

SESSION OF 2003

**SECOND CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2160**

As Agreed to April 4, 2003

**Brief \***

HB 2160 pertains to Kansas Corporation Commission motor carrier fees and regulations.

**Fees.** HB 2160 would amend existing law that establishes fees for applications for new and renewal motor carrier certificates, licenses, or authority. The application fee for a motor common carrier certificate, license, or authority would be increased from \$25 to no more than \$250. The statutory application fee for intrastate private and interstate exempt motor carrier registration would be \$100. The application fee for extension, rerouting, removal of restrictions, or transfer of certificate and license would be increased from \$10 to \$100. Single-state motor carrier vehicle registration and annual renewal fees would be set at \$10 per vehicle. The fee for late renewals would be equal to the initial application fee.

The bill also revises numerous statutes pertaining to motor carriers and creates one new statute regarding motor carriers. The principal changes are described below.

**Contract Carrier Provisions.** The bill would:

- ! Require contract motor carriers transporting household goods or passengers to hold a certificate of convenience and necessity rather than a permit.
- ! Require other contract motor carriers to hold a certificate of public service rather than a permit.

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- ! Designate as public motor carriers those contract carriers with rates and tariffs on file with the Kansas Corporation Commission (KCC). The rates and tariffs on file would not change by virtue of the new designation.

The bill would also amend several statutes to eliminate the regulatory distinction between contract and public motor carriers to accommodate changes in regulatory practices such as a simplified application process and expanded service authority.

**Public Transportation Systems.** The bill would exempt from KCC economic regulation, organizations operating public transportation systems pursuant to federal law. These motor carriers, however, would continue to be subject to safety regulations.

**KCC Service of Orders and Decisions.** The bill would eliminate the requirement that the KCC use certified mail to send copies of operating authority orders to motor carriers. Instead, only those KCC orders that may have a negative impact on a motor carrier's authority, and initial orders in show cause proceedings, would be sent by certified mail.

**Interim Certificate of Public Service.** These provisions would allow any motor carrier that demonstrates that it is fit, knowledgeable of, and in compliance with KCC safety rules and regulations, liability and cargo insurance requirements, and other state laws, to receive a 30-day interim certificate of public service. A list of motor carrier applications would be published on the KCC website and include notation regarding whether an interim certificate has been granted to each applicant. If no protest to the granting of the certificate is received within 30 days of expiration of the interim certificate, the KCC would automatically grant a permanent certificate to the interim certificate holder. The bill also creates a procedure for persons who wish to oppose the KCC's grant of a permanent certificate. The KCC would be authorized to hold hearings on any application.

**Carrier Abandonment or Discontinuance of Service.** Under these provisions, if a motor carrier fails to annually renew its authority, certificate, or permit in a timely manner, that failure would constitute an application for abandonment, and the motor carrier's authority would be terminated. The bill would also require that the KCC post on its website a list of applications for abandonment or discontinuance of service.

**Prosecution of Motor Carriers.** The bill would make it a misdemeanor to fail to comply with any KCC: order requiring payment of a penalty; cease and desist order; or out-of-service order. Conviction of such a misdemeanor would be a maximum fine of \$500. Current law allows for criminal prosecution of motor carriers who fail to apply for authority, make a report required by the KCC, or deny the KCC access to records. Conviction of one of those violations is a misdemeanor subject to a maximum \$500 fine.

**Vehicles Subject to KCC Safety Regulations.** The bill would require commercial motor vehicles transporting implements of husbandry to comply with KCC safety regulations. Existing law exempts from KCC safety regulations the operation of vehicles used to service, repair, and transport implements of husbandry by a person engaged in the business of buying, selling, or exchanging such implements within 100 miles of that person's business.

The bill would exempt from KCC safety regulations motor carriers with a gross vehicle weight rating of 26,000 pounds or less carrying tools, property, or material belonging to the vehicle's owner and used for repair or construction work. The exemption would apply only when such equipment and materials are being transported to or from an active construction site located within a 25-mile radius of the motor carrier's principal place of business.

**Impoundment of Motor Carriers.** The bill would authorize the Director of the KCC's Transportation Division to request the Kansas Highway Patrol to impound a motor carrier's vehicle or vehicles when the carrier fails to:

- ! Comply with an out-of-service order;
- ! Comply with a cease or desist order;
- ! Obtain KCC operating authority;
- ! Pay a KCC-assessed civil penalty; or
- ! Comply with any other KCC order.

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

The KCC would be authorized to enter into contracts or agreements with the Kansas Highway Patrol to provide facilities and personnel necessary to impound vehicles. Currently, the KCC has no impoundment authority. The bill further provides that if the owner of a motor vehicle which has been impounded refuses to pay towing, impoundment storage, or other fees or fails to take possession of the vehicle within 30 days following the date of the expiration of the impoundment period, the vehicle will be deemed abandoned and may be disposed of by the person having possession. If the person having possession is a public agency, disposition must comply with procedures for notice and public action set forth in KSA 8-1102. Finally, if the person having possession is not a public agency, disposition must comply with KSA 8-1103 through 8-1108.

**Enforcement of KCC Orders, Decisions, or Rules and Regulations.** The bill would repeal the authority of the KCC to designate inspectors to have general law enforcement authority.

**Motor Carrier Fees.** These provisions would increase the fee for a temporary trip permit from \$2.50 to \$10 and the “trip fee” for emergency or special occasion trips from \$5 to \$15. In addition, the bill would authorize the KCC to enter into a contract authorizing the Kansas Department of Revenue to issue temporary and emergency motor carrier permits.

## **Background**

The first Conference Committee deleted language pertaining to railroad safety regulations (New Section 2) and added provisions relating to the impoundment of vehicles by the KCC. The second Conference Committee established a cap, rather than a set amount, for the application fee for a motor common carrier certificate, license, or authority.

The Senate Transportation Committee amended HB 2160 to incorporate the substance of HB 2244 as the latter bill was amended by the House Transportation Committee. HB 2244 was on General Orders in the House at the time the Senate Committee took action on HB 2160.

Testimony in support of HB 2160 was provided to the House Transportation Committee by a representative of the Transportation Division of the KCC. The KCC representative stated that existing

motor carrier application and registration fees have been in place for over 60 years. Also, according to that testimony the proposed fee structure would bring Kansas fees in line with fees charged in surrounding states.

Representatives of the KCC and the Kansas Motor Carriers Association presented testimony in support of HB 2160 at the House Transportation Committee's hearing on the bill. No opponents presented testimony at the House Committee hearing.

The Division of the Budget's fiscal note for the introduced version of HB 2160 states that the KCC estimates that enactment of the bill would produce additional revenue of between \$178,745 and \$228,745 annually beginning in FY 2004. The estimate is based on the number of applications received by the KCC in FY 2002. The estimate assumes 283 new common carrier applications at an increased fee of \$225 (\$63,675); 723 private and interstate exempt new carrier applications at an increase of \$90 each (\$65,070); and 200–400 late fees at \$250 each (\$50,000– \$100,000). According to the fiscal note, the bill would not require additional expenditures on the part of the agency. Any fiscal effect associated with the passage of the bill is not reflected in the *FY 2004 Governor's Budget Report*.

HB 2244 was supported in the House Transportation Committee by the KCC's Director of Transportation and the Executive Director of the Kansas Motor Carriers Association.

The Director of Transportation of the KCC explained that the purpose of HB 2244 was to update current KCC regulatory practices to reflect a change in the motor carrier regulatory environment. The Director told the Committee that existing KCC regulations no longer made the distinction between the contract and public motor carriers, and very few contract motor carrier permits are actually issued. The Director also noted that there is currently no significant difference in the application process for public and contract motor carriers, and their safety regulation and insurance requirements are very similar. In addition, most contract carriers apply for public motor carrier authority in order to undertake additional transportation operations. According to the Director, HB 2244 would accommodate these changes in the motor carrier regulatory practices by eliminating the remaining statutory distinction between these two types of motor carriers.

No one presented testimony to the House Transportation Committee in opposition to HB 2244.

The House Transportation Committee's amendments to HB 2244 pertaining to railroads and public transportation regulation were proposed by the Director of Transportation of the KCC. The Committee also added the amendment pertaining to the regulation of carriers that carry tools, property, or material to and from a construction site.

The Division of the Budget's fiscal note for the introduced version of HB 2244 states that the bill would increase revenue received by both the KCC and the Department of Revenue. The total anticipated increased collection of fees for FY 2004 is \$145,650. In the KCC, the Motor Carrier License Fee Fund is expected to increase by \$17,500 in FY 2004. Raising the temporary fee from \$2.50 to \$10.00 would increase revenues by \$7,500 (1,000 permits at \$10 each, minus the \$2,500 currently being collected). Raising trip fees from \$5 to \$15 is expected to increase KCC revenues by \$10,000 (1,000 permits at \$15 per permit, minus the \$5,000 currently being collected).

These types of permits also may be purchased at the Department of Revenue and all proceeds are deposited directly into the Motor Carrier License Fee Fund of the KCC. The Department of Revenue estimates that it would collect an additional \$128,150 in FY 2004 if the bill is passed. The estimate is based on permits sold through the Motor Carrier Services Bureau of the Division of Vehicles during calendar year 2002. The fiscal note also states that passage of the bill would require revision to the Department's tax automated system. The required programming attributable to the bill will be performed by existing staff of the Department. However, if the combined effect of implementing the bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, expenditures for outside contract programmers beyond the Department's current budget may be required. Any fiscal effect associated with the bill is not included in the *FY 2004 Governor's Budget Report*.