

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 8:30 a.m. on February 18, 2009, in Room 136-N of the Capitol.

All members were present except:

Senator Bob Marshall- 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

Others attending:

See attached list.

The Chairman called for final action on **SB 59 - Primary seat belt law, penalty.**

Staff distributed a balloon amendment clarifying the effective date to begin with publication in the Kansas Register, a warning citation issued prior to June 30, 2009, then on and after June 30, fined at \$25. Docket fees are not included in the fine (Attachment 1). Following discussion, Senator Schmidt moved, Senator Brownlee seconded, to adopt the proposed amendment. Motion carried.

Senator Schmidt moved, Senator Brownlee seconded, to recommend SB 59 as amended favorably for passage. Motion carried.

Final action on **SB 37 - Regulating traffic, concerning golf carts** continued.

Hank Avila gave an overview of the proposed substitute for **SB 37 (Attachment 2)**. Discussion followed and the committee indicated that they wanted to return to the original bill language with the slow moving vehicle emblem amendment adopted, removing all of the new substitute bill.

Senator Petersen moved, Senator Kultala seconded, to recommend the original SB 37, as amended, favorably for passage. Motion carried.

Final action on **SB 152 - Regulation of certain motor carriers by the corporation commission.**

Staff distributed and reviewed a proposed amendment from Senator Apple (Attachment 3). Senator Schmidt requested that any related rules and regulations be adopted by a date certain, on or before July 1, 2010. Senator Schmidt moved, Senator Brownlee seconded, to adopt the date certain amendment. Following discussion, Senator Schmidt withdrew her amendment. After further discussion on the original proposed amendment, Senator Apple moved, Senator Schmidt seconded, to further amend the amendment by adding "except as provided in paragraphs (8) and (9) of subsection (a)" to paragraphs (c)(3)(A) and (B) on page 2, and to adopt the Apple amendment as amended. Motion carried.

Senator Apple moved, Senator Brownlee seconded, to recommend SB 152 as amended favorably for passage. Motion carried.

The Chairman called attention to final action on **SB 153 - Regulation of certain motor vehicles and motor carriers by the corporation commission.**

An amendment request from Bill Miller, American Subcontractors Association, was distributed and brought to the committee's attention (Attachment 4). Clarification of current law was requested from Mike Hoeme, Director of Transportation for the Kansas Corporation Commission. Discussion followed and the Chairman indicated the committee's concerns to get the language correct. The bill will be put on hold until a later date.

The meeting was adjourned at 9:27 a.m. The next meeting is scheduled for February 26, 2009.

# SENATE TRANSPORTATION COMMITTEE GUEST LIST

DATE: 2/18/09

NAME	REPRESENTING
Torry Heidner	KDOT
Pete Bodyk	KDOT
Bill Sneed	State Farm
Phyllis Lauriere	<del>Child</del> Children's Mercy Hospital
PHIL PERRY	HRBA of OKC
Lori Church	KAPCIC
MAT HELGEMAN	FITZGERALD - SEN. KUTNER
Deann Williams	KDOR
TOM WHITAKER	KMCA
KEVIN GREGG	KMCA
TOM DAY	KCC
BILL MILLER	ASA
Sandy Jacquot	LKM
Tom Davenport	KCC
M. J. HAN	KCC
DAN MEYER	KHP
Melissa Walburn	KCC
Martha Jean Smith	KMHA
Matt Casey	GBA

( Senate Transportation Committee Guest List

2/18/09 continued

Wendy ~~Murphy~~ KAPA

Wendy Moses KAPA

Wigh Keck Hein Law firm

**SENATE BILL No. 59**

By Committee on Transportation

1-21

Proposed Amendment  
For Consideration by  
Senate Committee on Transportation

Senate Transportation  
2-18-09  
Attachment 1

9 AN ACT relating to motor vehicles; concerning the use of safety belts;  
10 amending K.S.A. 2008 Supp. 8-2503 and 8-2504 and repealing the  
11 existing sections.

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2008 Supp. 8-2503 is hereby amended to read as  
15 follows: 8-2503. (a) Except as provided in K.S.A. 8-1344 and 8-1345, and  
16 amendments thereto, and in subsection (b) ~~or (e)~~, each ~~front seat~~ occu-  
17 pant of a passenger car manufactured with safety belts in compliance with  
18 federal motor vehicle safety standard no. 208, ~~who is 18 years of age or~~  
19 ~~older~~, shall have a safety belt properly fastened about such person's body  
20 at all times when the passenger car is in motion.

21 (b) ~~Each occupant of a passenger car manufactured with safety belts~~  
22 ~~in compliance with federal motor vehicle safety standard no. 208, who is~~  
23 ~~at least 14 years of age but less than 18 years of age, shall have a safety~~  
24 ~~belt properly fastened about such person's body at all times when the~~  
25 ~~passenger car is in motion.~~

26 ~~(e)~~ This section does not apply to:

27 (1) An occupant of a passenger car who possesses a written statement  
28 from a licensed physician that such person is unable for medical reasons  
29 to wear a safety belt system;

30 (2) carriers of United States mail while actually engaged in delivery  
31 and collection of mail along their specified routes;

32 (3) newspaper delivery persons while actually engaged in delivery of  
33 newspapers along their specified routes; or

34 (4) an occupant of a passenger car required to be protected by a safety  
35 restraining system under the child passenger safety act.

36 ~~(c)~~ The secretary of transportation shall initiate an educational  
37 program designed to encourage compliance with the safety belt usage  
38 provisions of this act.

39 ~~(e)~~ (d) The secretary shall evaluate the effectiveness of this act and  
40 shall include a report of its findings in the annual evaluation report on its  
41 highway safety plan that it submits under 23 U.S.C. 402.

42 ~~(f)~~ Law enforcement officers shall not stop drivers for violations of  
43 subsection (a) in the absence of another violation of law. A citation for

1 violation of subsection (a) shall not be issued without citing the violation  
2 that initially caused the officer to effect the enforcement stop.

3 Sec. 2. K.S.A. 2008 Supp. 8-2504 is hereby amended to read as fol-  
4 lows: 8-2504. (a) ~~(1) From and after July 1, 2007, and prior to January 1,~~  
5 ~~2008, a law enforcement officer shall issue a warning citation to anyone~~  
6 ~~violating subsection (b) of K.S.A. 8-2503, and amendments thereto.~~

7 ~~—(2) Persons violating subsection (a) of K.S.A. 8-2503, and amend-~~  
8 ~~ments thereto, shall be fined \$30 including court costs, and~~

9 ~~—(3) from and after January 1, 2008, persons violating subsection (b)~~  
10 ~~of K.S.A. 8-2503, and amendments thereto, shall be fined \$60 including~~  
11 ~~court costs.~~

12 (b) No court shall report violation of this act to the department of  
13 revenue.

14 (c) Evidence of failure of any person to use a safety belt shall not be  
15 admissible in any action for the purpose of determining any aspect of  
16 comparative negligence or mitigation of damages.

17 Sec. 3. K.S.A. 2008 Supp. 8-2503 and 8-2504 are hereby repealed.

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

(1) From and after the effective date of this act and prior to June 30, 2009, a law enforcement officer shall issue a warning citation to anyone violating subsection (a) of K.S.A. 8-2503, and amendments thereto.  
(2) On and after June 30, 2009,

\$25

Kansas register

## Proposed Sub. For SB 37-Alternative Motor Vehicles

### **Definitions**

The bill would define an “alternative motor vehicle” as any motor vehicle including but not limited to, golf carts, riding lawn mowers, lawn tractors and work-site utility vehicles, which cannot be registered because they lack vehicle identification numbers or cannot be otherwise registered. This definition does not include an all-terrain vehicle or micro-utility truck.

The bill would define “golf cart” as a motor vehicle that has (a)not less than three wheels in contact with the ground, (b)an unladen weight of not more than 1,800 pounds, (c)is designed to be operated at not more than 25 miles per hour, and (d)is designed to carry not more than four persons including the driver.

### **Operation Restrictions**

The bill would make it unlawful to operate an alternative motor vehicle on:

- Any public highway or street, except as authorized and regulated under the powers granted to local authorities under current law (KSA 8-2002);
- An interstate highway, U.S. Highway, or state highway; and
- Any street or highway with a posted speed limit of greater than 30 miles per hour.

**Golf Carts Safety Requirements** The bill would require a golf cart, if authorized to operate as an alternative motor vehicle on a public street or highway to be equipped with:

- Efficient brakes and brake lights;
- Reliable steering apparatus and rearview mirror;
- Red reflectorized warning devices in both the front and rear, turn signal equipment; and
- A slow moving vehicle emblem.

**Other Related Provisions** The bill also would:

- Allow an alternative motor vehicle to cross a U.S. or state highway;
- Set the fine at \$60 for the unlawful operation of an alternative motor vehicle; and
- Exempt an alternative motor vehicle from registration.



**SENATE BILL No. 152**

By Committee on Transportation

2-2

9 AN ACT concerning motor carriers; relating to regulation thereof;  
10 amending K.S.A. 2008 Supp. 66-1,129 and repealing the existing  
11 section.

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

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

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

40 (7) Motor carrier transportation requirements that are consistent  
41 with continuation of the federal motor carrier safety assistance program  
42 and other federal requirements concerning transportation of hazardous  
43 materials.

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

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

1 (b) No rules and regulations adopted by the commission pursuant to  
2 this section shall require the operator of any motor vehicle having a gross  
3 vehicle weight rating or gross combination weight rating of not more than  
4 10,000 pounds to submit to a physical examination, unless required by  
5 federal laws or regulations.

6 (c) Any rules and regulations of the commission, adopted pursuant  
7 to this section, shall not apply to the following, while engaged in the  
8 carriage of intrastate commerce in this state:

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

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

21 (3) ~~(A) Except for motor vehicles under subparagraph (B), motor ve-~~  
22 ~~hicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying~~  
23 ~~tools, property or material belonging to the owner of the vehicle, and~~  
24 ~~used in repair, building or construction work, not having been sold or~~  
25 ~~being transported for the purpose of sale, except vehicles transporting~~  
26 ~~hazardous materials which require placards.~~

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

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

38 ~~(5) (4) The operation of hearses, funeral coaches, funeral cars or am-~~  
39 ~~bulances by motor carriers.~~

40 ~~(6) (5) Motor vehicles owned and operated by the United States, the~~  
41 ~~District of Columbia, any state, any municipality or any other political~~  
42 ~~subdivisions of this state.~~

43 ~~(7) (6) Any motor vehicle with a normal seating capacity of not more~~

(A) Except for motor vehicles under subparagraph (B), motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards.

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

(4)



1 than the driver and 15 passengers while used for vanpooling or otherwise  
 2 not for profit in transporting persons who, as a joint undertaking, bear or  
 3 agree to bear all the costs of such operations, or motor vehicles with a  
 4 normal seating capacity not more than the driver and 15 passengers for  
 5 not-for-profit transportation by one or more employers of employees to  
 6 and from the factories, plants, offices, institutions, construction sites or  
 7 other places of like nature where such persons are employed or accus-  
 8 tomed to work.

9 ~~(8)~~ (7) Motor vehicles used to transport water for domestic purposes,  
 10 as defined by subsection (c) of K.S.A. S2a-701, and amendments thereto,  
 11 or livestock consumption.

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

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

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

Amendments to SB 153

Our balloon makes two amendments to SB 153, which we believe clarify existing law by codifying existing practices and application of law regarding commercial motor vehicles.

The first amendment puts into statute a definition of commercial motor vehicle consistent with federal law. Currently, there exists only one definition of the term Commercial Motor Vehicle, and that definition is in Rules and Regulations (KAR 82-4-1) That regulation is much broader than federal requirements and ultimately gives the KCC broad freedom to apply the CMV definition to many more situations than would be authorized under federal law.

For consistent enforcement and clarity regarding applicability of these requirements, a statutory definition is a better approach.

The second amendment codifies a court ruling from 2007 regarding the application of motor carrier requirements on self propelled cranes which are not subject to current license and registration requirements. In July, 2007, Judge Theis overturned a KCC order which attempted to extend regulatory authority – as motor carriers – construction equipment like self propelled cranes. That ruling, which ratified the previous exemption, has not been appealed by the KCC.