trying to earn school money during the summer.

This bill covers every vehicle used in any business that has a GVW rating or license 10001 Lbs. or over.

Kansas does not have a commercial license less than 12,000 lbs. and every business truck or van has to have a commercial license.

This would place all of these small businesses under the jurisdiction of the KCC and subject them to heavy handed enforcement.

This is exactly the reason that I have been forced to license and register over 50 trucks in Missouri where there is an exemption for motor vehicles that have a GVW rating of 26,000 lbs. and under. All of the personal property taxes and registration fees are paid in Missouri and will continue to be paid there to avoid the regulation of the KCC.

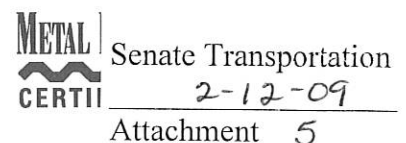
Any business that is located along the state line could, and likely would, do the same. Missouri is much more business friendly regarding motor vehicles and regulation by the corporation commission.

I urge you to vote in opposition to this bill that is so detrimental to Kansas small businesses.

Bill Miller



Certified Steel Erector





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

TO: Senator Dwayne Umbarger, Chairman  
And Members of the Senate Transportation Committee

FROM: Martha Neu Smith  
Executive Director

DATE: February 12, 2009

RE: SB 152 – Elimination of Exemption for Tools of The Trade

Chairman Umbarger 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 in opposition to SB 152 – elimination of the exemption for 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.

While we understand the desire of the Kansas Corporation Commission (KCC) to improve road safety for the public, KMHA feels the removal of the exemption may not be the best approach to address the problem, which seems to be the securing or tying down of the load. KMHA would encourage the KCC to look at ways to either strengthen tie down requirements or the enforcement of tie down requirements.

If SB 152 were to pass, KMHA members would be faced with: driver qualification files, driver's record of hours of service requirements, vehicle maintenance records requirements and other driver and vehicle requirements, which would add additional cost and administrative burdens. For a small business, these types of additional requirements would be overwhelming in both time and costs.

KMHA would suggest instead of eliminating the "tools of the trade" exemption consider strengthening the load tie down requirements. We would respectfully request that the Committee not recommend SB 152 favorable for passage. Thank you for your consideration.

Senate Transportation  
2-12-09  
Attachment 6





**HOME BUILDERS ASSOCIATION  
OF GREATER KANSAS CITY**



600 EAST 103<sup>RD</sup> STREET • KANSAS CITY, MISSOURI 64131-4300 • (816) 942-8800 • FAX (816) 942-8367 • www.kchba.org

**Written Testimony on SB 152  
Phil Perry, Staff VP, Governmental Affairs  
Senate Committee on Transportation  
February 12, 2009**

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today. My name is Phil Perry and I am the Staff VP of Governmental Affairs for the Home Builders Association of Greater Kansas City, representing over 850 members and associates in the metropolitan area.

The Home Builders Association of Greater Kansas City believes that SB 152 will create an unnecessary burden on our members and not really solve the problem it tries to correct. We feel that this bill does not really address the real problem of load securement for individuals operating vehicles of less than 10,001 pounds while creating regulations that would increase the paperwork for our small business members.

In these troubling economic times, do we really want to add new regulations for small businesses that are already downsizing to stay afloat? Some of these regulations would increase paperwork for driver qualification files and increase cost to provide physical exams, keeping complex records of time working and time off, new and costly markings on vehicles, and daily inspection requirements that are costly and time consuming. Additionally these regulations would expose our members and other small businesses to costly litigation.

We believe that this approach to the problem as opposed to public education on the securing of loads is an expensive and unneeded approach and urge you to **not recommend** SB 152 for passage.

Thank you very much for your time.

**Before the Senate Transportation Committee**  
**Comments by the**  
**Staff of the Kansas Corporation Commission**  
**February 12, 2009**

**Senate Bill 153**

Chairperson Umbarger 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 SB 153.

SB 153 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 exist 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.





# Kansas Motor Carriers Association

Trucking Solutions Since 1936

## Legislative Testimony

before the

### SENATE TRANSPORTATION COMMITTEE

Sen. Dwayne Umbarger, Chairman

Thursday, February 12, 2009

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Executive Director

**MR. CHAIRMAN AND MEMBERS OF THE  
SENATE TRANSPORTATION COMMITTEE:**

I am Kevin Gregg, director of industry relations for the Kansas Motor Carriers Association. On behalf of over 1,100 member firms of KMCA, I appear before you in support of Senate Bill 153.

SB 153 is a technical cleanup bill that will remove redundancies in statute and clarify definitions in KSA 66-1,108-109. In KSA 66-1, 108, vehicles not meeting the definition of a Commercial Motor Vehicle will be removed from the economic regulation of the Kansas Corporation Commission (KCC). Changes to KSA 66-1, 109, include the removal of a duplicate exemption from Section (a), for passenger carriers who operate as a part of a general transit system, as the exemption exists in Section (j). Language will also be removed in Section (d) that was relevant prior to deregulation of the industry in the mid-90's, but is not longer necessary. The word "paving" will be removed from Section (m), Section (s) will be stricken entirely and exemptions are proposed which would exempt non-profit organizations, cotton modules travelling from field to gin and equipment used for the custom harvesting of silage from the economic regulation of the Kansas Corporation Commission.

Thank you for the opportunity to appear before you today in support of SB 153 and I would be pleased to respond to any questions you may have.



# INTRASTATE / INTERSTATE JURISDICTION COMPARISON

ECONOMIC APPLICABILITY	
Intrastate Commerce Kansas Corporation Commission (KCC)	Interstate Commerce Federal Motor Carrier Safety Administration (FMCSA)
<p><b>K.S.A. 66-1,109 – Exempts certain Commercial Motor Carriers</b> (See the KCC “Procedures for Safety Compliance Manual” pages 33 &amp; 33a).</p> <p><b><u>K.A.R. 82-4-1(c) – Defines Commercial Motor Vehicles:</u></b></p> <p>(c) "Commercial motor vehicle" means any of the following, except when used in 49 C.F.R. Part 382:</p> <p>(1) A vehicle that has a gross vehicle weight rating or gross combination weight rating of <u>10,001 or more pounds</u>;</p> <p>(2) a vehicle designed to transport <u>16 or more passengers</u>, including the driver;</p> <p>(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</p> <p>(4) a vehicle used in the transportation of hazardous materials in a quantity requiring placarding under 49 C.F.R. Part 172, Subpart F.</p>	<p><b>CFR Title 49 Part 390.5 – Defines – Commercial Motor Vehicle:</b> <i>Commercial motor vehicle</i> means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or <u>property</u> when the vehicle— <i>Need Fed. Language (Cargo)</i></p> <p>(1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (<u>10,001 pounds</u>) or more, whichever is greater; or</p> <p>(2) Is designed or used to transport more than <u>8 passengers</u> (including the driver) for compensation; or</p> <p>(3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or</p> <p>(4) Is used in <u>transporting material found</u> by the Secretary of Transportation <u>to be hazardous</u> 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.</p> <p><b>CFR Title 49 Part 13506 – Misc. Motor Carrier Exemptions</b> (See the KCC “Procedures for Safety Compliance Manual” pages 37 &amp; 37a); Federal exemption include:</p> <ul style="list-style-type: none"> <li>• Exempt intra-city commercial zones;</li> <li>• Exempt motor carrier (unprocessed agricultural products);</li> <li>• Private motor carrier.</li> </ul>



# INTRASTATE / INTERSTATE JURISDICTION COMPARISON

## SAFETY APPLICABILITY

<b>Intrastate Commerce</b> <b>Kansas Corporation Commission (KCC)</b>	<b>Interstate Commerce</b> <b>Federal Motor Carrier Safety Administration (FMCSA)</b>
<p><b>K.A.R. 82-4-1(c) – Defines Commercial Motor Vehicles</b></p> <p><b>K.S.A. 66-1,129 – KCC Authority to Regulate Safety &amp; Statutory Exceptions</b>                      (See the KCC “Procedures for Safety Compliance Manual” pages 34, 34a, 34b &amp; 34c).</p> <p><b>K.S.A. 8-2-128(f) – Driver’s Licenses – Definitions:</b></p> <p>(f) "commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property, if:</p> <ul style="list-style-type: none"> <li>(1) The vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating, as determined by rules and regulations adopted by the secretary, but shall not be more restrictive than the federal regulation;</li> <li>(2) the vehicle is designed to transport 16 or more passengers, including the driver; or</li> <li>(3) the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. 172, subpart F;</li> </ul> <p>(See also, the KCC “Procedures for Safety Compliance Manual” pages 3a &amp; 3b).</p>	<p><b>CFR Title 49 Part 390.5 – Defines – Commercial Motor Vehicle</b></p> <p><b>CFR Title 49 Part 383 – CDL Requirements and Exceptions:</b></p> <p><i>Commercial motor vehicle (CMV)</i> means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle—</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 pounds or more); or</li> <li>(c) Is designed to transport 16 or more passengers, including the driver; or</li> <li>(d) Is of any size and is used in the transportation of <i>hazardous materials</i> as defined in this section.</li> </ul>

e-01

# INTRASTATE / INTERSTATE JURISDICTION COMPARISON

10-3

REGISTRATION (Vehicle Tags)	
Intrastate Commerce Registration	Interstate Commerce Registration
<p><b>K.S.A. 8-143 - County Registration</b></p> <p><b>K.S.A. 8-128 - Registration of vehicles, exceptions</b>  <u>state exemptions:</u></p> <ul style="list-style-type: none"> <li>• Implements of husbandry;</li> <li>• All-terrain vehicle;</li> <li>• Road roller or road machinery</li> <li>• Fire truck;</li> <li>• School buses owned by a school</li> <li>• Farm trailer carrying 6000 pounds</li> <li>• <u>Self-propelled cranes</u></li> <li>• Oil well servicing and clean out</li> <li>• Truck permanently mounted with a hydraulic concrete pump</li> </ul>	<p><b>K.S.A. 8-1,100 - 125 - International Registration Plan (IRP)</b></p> <p><b>K.A.R. 92-51-53 - <u>List of exemptions</u></b></p> <p style="text-align: center;"><b>Registration Applicability</b></p> <p>A motor vehicle having:</p> <ul style="list-style-type: none"> <li>• 2 axles and a GVW or registered weight exceeding 26,000 pounds; or</li> <li>• 3 or more axles; or combination vehicles with a GVW or a combined registered gross weight</li> <li>• Motor vehicles used in combination with a GCVW or combined registered gross weight exceeding 26,000 pounds</li> </ul> <p><i>* Intrastate commercial motor vehicles are exempt from IRP registration; <u>however</u>, they are allowed to be included in with the fleet registration <u>if</u> the motor carrier wishes to include them.</i></p> <p>(See the KCC "Procedures for Safety Compliance Manual" pages 36 &amp; 36a).</p>



# INTRASTATE / INTERSTATE JURISDICTION COMPARISON

## REGISTRATION (Fuel Tax)

Intrastate Commerce Registration	Interstate Commerce Registration
<p><b>Intrastate commercial motor vehicles are exempt and not allowed to be included in with the fleet registration.</b></p>	<p><u>Kansas's Implementing Statutes for IFTA:</u>  <b>K.S.A. 79-34,108 – K.S.A 79-34,165</b> – Applicable Motor Vehicle Fuel Tax Statutes  <b>K.S.A. 66-1318</b> – K. H. P. Enforcement Authority  <b>K.S.A. 66-1324</b> – Motor Carrier Required Inspections  <b>K.A.R. 92-13-1 – 12</b> - Interstate Motor Carrier Fuel Use Tax Application</p> <p><b>International Fuel Tax Agreement (IFTA)</b></p> <ul style="list-style-type: none"> <li>• A motor vehicle having two axles and a GVW or registered weight exceeding 26,000 pounds; or</li> <li>• A motor vehicle having 3 or more axles; or</li> <li>• Motor vehicles used in combination with a GCVW or combined registered gross weight exceeding 26,000 pounds</li> </ul>

7-01



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## Senate Transportation Committee

February 12, 2009  
Topeka, Kansas

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

Thank you Chairman Umbarger and members of the Senate Transportation Committee for the opportunity to comment in support of SB 153. 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. We respectfully request the committee support this initiative and advance SB 153 favorably.

If you have any questions regarding our testimony, please feel free to call me. Thank you for your consideration.

Leslie Kaufman, Executive Director  
Kansas Cooperative Council

Senate Transportation  
2-12-09  
Attachment 11