

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:40 A.M. on March 3, 2005 in Room 527-S of the Capitol.

All members were present except:
Anthony Hensley- excused

Committee staff present:
Hank Avila, Kansas Legislative Research Department
Bruce Kinzie, Revisors of Statutes
Maggie Breen, Committee Secretary

Conferees appearing before the committee:
Mike Hoeme, Kansas Corporation Commission

Ken Gudenkauf, Kansas Department of Transportation
Carmen Alldritt, Department of Revenue, Division of Revenue

Others attending:
See attached list.

HB 2123 - Transfer power, duties and functions of KCC relating to railroads to KDOT

Proponents:

Mike Hoeme, Director of Transportation Division of the KCC, testified as a proponent to **HB 2123**. In the bill, KCC proposes to transfer its limited Railroad statutes and authority over to the Kansas Department of Transportation. In 1999, many of the enabling statutes regarding the KCC's authority to regulate railroads were repealed or preempted. Consequently, over the past 18 months, the KCC has worked with KDOT and the railroads on this proposed legislation to rationalize existing state law with current practices and regulatory duties. It is agreed that KDOT is better equipped with the engineering and technical knowledge needed to exercise residual authority over the railroads that has not been assumed by the federal government. It will also eliminate many duplicate processes. There is a minimal financial impact on the Commission for giving up this area of regulation. The bill will 1) remove any reference to Railroads as a common carrier, 2) repeal the statutes regarding KCC authority that are re-enacted under Article 2 of Chapter 66 in order to transfer the authority to KDOT, and 3) make repeals necessary due to federal preemption. There is also one slight change they would like to propose. On page 2, line 26 and 27 under "common carriers," the words "express companies" and "sleeping-car companies" should be struck as they relate to railroads and it was not the intent to leave any reference to railroads in the definition of "common carriers." (Attachment 1)

Ken Gudenkauf, Legislative Liaison, KDOT, stated that **HB 2123** is basically a cleanup bill and they have the staff to take care of what's being transferred to them and they agree with it. They have worked closely with the KCC in accomplishing this transfer. They also agree with the amendment being made. (Attachment 2)

Senator Wilson said he assumed the Railroad Industry was in agreement to the bill. Pat Hubbell who has been associated with the railroads for 37 years said the industry was in agreement.

Senator Palmer questioned why it was being called a cleanup bill when it was really a big policy change. Mr. Hubbell said it really wasn't a policy change because the DOT has been handling all of the functions where the money comes through for grade crossing protection and really everything that's been going on with the industry. Plus all of the regulatory part if handled by the Service Transportation Board in Washington. That's all preempted.

Final Action

Senator Wilson moved to adopt the amendment to **HB 2123**. Senator Schmidt seconded the motion. Motion carried.

Senator Schmidt moved to pass **HB 2123** favorably as amended. Senator Wilson seconded the motion. Motion Carried.

CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on March 3, 2005 in Room 527-S of the Capitol.

HB 2215- Commercial driver's licenses, hazmat fee fund

Proponents:

Carmen Alldritt, Department of Revenue, Division of Vehicles, said that **HB 2215** is technical cleanup of 2004 legislation. The bill does three things. First, it creates a Hazardous Materials (hazmat) fee fund for the deposit and expenditure of fees collected when a person applies for hazmat endorsement on a Commercial Drivers License. The fees are then used for payment of the driver's background and fingerprint checks. Second, it brings Kansas into compliance with Transportation Security Administration (TSA) procedure concerning the notification of renewal. TSA has changed the notification time period from 180 days to 60 days, and 90 days to 30 days. And third, to insert a technical amendment which Bruce Kinzie has prepared. The amendment is cleanup dealing with Commercial Drivers License disqualifications, to correctly reference the federal requirements. (Attachment 3)

Bruce said the amendment is dealing with the Commercial Drivers License (CDL), not necessarily with the hazmat part of it. Two years ago we did the disqualification division for CDL. Direction came our from the federal government to do a more stringent disqualification. There were some internal references under K.S.A. 8-259, where it says you don't have to have an administrative hearing to have your license disqualified. Some of the provisions were under the CDL. So, if you were convicted under a particular charge you didn't get an administrative hearing before they suspended your license. Those references were incorrect. The first section of the amendment corrects them. It lists those provisions where your license is going to be disqualified, suspended, or revoked without having an administrative hearing, depending on what you were convicted under. The second change is the section where the disqualifications are actually set out. On page 2, Sec. 1, (1) (C) talks about being involved in a fatality, it says "is convicted of causing." (Attachment 4)

Senator Wilson moved to adopt the above amendments to **HB 2215**. Senator Schmidt seconded themotion. Motion carried.

Senator Wilson moved to pass the bill favorably as amended. Senator Schmidt seconded the motion.

Senator Petersen said he would be more comfortable if the committee waited until the next meeting before passing the amended bill. Senator Wilson withdrew his motion. Senator Schmidt withdrew her second.

Chairman Donovan asked Tom Whitaker, Kansas Motor Carriers Association, for his comments. Mr. Whitaker said they support the legislation, they don't have any choice. It's a fee funded bill. The drivers have to pay the \$90 fee in addition to the regular license fee.

Division of Revenue Press Release

Carmen Alldritt covered a press release given by Revenue Secretary Joan Wagnon granting a grace period for returning deployed military personnel. It allows returning military personnel to drive vehicle with expired registration for a period of 7 days, allowing adequate time to properly register the vehicle. This has been done before and greatly appreciated so the press release, dated February, 2004, was re-released this week as there is another group returning at this time. (Attachment 5)

Senator Schmidt moved to approve the minutes for the February 22 committee meeting. Senator Peterson seconded the motion. Motion carried.

The meeting adjourned at 9:12 a.m.

The next meeting is scheduled for March 8.