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**Legislative Testimony
by the
Kansas Motor Carriers Association
before the
Senate Transportation Committee
Senator Mike Petersen, Chairman
Thursday, February 17, 2022**

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

I am Tom Whitaker, Executive Director of the Kansas Motor Carriers Association. I appear before you this morning along with Deann Williams, KMCA's Associate Executive Director, representing our 700 plus members and the highway transportation industry in support of Senate Bill No. 494. SB 494 is legislation that will spur safety benefits for truck drivers and the motoring public to improve the safety performance of motor carriers operating in Kansas.

KMCA works to strengthen the trucking industry and a safe trucking industry is at the core of our mission. Safe and responsible trucking is an interest shared by KMCA member companies – large and small. Make no mistake about it – SB 494 is simply a bill to free up motor carriers to pursue safety measures in conjunction with owner/operators (independent contractors) that have proven effective with company employed drivers.

Today, Kansas law uses the common law test for distinguishing an independent contractor from an employee. The right or exercise of control is the key factor under the common law test. A trucking company that utilizes truck telematics to monitor a driver's safety performance and coaches or trains that driver when risky behaviors are detected may see improved safety outcomes with its employee drivers. However, when trying to apply the same, beneficial safety measures to its independent contractors, requiring technologies, monitoring driving, and coaching or training can all be viewed as employer-like control. The risk of misclassification, of independent contractors being treated as an employee under the law, is a real obstacle to trucking companies pursuing these safety measures.

SB 494 removes that obstacle. The bill provides that requiring safety technology or monitoring a driver's safety performance and using such safety technology to coach the driver on safe driving issues will not factor into determining whether the driver is an independent contractor or an employee under Kansas law.



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SB 494 is a narrow bill focused on a measure intended and primarily used for safety and does not affect other indicators of, say, economic control, that may result in misclassification.

Independent contractors have played an important role in trucking from the beginning of the trucking industry. It is common practice to use owner operators in the agricultural industry in Kansas, especially hauling grain and livestock. Because of a unique federal regulatory structure, trucking companies are generally responsible for the safety performance or lack thereof of their owner operators. Most other businesses and industries are not responsible for the acts of their independent contractors.

SB 494 will free trucking companies from having to choose between pursuing safety measures and facing an increased misclassification risk or not pursuing certain safety measures to avoid the misclassification risk. Permitting motor carriers to pursue voluntary safety measures benefits the truck driver, the motoring public, and the motor carrier. It harms no one.

We thank you for the opportunity to appear before you today, and on behalf of the Kansas Motor Carriers Association, we ask the Senate Transportation Committee to report SB 494 favorably to the full Senate. We would be pleased to respond to any questions you may have.

