

SENATE BILL No. 36

By Committee on Transportation

1-18

1 AN ACT concerning the state corporation commission; relating to motor
2 carriers, definitions, registration; amending K.S.A. 66-125 and K.S.A.
3 2016 Supp. 8-135, 8-2703, 16-121, 66-1,108, 66-1,108b, 66-1,109 and
4 66-1,139 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2016 Supp. 8-135 is hereby amended to read as
8 follows: 8-135. (a) Upon the transfer of ownership of any vehicle
9 registered under this act, the registration of the vehicle and the right to use
10 any license plate thereon shall expire and thereafter there shall be no
11 transfer of any registration, and the license plate shall be removed by the
12 owner thereof. Except as provided in K.S.A. 8-172, and amendments
13 thereto, and 8-1,147, and amendments thereto, it shall be unlawful for any
14 person, other than the person to whom the license plate was originally
15 issued, to have possession thereof. When the ownership of a registered
16 vehicle is transferred, the original owner of the license plate may register
17 another vehicle under the same number, upon application and payment of a
18 fee of \$1.50, if such other vehicle does not require a higher license fee. If a
19 higher license fee is required, then the transfer may be made upon the
20 payment of the transfer fee of \$1.50 and the difference between the fee
21 originally paid and that due for the new vehicle.

22 (b) Subject to the provisions of ~~subsection (a)~~ of K.S.A. 8-198(a), and
23 amendments thereto, upon the transfer or sale of any vehicle by any person
24 or dealer, or upon any transfer in accordance with K.S.A. 59-3511, and
25 amendments thereto, the new owner thereof, within 60 days, inclusive of
26 weekends and holidays, from date of such transfer shall make application
27 to the division for registration or reregistration of the vehicle, but no
28 person shall operate the vehicle on any highway in this state during the
29 sixty-day period without having applied for and obtained temporary
30 registration from the county treasurer or from a dealer. After the expiration
31 of the sixty-day period, it shall be unlawful for the owner or any other
32 person to operate such vehicle upon the highways of this state unless the
33 vehicle has been registered as provided in this act. For failure to make
34 application for registration as provided in this section, a penalty of \$2 shall
35 be added to other fees. When a person has a current motorcycle or
36 passenger vehicle registration and license plate, including any registration

1 decal affixed thereto, for a vehicle and has sold or otherwise disposed of
2 the vehicle and has acquired another motorcycle or passenger vehicle and
3 intends to transfer the registration and the license plate to the motorcycle
4 or passenger vehicle acquired, but has not yet had the registration
5 transferred in the office of the county treasurer, such person may operate
6 the motorcycle or passenger vehicle acquired for a period of not to exceed
7 60 days by displaying the license plate on the rear of the vehicle acquired.
8 If the acquired vehicle is a new vehicle such person also must carry the
9 assigned certificate of title or manufacturer's statement of origin when
10 operating the acquired vehicle, except that a dealer may operate such
11 vehicle by displaying such dealer's dealer license plate.

12 (c) Certificate of title: No vehicle required to be registered shall be
13 registered or any license plate or registration decal issued therefor, unless
14 the applicant for registration shall present satisfactory evidence of
15 ownership and apply for an original certificate of title for such vehicle.
16 The following paragraphs of this subsection shall apply to the issuance of
17 a certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt
18 salvage vehicle, as defined in K.S.A. 8-197, and amendments thereto,
19 except to the extent such paragraphs are made inapplicable by or are
20 inconsistent with K.S.A. 8-198, and amendments thereto, and to any
21 electronic certificate of title, except to the extent such paragraphs are made
22 inapplicable by or are inconsistent with K.S.A. 2016 Supp. 8-135d, and
23 amendments thereto, or with rules and regulations adopted pursuant to
24 K.S.A. 2016 Supp. 8-135d, and amendments thereto.

25 The provisions of paragraphs (1) through (14) shall apply to any
26 certificate of title issued prior to January 1, 2003, which indicates that
27 there is a lien or encumbrance on such vehicle.

28 (1) An application for certificate of title shall be made by the owner
29 or the owner's agent upon a form furnished by the division and shall state
30 all liens or encumbrances thereon, and such other information as the
31 division may require. Notwithstanding any other provision of this section,
32 no certificate of title shall be issued for a vehicle having any unreleased
33 lien or encumbrance thereon, unless the transfer of such vehicle has been
34 consented to in writing by the holder of the lien or encumbrance. Such
35 consent shall be in a form approved by the division. In the case of
36 members of the armed forces of the United States while the United States
37 is engaged at war with any foreign nation and for a period of six months
38 next following the cessation of hostilities, such application may be signed
39 by the owner's spouse, parents, brother or sister. The county treasurer shall
40 use reasonable diligence in ascertaining whether the facts stated in such
41 application are true, and if satisfied that the applicant is the lawful owner
42 of such vehicle, or otherwise entitled to have the same registered in such
43 applicant's name, shall so notify the division, who shall issue an

1 appropriate certificate of title. The certificate of title shall be in a form
2 approved by the division, and shall contain a statement of any liens or
3 encumbrances which the application shows, and such other information as
4 the division determines.

5 (2) The certificate of title shall contain upon the reverse side a form
6 for assignment of title to be executed by the owner. This assignment shall
7 contain a statement of all liens or encumbrances on the vehicle at the time
8 of assignment. The certificate of title shall also contain on the reverse side
9 blank spaces so that an abstract of mileage as to each owner will be
10 available. The seller at the time of each sale shall insert and certify the
11 mileage and the purchase price on the form filed for application or
12 reassignment of title, and the division shall insert such mileage on the
13 certificate of title when issued to purchaser or assignee. The signature of
14 the purchaser or assignee is required on the form filed for application or
15 reassignment of title, acknowledging the odometer and purchase price
16 certification made by the seller, except that vehicles which are 10 model
17 years or older and trucks with a gross vehicle weight of more than 16,000
18 pounds shall be exempt from the mileage acknowledgment requirement of
19 the purchaser or assignee. Such title shall indicate whether the vehicle for
20 which it is issued has been titled previously as a nonhighway vehicle or
21 salvage vehicle. In addition, the reverse side shall contain two forms for
22 reassignment by a dealer, stating the liens or encumbrances thereon. The
23 first form of reassignment shall be used only when a dealer sells the
24 vehicle to another dealer. The second form of reassignment shall be used
25 by a dealer when selling the vehicle to another dealer or the ultimate
26 owner of the vehicle. The reassignment by a dealer shall be used only
27 where the dealer resells the vehicle, and during the time that the vehicle
28 remains in the dealer's possession for resale, the certificate of title shall be
29 dormant. When the ownership of any vehicle passes by operation of law,
30 or repossession upon default of a lease, security agreement, or executory
31 sales contract, the person owning such vehicle, upon furnishing
32 satisfactory proof to the county treasurer of such ownership, may procure a
33 certificate of title to the vehicle. When a vehicle is registered in another
34 state and is repossessed in another state, the owner of such vehicle shall
35 not be entitled to obtain a valid Kansas title or registration, except that
36 when a vehicle is registered in another state, but is financed originally by a
37 financial institution chartered in the state of Kansas or when a financial
38 institution chartered in Kansas purchases a pool of motor vehicle loans
39 from the resolution trust corporation or a federal regulatory agency, and
40 the vehicle is repossessed in another state, such Kansas financial
41 institution shall be entitled to obtain a valid Kansas title or registration. In
42 addition to any other fee required for the issuance of a certificate of title,
43 any applicant obtaining a certificate of title for a repossessed vehicle shall

1 pay a fee of \$3.

2 (3) Dealers shall execute, upon delivery to the purchaser of every
3 new vehicle, a manufacturer's statement of origin stating the liens and
4 encumbrances thereon. Such statement of origin shall be delivered to the
5 purchaser at the time of delivery of the vehicle or at a time agreed upon by
6 the parties, not to exceed 30 days, inclusive of weekends and holidays. The
7 agreement of the parties shall be executed on a form approved by the
8 division. In the event delivery of title cannot be made personally, the seller
9 may deliver the manufacturer's statement of origin by restricted mail to the
10 address of purchaser shown on the purchase agreement. The
11 manufacturer's statement of origin may include an attachment containing
12 assignment of such statement of origin on forms approved by the division.
13 Upon the presentation to the division of a manufacturer's statement of
14 origin, by a manufacturer or dealer for a new vehicle, sold in this state, a
15 certificate of title shall be issued if there is also an application for
16 registration, except that no application for registration shall be required for
17 a travel trailer used for living quarters and not operated on the highways.

18 (4) The fee for each original certificate of title shall be \$10 in
19 addition to the fee for registration of such vehicle, trailer or semitrailer.
20 The certificate of title shall be good for the life of the vehicle, trailer or
21 semitrailer while owned or held by the original holder of the certificate of
22 title.

23 (5) Except for a vehicle registered by a federally recognized Indian
24 tribe, as provided in paragraph (16), upon sale and delivery to the
25 purchaser of every vehicle subject to a purchase money security interest as
26 provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and
27 amendments thereto, the dealer or secured party may complete a notice of
28 security interest and when so completed, the purchaser shall execute the
29 notice, in a form prescribed by the division, describing the vehicle and
30 showing the name and address of the secured party and of the debtor and
31 other information the division requires. On and after July 1, 2007, only one
32 lien shall be taken or accepted for vehicles with a gross vehicle weight
33 rating of 26,000 pounds or less. As used in this section "gross vehicle
34 weight rating" shall have the meaning ascribed thereto in ~~K.S.A. 66-1,108,~~
35 ~~and amendments thereto~~ **49 C.F.R. § 390.5, as in effect on July 1, 2017,**
36 **or any later version as established in rules and regulations adopted by the**
37 **state corporation commission.** The dealer or secured party, within 30 days
38 of the sale and delivery, may mail or deliver the notice of security interest,
39 together with a fee of \$2.50, to the division. The notice of security interest
40 shall be retained by the division until it receives an application for a
41 certificate of title to the vehicle and a certificate of title is issued. The
42 certificate of title shall indicate any security interest in the vehicle. Upon
43 issuance of the certificate of title, the division shall mail or deliver

1 confirmation of the receipt of the notice of security interest, the date the
2 certificate of title is issued and the security interest indicated, to the
3 secured party at the address shown on the notice of security interest. The
4 proper completion and timely mailing or delivery of a notice of security
5 interest by a dealer or secured party shall perfect a security interest in the
6 vehicle, as referenced in K.S.A. 2016 Supp. 84-9-311, and amendments
7 thereto, on the date of such mailing or delivery. The county treasurers shall
8 mail a copy of the title application to the lienholder. For any vehicle
9 subject to a lien, the county treasurer shall collect from the applicant a
10 \$1.50 service fee for processing and mailing a copy of the title application
11 to the lienholder.

12 (6) It shall be unlawful for any person to operate in this state a vehicle
13 required to be registered under this act, or to transfer the title to any such
14 vehicle to any person or dealer, unless a certificate of title has been issued
15 as herein provided. In the event of a sale or transfer of ownership of a
16 vehicle for which a certificate of title has been issued, which certificate of
17 title is in the possession of the transferor at the time of delivery of the
18 vehicle, the holder of such certificate of title shall endorse on the same an
19 assignment thereof, with warranty of title in a form prescribed by the
20 division and printed thereon and the transferor shall deliver the same to the
21 buyer at the time of delivery to the buyer of the vehicle or at a time agreed
22 upon by the parties, not to exceed 60 days, inclusive of weekends and
23 holidays, after the time of delivery. The agreement of the parties shall be
24 executed on a form provided by the division. The requirements of this
25 paragraph concerning delivery of an assigned title are satisfied if the
26 transferor mails to the transferee by restricted mail the assigned certificate
27 of title within the 60 days, and if the transferor is a dealer, as defined by
28 K.S.A. 8-2401, and amendments thereto, such transferor shall be deemed
29 to have possession of the certificate of title if the transferor has made
30 application therefor to the division. The buyer shall then present such
31 assigned certificate of title to the division at the time of making application
32 for registration of such vehicle. A new certificate of title shall be issued to
33 the buyer, upon payment of the fee of \$10. If such vehicle is sold to a
34 resident of another state or country, the dealer or person making the sale
35 shall notify the division of the sale and the division shall make notation
36 thereof in the records of the division. When a person acquires a security
37 interest that such person seeks to perfect on a vehicle subsequent to the
38 issuance of the original title on such vehicle, such person shall require the
39 holder of the certificate of title to surrender the same and sign an
40 application for a mortgage title in form prescribed by the division. Upon
41 such surrender such person shall immediately deliver the certificate of
42 title, application, and a fee of \$10 to the division. Delivery of the
43 surrendered title, application and tender of the required fee shall perfect a

1 security interest in the vehicle as referenced in K.S.A. 2016 Supp. 84-9-
2 311, and amendments thereto. On and after July 1, 2007, only one lien
3 may be taken or accepted for security for an obligation to be secured by a
4 lien to be shown on a certificate of title for vehicles with a gross vehicle
5 weight rating, as defined in ~~K.S.A. 66-1,108, and amendments thereto~~ **49**
6 ***C.F.R. § 390.5, as in effect on July 1, 2017, or any later version as***
7 ***established in rules and regulations adopted by the state corporation***
8 ***commission, of 26,000 pounds or less. A refinancing shall not be subject to***
9 ***the limitations of this act. A refinancing is deemed to occur when the***
10 ***original obligation is satisfied and replaced by a new obligation. Lien***
11 ***obligations created before July 1, 2007, which are of a continuing nature***
12 ***shall not be subject to the limitations of this act until the obligation is***
13 ***satisfied. A lien in violation of this provision is void. Upon receipt of the***
14 ***surrendered title, application and fee, the division shall issue a new***
15 ***certificate of title showing the liens or encumbrances so created, but only***
16 ***one lien or encumbrance may be shown upon a title for vehicles with a***
17 ***gross vehicle rating of 26,000 pounds or less, and not more than two liens***
18 ***or encumbrances may be shown upon a title for vehicles in excess of***
19 ***26,000 pounds gross vehicle weight rating. When a prior lienholder's name***
20 ***is removed from the title, there must be satisfactory evidence presented to***
21 ***the division that the lien or encumbrance has been paid. When the***
22 ***indebtedness to a lienholder, whose name is shown upon a title, is paid in***
23 ***full, such lienholder shall comply with the provisions of K.S.A. 2016***
24 ***Supp. 8-1,157, and amendments thereto.***

25 (7) It shall be unlawful for any person to buy or sell in this state any
26 vehicle required to be registered, unless, at the time of delivery thereof or
27 at a time agreed upon by the parties, not to exceed 60 days, inclusive of
28 weekends and holidays, after the time of delivery, there shall pass between
29 the parties a certificate of title with an assignment thereof. The sale of a
30 vehicle required to be registered under the laws of this state, without
31 assignment of the certificate of title, is fraudulent and void, unless the
32 parties shall agree that the certificate of title with assignment thereof shall
33 pass between them at a time other than the time of delivery, but within 60
34 days thereof. The requirements of this paragraph concerning delivery of an
35 assigned title shall be satisfied if: (A) The seller mails to the purchaser by
36 restricted mail the assigned certificate of title within 60 days; or (B) if the
37 transferor is a dealer, as defined by K.S.A. 8-2401, and amendments
38 thereto, such seller shall be deemed to have possession of the certificate of
39 title if such seller has made application therefor to the division; or (C) if
40 the transferor is a dealer and has assigned a title pursuant to ~~paragraph (9)~~
41 ~~of this subsection (c)(9).~~

42 (8) In cases of sales under the order of a court of a vehicle required to
43 be registered under this act, the officer conducting such sale shall issue to

1 the purchaser a certificate naming the purchaser and reciting the facts of
2 the sale, which certificate shall be prima facie evidence of the ownership
3 of such purchaser for the purpose of obtaining a certificate of title to such
4 motor vehicle and for registering the same. Any such purchaser shall be
5 allowed 60 days, inclusive of weekends and holidays, from the date of sale
6 to make application to the division for a certificate of title and for the
7 registering of such motor vehicle.

8 (9) Any dealer who has acquired a vehicle, the title for which was
9 issued under the laws of and in a state other than the state of Kansas, shall
10 not be required to obtain a Kansas certificate of title therefor during the
11 time such vehicle remains in such dealer's possession and at such dealer's
12 place of business for the purpose of sale. The purchaser or transferee shall
13 present the assigned title to the division of vehicles when making
14 application for a certificate of title as provided in subsection (c)(1).

15 (10) Motor vehicles may be held and titled in transfer-on-death form.

16 (11) Notwithstanding the provisions of this act with respect to time
17 requirements for delivery of a certificate of title, or manufacturer's
18 statement of origin, as applicable, any person who chooses to reaffirm the
19 sale in writing on a form approved by the division which advises them of
20 their rights pursuant to ~~paragraph (7)~~ of subsection (c)(7) and who has
21 received and accepted assignment of the certificate of title or
22 manufacturer's statement of origin for the vehicle in issue may not
23 thereafter void or set aside the transaction with respect to the vehicle for
24 the reason that a certificate of title or manufacturer's statement of origin
25 was not timely delivered, and in such instances the sale of a vehicle shall
26 not be deemed to be fraudulent and void for that reason alone.

27 (12) The owner of any vehicle assigning a certificate of title in
28 accordance with the provisions of this section may file with the division a
29 form indicating that such owner has assigned such certificate of title. Such
30 forms shall be furnished by the division and shall contain such information
31 as the division may require. Any owner filing a form as provided in this
32 paragraph shall pay a fee of \$10. The filing of such form shall be prima
33 facie evidence that such certificate of title was assigned and shall create a
34 rebuttable presumption. If the assignee of a certificate of title fails to make
35 application for registration, an owner assigning such title and filing the
36 form in accordance with the provisions of this paragraph shall not be held
37 liable for damages resulting from the operation of such vehicle.

38 (13) Application for a certificate of title on a boat trailer with a gross
39 weight over 2,000 pounds shall be made by the owner or the owner's agent
40 upon a form to be furnished by the division and shall contain such
41 information as the division shall determine necessary. The division may
42 waive any information requested on the form if it is not available. The
43 application together with a bill of sale for the boat trailer shall be accepted

1 as prima facie evidence that the applicant is the owner of the boat trailer,
2 provided that a Kansas title for such trailer has not previously been issued.
3 If the application and bill of sale are used to obtain a certificate of title for
4 a boat trailer under this paragraph, the certificate of title shall not be issued
5 until an inspection in accordance with ~~subsection (a)~~ of K.S.A. 8-116a(a),
6 and amendments thereto, has been completed.

7 (14) In addition to the two forms for reassignment under ~~paragraph~~
8 ~~(2)~~ of subsection (c)(2), a dealer may attach one additional reassignment
9 form to a certificate of title. The director of vehicles shall prescribe and
10 furnish such reassignment forms. The reassignment form shall be used by
11 a dealer when selling the vehicle to another dealer or the ultimate owner of
12 the vehicle only when the two reassignment forms under ~~paragraph (2)~~ of
13 subsection (c)(2) have already been used. The fee for a reassignment form
14 shall be \$6.50. A dealer may purchase reassignment forms in multiples of
15 five upon making proper application and the payment of required fees.

16 (15) A first stage manufacturer, as defined in K.S.A. 8-2401, and
17 amendments thereto, who manufactures a motor vehicle in this state, and
18 who sells such motor vehicles to dealers located in a foreign country, may
19 execute a manufacturers statement of origin to the division of vehicles for
20 the purpose of obtaining an export certificate of title. The motor vehicle
21 issued an export certificate of title shall not be required to be registered in
22 this state. An export certificate of title shall not be used to register such
23 vehicle in the United States.

24 (16) A security interest in a vehicle registered by a federally
25 recognized Indian tribe shall be deemed valid under Kansas law if validly
26 perfected under the applicable tribal law and the lien is noted on the face
27 of the tribal certificate of title.

28 (17) On and after January 1, 2010, a certificate of title issued for a
29 rebuilt salvage vehicle for the initial time, shall indicate on such title, the
30 reduced classification of such vehicle as provided under K.S.A. 79-5104,
31 and amendments thereto.

32 Sec. 2. K.S.A. 2016 Supp. 8-2703 is hereby amended to read as
33 follows: 8-2703. Transportation network companies or drivers shall not be
34 considered motor carriers, private motor carriers or public motor carriers
35 of passengers as those terms are defined in **49 C.F.R. § 390.5, as in effect**
36 **on July 1, 2017, or any later version as established in rules and**
37 **regulations adopted by the state corporation commission** and K.S.A. 66-
38 1,108, and amendments thereto, nor determined to provide taxicab or for-
39 hire vehicle service so long as such TNC or driver meets the requirements
40 of this act. In addition, a driver shall not be required to register the
41 personal vehicle such driver uses for prearranged rides as a commercial or
42 for-hire vehicle.

43 Sec. 3. K.S.A. 2016 Supp. 16-121 is hereby amended to read as

1 follows: 16-121. (a) When used in this section:

2 (1) "Construction contract" means an agreement for the design,
3 construction, alteration, renovation, repair or maintenance of a building,
4 structure, highway, road, bridge, water line, sewer line, oil line, gas line,
5 appurtenance or other improvement to real property, including any
6 moving, demolition or excavation, except that no deed, lease, easement,
7 license or other instrument granting an interest in or the right to possess
8 property shall be deemed to be a construction contract even if the
9 instrument includes the right to design, construct, alter, renovate, repair or
10 maintain improvements on such real property. "Construction contract"
11 shall not include any design, construction, alteration, renovation, repair or
12 maintenance of:

13 (A) Dirt or gravel roads used to access oil and gas wells and
14 associated facilities; or

15 (B) oil flow lines or gas gathering lines used in association with the
16 transportation of production from oil and gas wells from the wellhead to
17 oil storage facilities or gas transmission lines.

18 (2) "Contract" means any construction contract, motor carrier
19 transportation contract, dealer agreement or franchise agreement.

20 (3) "Damages" means personal injury damages, property damages or
21 economic loss.

22 (4) "Dealership agreement" means an oral or written agreement of
23 definite or indefinite duration between an equipment manufacturer or
24 service provider and an equipment or service dealer which provides for the
25 rights and obligations of the parties with respect to the purchase or sale of
26 such equipment or services.

27 (5) "Franchise agreement" means any contract or franchise or any
28 other terminology used to describe the contractual relationship between
29 manufacturers, distributors and dealers, by which:

30 (A) A right is granted one party to engage in the business of offering,
31 selling or otherwise distributing goods or services under a marketing plan
32 or system prescribed in substantial part by the other party, and in which
33 there is a community of interest in the marketing of goods or services at
34 wholesale or retail, by lease, agreement or otherwise; and

35 (B) the operation of the grantee's business pursuant to such agreement
36 is substantially associated with the grantor's trademark, service mark, trade
37 name, logotype, advertising or other commercial symbol designating the
38 grantor or an affiliate of the grantor.

39 (6) "Indemnification provision" means a covenant, promise,
40 agreement, clause or understanding in connection with, contained in, or
41 collateral to a contract that requires the promisor to hold harmless,
42 indemnify or defend the promisee or others against liability for loss or
43 damages.

1 (7) "Motor carrier transportation contract" means, with respect to a
2 motor carrier as defined in ~~K.S.A. 66-1,108, and amendments thereto~~
3 ~~K.A.R. 82-4-1(=)~~ **49 C.F.R. § 390.5, as in effect on July 1, 2017, or any**
4 **later version as established in rules and regulations adopted by the state**
5 **corporation commission**, a contract, agreement or understanding covering:

6 (A) The transportation of property by a motor carrier;

7 (B) the entrance on property by the motor carrier for the purpose of
8 loading, unloading or transporting property; or

9 (C) a service incidental to activity described in ~~clause subparagraph~~
10 (A) or (B) including, but not limited to, storage of property.

11 "Motor carrier transportation contract" shall not include the uniform
12 intermodal interchange and facilities access agreement administered by the
13 intermodal association of North America or other agreements providing for
14 the interchange, use or possession of intermodal chassis, containers or
15 other intermodal equipment.

16 (8) "Mutual indemnity obligation" means an indemnity obligation in
17 a contract in which the parties agree to indemnify each other and each
18 other's contractors and their employees against loss, liability or damages
19 arising in connection with bodily injury, death and damage to property of
20 the respective employees, contractors or their employees, and invitees of
21 each party arising out of or resulting from the performance of the
22 agreement.

23 (9) "Promisee" shall include an agent, employee or independent
24 contractor who is directly responsible to the promisee.

25 (10) "Unilateral indemnity obligation" means an indemnity obligation
26 in a contract in which one of the parties as promisor agrees to indemnify
27 the other party as promisee with respect to claims for personal injury or
28 death to the promisor's employees or agents or to the employees or agents
29 of the promisor's contractors but in which the promisee does not make a
30 reciprocal indemnity to the promisor.

31 (b) An indemnification provision in a contract which requires the
32 promisor to indemnify the promisee for the promisee's negligence or
33 intentional acts or omissions is against public policy and is void and
34 unenforceable.

35 (c) A provision in a contract which requires a party to provide
36 liability coverage to another party, as an additional insured, for such other
37 party's own negligence or intentional acts or omissions is against public
38 policy and is void and unenforceable.

39 (d) This act shall not be construed to affect or impair:

40 (1) The contractual obligation of a contractor or owner to provide
41 railroad protective insurance or general liability insurance;

42 (2) an agreement under which an owner, a responsible party or a
43 governmental entity agrees to indemnify a contractor directly or through

- 1 another contractor with respect to strict liability under environmental laws;
- 2 (3) an indemnification agreement that is an integral part of an offer to
3 compromise or a settlement of a disputed claim, if:
- 4 (A) The settlement is based on consideration;
- 5 (B) the dispute relates to an alleged event that is related to a
6 construction contract and that occurred before the settlement is made; and
- 7 (C) the indemnification relates only to claims that have arisen or may
8 arise from the past event;
- 9 (4) the validity of any insurance contract, construction bond or other
10 agreement lawfully issued by an insurer or bonding company;
- 11 (5) a separately negotiated provision or provisions whereby the
12 parties mutually agree to a reasonable allocation of risk, if each such
13 provision is:
- 14 (A) Based on generally accepted industry loss experience; and
- 15 (B) supported by adequate consideration; and
- 16 (6) an agreement that provides for indemnity if the parties agree in
17 writing that the indemnity obligation will be supported by liability
18 insurance coverage to be furnished by the promisor subject to the
19 following limitations:
- 20 (A) With respect to a mutual indemnity obligation, the indemnity
21 obligation is limited to the extent of the coverage and dollar limits of
22 insurance or qualified self-insurance each party as promisor has agreed to
23 obtain for the benefit of the other party as promisee.
- 24 (B) With respect to a unilateral indemnity obligation, the indemnity
25 obligation is limited to the extent of the coverage and dollar limits of
26 insurance the promisor has agreed to obtain for the benefit of the other
27 party as promisee. Such indemnity obligation shall be at the promisee's
28 expense and shall be a separate liability insurance policy.
- 29 (e) Notwithstanding any contractual provision to the contrary, the
30 laws of the state of Kansas shall apply to and govern every contract to be
31 performed in this state. Any litigation, arbitration or other dispute
32 resolution proceeding arising from such contract shall be conducted in this
33 state. Any provision, covenant or clause in such contract that conflicts with
34 the provisions of this subsection shall be void and unenforceable.
- 35 (f) This section applies only to indemnification provisions and
36 additional insured provisions entered into after January 1, 2009.
- 37 Sec. 4. K.S.A. 66-125 is hereby amended to read as follows: 66-125.
- 38 (a) Any investor-owned electric public utility incorporated in the state of
39 Kansas may issue stocks, certificates, bonds, notes or other evidences of
40 indebtedness, payable at periods of more than 12 months after the date
41 thereof, when necessary for the acquisition of property, for the purpose of
42 carrying out its corporate powers, the construction, completion, extension
43 or improvements of its facilities, for the improvements or maintenance of

1 its service, for the discharge or lawful refunding of its obligations, or for
2 such other purposes as may be authorized by law. Prior to any such
3 issuance, there shall be secured from the commission a certificate stating
4 the amount, character, purposes and terms on which such stocks,
5 certificates, bonds, notes or other evidences of indebtedness are proposed
6 to be issued, as set out in the application for such certificate. In lieu of
7 securing a certificate from the commission, if the issuance requires a
8 registration statement to be filed with the securities and exchange
9 commission or such utility obtains an authorization or approval of such
10 issuance from another state or federal agency, the public utility may file
11 with the state corporation commission a copy of the information filed with
12 the securities and exchange commission or such other agency.

13 (b) The proceedings for obtaining such certificate from the
14 commission and the conditions of its being issued shall be as follows:

15 (1) In case the stocks, certificates, bonds, notes or other evidences of
16 indebtedness are to be issued for money only, the public utility or common
17 carrier shall file with the commission a statement, signed and verified by
18 the president or other chief officer of the company having knowledge of
19 the facts, showing:

20 (A) The amount and character of the proposed stocks, certificates,
21 bonds, notes or other evidences of indebtedness;

22 (B) the general purposes for which they are to be issued;

23 (C) the terms on which they are to be issued;

24 (D) the total assets and liabilities of the public utility or common
25 carrier; and

26 (E) that the capital sought to be secured by the issuance of such
27 stocks, certificates, bonds, notes or other evidences of indebtedness is
28 necessary and required for such purposes and will be used therefor.

29 (2) In case stocks, certificates, bonds, notes or other evidences of
30 indebtedness are to be issued partly or wholly for property or services or
31 other consideration than money, the public utility or common carrier shall
32 file with the commission a statement, signed and verified by the president
33 or other chief officer having knowledge of the facts, showing:

34 (A) The amount and character of the stocks, certificates, bonds, notes
35 or other evidences of indebtedness proposed to be issued;

36 (B) the general purposes for which they are to be issued;

37 (C) a general description and an estimated value of the property or
38 services for which they are to be issued;

39 (D) the terms on which they are to be issued or exchanged;

40 (E) the amount of money, if any, to be received for the same in
41 addition to such property, services or other consideration;

42 (F) the total assets and liabilities of the public utility or common
43 carrier; and

1 (G) that the capital sought to be secured by the issuance of such
2 stocks, certificates, bonds, notes or other evidences of indebtedness is
3 necessary and required for such purposes and will be used therefor.

4 (c) The commission may also require the public utility or common
5 carrier to furnish such further statements of facts as may be reasonable and
6 pertinent to the inquiry. Upon full compliance by the applicant with the
7 provisions of this section the commission shall forthwith issue a certificate
8 stating the amount, character, purposes and terms upon which such stocks,
9 certificates, bonds, notes or other evidences of indebtedness are proposed
10 to be issued, as set out in the application for such certificate. Any issue of
11 stocks, certificates, bonds, notes or other evidences of indebtedness not
12 payable within one year, which shall be issued by such public utility or
13 common carrier contrary to the provisions of this act shall be voidable by
14 the commission, except as provided in subsection (d).

15 (d) The provisions of this section shall not apply to motor carriers, as
16 defined in ~~K.S.A. 66-1,108, and amendments thereto~~ *K.A.R. 82-4-1(z) 49*
17 *C.F.R. § 390.5, as in effect on July 1, 2017, or any later version as*
18 *established in rules and regulations adopted by the state corporation*
19 *commission*, or any public utility except as provided in subsection (a). Any
20 issue of stocks, certificates, bonds, notes or other evidences of
21 indebtedness not payable within one year, which were issued by a motor
22 carrier prior to the effective date of this act without obtaining a certificate
23 from the commission shall be deemed valid.

24 Sec. 5. K.S.A. 2016 Supp. 66-1,108 is hereby amended to read as
25 follows: 66-1,108. As used in this act:

26 (a) "Commission" means the corporation commission of the state of
27 Kansas;

28 (b) ~~"gross combination vehicle weight rating" means the value~~
29 ~~specified by the manufacturer as the loaded weight of a combination~~
30 ~~(articulated) motor vehicle. In the absence of a value specified by the~~
31 ~~manufacturer, gross combination weight rating shall be determined by~~
32 ~~adding the gross vehicle weight rating of the power unit and the total~~
33 ~~weight of the towed unit and any load thereon;~~

34 (c) ~~"gross vehicle weight rating" means the value specified by the~~
35 ~~manufacturer as the loaded weight of a single motor vehicle;~~

36 (d) ~~"ground water well drilling rigs" means any vehicle, machine,~~
37 ~~tractor, trailer, semi-trailer or specialized mobile equipment propelled or~~
38 ~~drawn by mechanical power and used on highways to transport water well~~
39 ~~field operating equipment, including water well drilling and pump service~~
40 ~~rigs equipped to access ground water;~~

41 (e)(c) "household goods" means property and personal effects used or
42 to be used in a dwelling, when a part of the equipment or supply of such
43 dwelling and such other similar property, as the commission may provide

1 by rules and regulations, if the transportation of such effects or property is:
2 (1) Arranged and paid for by the householder, including
3 transportation of property from a factory or store when the property is
4 purchased by the householder with intent to use in such householder's
5 dwelling; or

6 (2) arranged and paid for by another party.

7 ~~(f) "Motor carrier" means any person operating as a for hire motor~~
8 ~~carrier or a private motor carrier, and any of that person's agents, officers,~~
9 ~~representatives, as well as employees responsible for hiring, supervising,~~
10 ~~training, assigning or dispatching of drivers and employees concerned with~~
11 ~~the installation, inspection and maintenance of motor vehicle equipment or~~
12 ~~accessories or both;~~

13 ~~(g) "motor vehicle" means any automobile, truck, trailer, semitrailer,~~
14 ~~tractor, motor bus or any other self-propelled or motor-driven vehicle used~~
15 ~~upon any of the public highways of the state for the purpose of~~
16 ~~transporting persons or property;~~

17 ~~(h) "person" means any individual, firm, partnership, limited liability~~
18 ~~partnership, corporation, limited liability company, association or their~~
19 ~~lessees, trustees or receivers;~~

20 ~~(i) "private motor carrier" means a person who provides~~
21 ~~transportation of property or passengers, by commercial motor vehicle and~~
22 ~~is not a for hire motor carrier;~~

23 ~~(j) "public highways" means every public street, alley, road or~~
24 ~~highway or thoroughfare of any kind used by the public;~~

25 ~~(k)(d) "public motor carrier of household goods" means any person~~
26 ~~who undertakes for hire to transport by commercial motor vehicle from~~
27 ~~place to place, the household goods of others who may choose to employ~~
28 ~~or contract with the motor carrier;~~

29 ~~(l)(e) "public motor carrier of passengers" means any person who~~
30 ~~undertakes for hire to transport by commercial motor vehicle, from place~~
31 ~~to place, persons who may choose to employ or contract with the motor~~
32 ~~carrier; and~~

33 ~~(m)(f) "public motor carrier of property" means any person who~~
34 ~~undertakes for hire to transport by commercial motor vehicle, from place~~
35 ~~to place, the property other than household goods of others who may~~
36 ~~choose to employ or contract with the motor carrier.~~

37 Sec. 6. K.S.A. 2016 Supp. 66-1,108b is hereby amended to read as
38 follows: 66-1,108b. The state corporation commission is given full power,
39 authority and jurisdiction to supervise and control motor carriers, as
40 defined in ~~K.S.A. 66-1,108, and amendments thereto~~ *K.A.R. 82-4-1(z)* **49**
41 *C.F.R. § 390.5, as in effect on July 1, 2017, or any later version as*
42 *established in rules and regulations adopted by the state corporation*
43 *commission*, doing business or procuring business in Kansas, and is

1 empowered to do all things necessary and convenient for the exercise of
2 such power, authority and jurisdiction. The commission shall have general
3 supervision of all motor carriers operating in this state. The commission
4 shall inquire into any neglect or violations of the laws pertaining to the
5 regulation of motor carriers of this state by any motor carrier or any person
6 retaining the transportation services of that motor carrier. From time to
7 time, the commission shall carefully examine and inspect the condition of
8 each motor carrier, its equipment, the manner of its conduct and its
9 management with reference to the public safety and convenience. Nothing
10 in this section shall be construed as relieving any motor carrier from
11 responsibility or liability for damage to person or property.

12 Sec. 7. K.S.A. 2016 Supp. 66-1,109 is hereby amended to read as
13 follows: 66-1,109. This act shall not require the following carriers to
14 obtain a certificate, license or permit from the commission or file rates,
15 tariffs, annual reports or provide proof of insurance with the commission:

16 (a) Transportation by motor carriers wholly within the corporate
17 limits of a city or village in this state, or between contiguous cities or
18 villages in this state or in this and another state, or between any city or
19 village in this or another state and the suburban territory in this state within
20 three miles of the corporate limits, or between cities and villages in this
21 state and cities and villages in another state which are within territory
22 designated as a commercial zone by the relevant federal authority, except
23 that none of the exemptions specified in this subsection (a) shall apply to
24 wrecker carriers;

25 (b) a private motor carrier who operates within a radius of 25 miles
26 beyond the corporate limits of its city or village of domicile, or who
27 operates between cities and villages in this state and cities and villages in
28 another state which are within territory designated as a commercial zone
29 by the relevant federal authority. For the purpose of this subsection,
30 "domicile" shall mean the principal place of business of a motor carrier;

31 (c) the owner of livestock or producer of farm products transporting
32 livestock of such owner or farm products of such producer to market in a
33 motor vehicle of such owner or producer, or the motor vehicle of a
34 neighbor on the basis of barter or exchange for service or employment, or
35 to such owner or producer transporting supplies for the use of such owner
36 or producer in a motor vehicle of such owner or producer, or in the motor
37 vehicle of a neighbor on the basis of barter or exchange for service or
38 employment;

39 (d) (1) the transportation of children to and from school; (2) to motor
40 vehicles owned by schools, colleges, and universities, religious or
41 charitable organizations and institutions, or governmental agencies, when
42 used to convey students, inmates, employees, athletic teams, orchestras,
43 bands or other similar activities; or (3) motor vehicles owned by nonprofit

1 organizations meeting the qualification requirements of section 501(c) of
2 the internal revenue code of 1986, and amendments thereto, when
3 transporting property or materials belonging to the owner of the vehicle;

4 (e) a new vehicle dealer as defined by K.S.A. 8-2401, and
5 amendments thereto, when transporting property to or from the place of
6 business of such dealer;

7 (f) motor vehicles carrying tools, property or material belonging to
8 the owner of the vehicle and used in repair, building or construction work,
9 not having been sold or being transported for the purpose of sale;

10 (g) persons operating motor vehicles which have an ad valorem tax
11 situs in and are registered in the state of Kansas, and used only to transport
12 grain from the producer to an elevator or other place for storage or sale for
13 a distance of not to exceed 50 miles;

14 (h) the operation of hearses, funeral coaches, funeral cars or
15 ambulances by motor carriers;

16 (i) motor vehicles owned and operated by the United States, the
17 District of Columbia, any state, any municipality or any other political
18 subdivision of this state, including vehicles used exclusively for handling
19 U.S. mail, and the operation of motor vehicles used exclusively by
20 organizations operating public transportation systems pursuant to 49
21 U.S.C. §§ 5307, 5310 and 5311;

22 (j) any motor vehicle with a normal seating capacity of not more than
23 the driver and 15 passengers while used for vanpooling or otherwise not-
24 for-profit in transporting persons who, as a joint undertaking, bear or agree
25 to bear all the costs of such operations, or motor vehicles with a normal
26 seating capacity of not more than the driver and 15 passengers for not-for-
27 profit transportation by one or more employers of employees to and from
28 the factories, plants, offices, institutions, construction sites or other places
29 of like nature where such persons are employed or accustomed to work;

30 (k) motor vehicles used to transport water for domestic purposes, as
31 defined by K.S.A. 82a-701(c), and amendments thereto, or livestock
32 consumption;

33 (l) transportation of sand, gravel, slag stone, limestone, crushed stone,
34 cinders, calcium chloride, bituminous or concrete mixtures, blacktop, dirt
35 or fill material to a construction site, highway maintenance or construction
36 project or other storage facility and the operation of ready-mix concrete
37 trucks in transportation of ready-mix concrete;

38 (m) the operation of a vehicle used exclusively for the transportation
39 of solid waste, as the same is defined by K.S.A. 65-3402, and amendments
40 thereto, to any solid waste processing facility or solid waste disposal area,
41 as the same is defined by K.S.A. 65-3402, and amendments thereto;

42 (n) the transporting of vehicles used solely in the custom combining
43 business when being transported by persons engaged in such business;

1 (o) the operation of vehicles used for servicing, repairing or
2 transporting of implements of husbandry, as defined in K.S.A. 8-1427, and
3 amendments thereto, by a person actively engaged in the business of
4 buying, selling or exchanging implements of husbandry, if such operation
5 is within 100 miles of such person's established place of business in this
6 state;

7 (p) transportation by taxi or bus companies *operating commercial*
8 *motor vehicles, as defined in ~~K.A.R. 82-4-1(f)~~ 49 C.F.R. § 390.5, as in*
9 *effect on July 1, 2017, or any later version as established in rules and*
10 *regulations adopted by the state corporation commission* and operated
11 exclusively within any city or within 25 miles of the point of its domicile
12 in a city. For the purpose of this subsection, "domicile" shall mean the
13 principal place of business of a motor carrier;

14 (q) a vehicle being operated with a dealer license plate issued under
15 K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A. 8-
16 136, and amendments thereto, and vehicles being operated with a full-
17 privilege license plate issued under K.S.A. 8-2425, and amendments
18 thereto;

19 (r) the operation of vehicles used for transporting materials used in
20 the servicing or repairing of the refractory linings of industrial boilers;

21 (s) transportation of newspapers published at least one time each
22 week;

23 (t) transportation of animal dung to be used for fertilizer;

24 (u) the operation of ground water well drilling rigs;

25 (v) the transportation of cotton modules from the field to the gin;

26 (w) the transportation of custom harvested silage, including, but not
27 limited to, corn, wheat and milo; and

28 (x) private motor carriers domiciled in Kansas operating commercial
29 motor vehicles (CMV) with a gross vehicle weight (GVW), gross vehicle
30 weight rating (GVWR), gross combination weight (GCW), or gross
31 combination weight rating (GCWR) of 10,001 to 26,000 pounds and
32 registered pursuant to K.S.A. 8-126 et seq., and amendments thereto. This
33 exception does not apply to commercial motor vehicles, regardless of
34 weight, which are designed or used to transport 16 or more passengers,
35 including the driver, or intrastate public (for hire) motor carriers of
36 property or passengers, or any motor vehicles which are used in the
37 transportation of hazardous materials and required to be placarded
38 pursuant to 49 C.F.R. part 172, subpart F. For the purpose of this
39 subsection, "domicile" shall mean the principal place of business of a
40 motor carrier or a permanent location in Kansas for a vehicle or vehicles
41 annually registered in Kansas.

42 Sec. 8. K.S.A. 2016 Supp. 66-1,139 is hereby amended to read as
43 follows: 66-1,139. (a) All interstate regulated public motor carriers of

1 property, of household goods or of passengers who operate a motor vehicle
2 in Kansas shall register their motor vehicles in their base state pursuant to
3 federal statutes, unless exempted under the provision of K.S.A. 66-1,109,
4 and amendments thereto.

5 (b) All intrastate public motor carriers of property, household goods
6 or passengers private motor carriers of property shall register with the
7 commission all trucks or truck tractors as defined by K.S.A. 8-126, and
8 amendments thereto, and all other passenger vehicles *that meet the*
9 *definition of commercial motor vehicle as defined in ~~K.A.R. 82-4-1(f)~~ 49*
10 *C.F.R. § 390.5, as in effect on July 1, 2017, or any later version as*
11 *established in rules and regulations adopted by the state corporation*
12 *commission*, used to transport persons for hire, used in the operation of
13 their business as such, except those used in operations exempted under the
14 provisions of K.S.A. 66-1,109, and amendments thereto.

15 ~~(c) Interstate motor carriers which have been granted authority by the~~
16 ~~commission to transport commodities exempt from the jurisdiction of the~~
17 ~~relevant federal authority and who operate for hire or who operate as~~
18 ~~private motor carriers shall register all trucks or truck tractors as defined~~
19 ~~by K.S.A. 8-126, and amendments thereto, and all other passenger vehicles~~
20 ~~used to transport persons for hire, used in the operation of their business as~~
21 ~~such, except those used in operations exempted under the provisions of~~
22 ~~K.S.A. 66-1,109, and amendments thereto. For the purpose of assisting in~~
23 ~~paying the cost of supervision and regulation of motor carriers, every such~~
24 ~~carrier shall annually pay to the commission for each calendar year a~~
25 ~~regulatory fee of \$10 for each truck, truck tractor or passenger vehicle~~
26 ~~registered with the commission. No fee shall be charged for a trailer or~~
27 ~~semitrailer. Interstate motor carriers that are already registered pursuant to~~
28 ~~subsection (a), shall not be required to register under this subsection.~~

29 ~~(d) All applications for registration shall be made on forms furnished~~
30 ~~by the commission. Applications for registration of interstate common or~~
31 ~~contract motor carriers shall include on the application the quantity of~~
32 ~~trucks, truck tractors or passenger vehicles used by the motor carriers on~~
33 ~~which a fee is required to be paid. Applications for registration of intrastate~~
34 ~~common motor carriers; and private motor carriers, and interstate exempt~~
35 ~~motor carriers shall include the complete vehicle identification numbers~~
36 ~~and the year and make of all trucks, truck tractors or passenger vehicles~~
37 ~~used by the motor carrier, on which a fee is required to be paid, and the~~
38 ~~application shall be accompanied by the required fee. The fees shall be due~~
39 ~~January 1 and shall be paid not later than January 15. Upon receipt of the~~
40 ~~application and fee, the commission shall issue to the carrier appropriate~~
41 ~~credentials for each vehicle registered.~~

42 (e) The commission shall remit all moneys received by it or for it in
43 payment of fees imposed under this section to the state treasurer in

1 accordance with the provisions of K.S.A. 75-4215, and amendments
2 thereto. Upon receipt of each such remittance, the state treasurer shall
3 deposit the entire amount in the state treasury to the credit of the motor
4 carrier license fees fund.

5 Sec. 9. K.S.A. 66-125 and K.S.A. 2016 Supp. 8-135, 8-2703, 16-121,
6 66-1,108, 66-1,108b, 66-1,109 and 66-1,139 are hereby repealed.

7 Sec. 10. This act shall take effect and be in force from and after its
8 publication in the statute book.