



# Olathe Police Department

501 East 56 Highway • Olathe, Kansas 66061

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**Michael S. Butaud**  
Chief of Police

February 6, 2024

House Committee on Transportation  
Rep. Shannon Francis, Chair  
Rep. Lance Neelly, Vice Chair  
Rep. Barbara Ballard, Ranking Minority Member

Subject: Support for HB 2681

Committee Members –

I wanted to bring to your attention a discrepancy between federal regulation and our state law/local ordinance as to when a Commercial Driver's License (CDL) is required. This is a significant issue because federally a driver may be required to have a CDL based on actual weight, but under our state law/city ordinance the driver is not.

For example, a truck with a Gross Vehicle Weight Rating (GVWR) of 12,000 lbs. pulling a trailer with a GVWR of 14,000 lbs. does not need a CDL (only 26,000 lbs.). If an inspector weighs that combination and, for example, the trailer physically weighs 16,000 lbs., it's over 26,000 lbs. total, and the trailer is over 10,000 lbs. (12,000 truck + 16,000 trailer = 28,000 lbs.), which under federal regulation would require a Class A CDL. Under this scenario State law does not require a CDL because it only address gross vehicle weight ratings.

49 CFR 383.5 (federal regulation) defines a CDL required vehicle as follows:

*Commercial motor vehicle (CMV)* means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle is a—

- (1) Combination Vehicle (Group A)—having a **gross combination weight rating or gross combination weight** of 11,794 kilograms or more (26,001 pounds or more), **whichever is greater**, inclusive of a towed unit(s) with a **gross vehicle weight rating or gross vehicle weight** of more than 4,536 kilograms (10,000 pounds), **whichever is greater**; or
- (2) Heavy Straight Vehicle (Group B)—having a **gross vehicle weight rating or gross vehicle weight** of 11,794 or more kilograms (26,001 pounds or more), **whichever is greater**; or
- (3) Small Vehicle (Group C) that does not meet Group A or B requirements but that either—
  - (i) Is designed to transport 16 or more passengers, including the driver; or



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(ii) Is of any size and is used in the transportation of hazardous materials as defined in this section.

The federal regulation definition uses the terminology, "gross vehicle weight rating", or the "gross vehicle weight", whichever is greater. In other words, that means the GVWR (value set by the manufacturer on the vehicle, or the actual weight when weighed on a scale). Several years ago, this was an interpretation question in 49 CFR 383.5, which said whichever is greater. However, now it's in the Federal regulation.

Kansas does not adopt Part 383 in the Kansas Administrative Regulation (KAR 82-4-3). We have to operate out of our Kansas Statutes Annotated (K.S.A.) 8-2,128, where it defines a commercial motor vehicle. Our state law only uses the rating, not the actual weight:

"commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property, if: (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; (2) the vehicle is designed to transport 16 or more passengers, including the driver; or (3) the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. § 172, subpart F; (emphasis added)

I support the proposed change in the language of K.S.A 8-2,128 to reflect actual weight in addition to the GVWR. Olathe commercial vehicle inspectors are contacting drivers who are operating a 14,000 GVWR truck while pulling a 12,000 GVWR trailer (26,000 lbs. GVWR). By Federal and State law, vehicles with a GVWR of 26,000 or less, drivers are not required to have a commercial driver's license. Inspectors are finding that a vast majority of these truck and trailer combinations have an actual weight of well over 26,000 lbs., with the trailer carrying well over 10,000 lbs. (the requirement for a class A CDL). Inspectors come across this exact scenario while conducting inspections (GVWR of 26,000 lbs. / Actual weight over 26,000 lbs.) on a weekly basis. Inspectors can place them out of service under Federal regulation; however, there is no recourse locally or on the State level. Because the State definition in K.S.A. 8-2,128 only lists the weight rating and not actual weight, Inspectors are unable to cite (traffic citation) drivers for not having the proper driver's license. Adding language of the actual



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weight or GVWR into K.S.A 8-2,128, to align with the Federal regulation governing commercial driver's licenses (49 CFR

383.5), would allow Kansas law enforcement to take appropriate action in issuing citations, ultimately making the roads safer in the State of Kansas. The actual weight being hauled (over 26,000 lbs.) necessitates the extra oversight/training associated with a commercial driver's license (CDL), making the driver more prepared to safely operate with the additional weight.

I request that the Committee recommend favorably HB 2681 to make the proposed change in K.S.A 8-2,128.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Matt Misemer', with a long horizontal line extending to the left.

Officer Matt Misemer  
Commercial Motor Vehicle Inspector  
Olathe Police Department