

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 8:30 a.m. on March 5, 2010, in Room 152-S of the Capitol.

All members were present.

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Jill Shelley, Kansas Legislative Research Department
Cindy Shepard, Committee Assistant

Conferees appearing before the Committee:

Don McNeely, President, Kansas Automobile Dealers Association
John Federico, J.D. on behalf of General Motors
Vicky Johnson, Chief Counsel, Kansas Department of Transportation
Ted E. Smith, Attorney, Office of the Director of Vehicles
Mike Hoeme, Director of Transportation, Kansas Corporation Commission
Carmen Alldritt, Director, Division of Vehicles, Kansas Department of Revenue

Others attending:

See attached list.

Chairman Umbarger called attention to reconsider the action on **HB 2650 - Designating part of U.S. 75 highway as the James Lane Freedom Trail memorial highway.** Senator Schmidt moved, Senator Kultala seconded, to reconsider action taken March 2 recommending HB 2650 favorably for passage, and bring the bill back to Committee for further consideration. Motion carried.

The Chairman called for action on **HB 2547 - Vehicle dealers and manufacturers licensing act, franchise agreements.** He recognized Don McNeely, President of the Kansas Automobile Dealers Association. Mr. McNeely stated that they had met yesterday with the opposition and reached a negotiated compromise with the Alliance of Automobile Manufacturers and General Motors (GM). He indicated that he was in agreement with the proposed changes if the Alliance would drop the remaining two amendments requested in Sandy Braden's testimony on March 4, and their opposition to the bill. Mr. McNeely distributed the proposed balloon amendments (Attachment 1).

John Federico, J.D. representing GM stated that they agree to the changes, but want additional language clarification on pg. 11, line 10, by inserting "*hardware*" following "*systems.*" He added that their intent is to propose the amendment on the Senate floor, to allow time for the Kansas Automobile Dealers Association's attorney to review the amendment.

Senator Hensley moved, Senator Donovan seconded, to amend HB 2547 by adopting Mr. McNeely's balloon amendment. Motion carried.

Senator Hensley moved, Senator Petersen seconded, to recommend HB 2547, as amended, favorably for passage. Motion carried.

The Chairman opened the hearing on **HB 2484 - Commercial driver's licenses, prohibiting diversion agreements.** Bruce Kinzie, staff revisor, reviewed the bill.

Vicky Johnson, Chief Counsel, Kansas Department of Transportation (KDOT), provided testimony in support of **HB 2484.** She indicated the bill seeks to amend K.S.A. 2009 Supp. 8-2,150 in the Kansas Uniform Commercial Drivers' License Act which implements, on the state level, the federal commercial motor vehicle act of 1986 (title XII of public law 99-570). Ms. Johnson continued, stating the federal concern with the law in its current form is that it allows a person who holds a commercial driver's license, but whose employment does not "require" that licensure, to enter into a diversion agreement. After the diversion agreements have been satisfied and all records of the offense have been removed from the driving record, the person then may operate a commercial motor vehicle with no record of their alcohol related offense.

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Ms. Johnson noted that the Federal Motor Carrier Safety Administration has entered a finding that Kansas is not in compliance with 49 CFR Parts 384, and has recommended that Kansas introduce legislation to close the loophole allowing “holders” of commercial driver’s licenses to enter into diversion agreements. She concluded that **HB 2484** closes that loophole, and makes it clear that drivers of commercial licenses and holders of commercial licenses are prevented from entering into diversion agreements in lieu of further criminal proceedings. The consequences for Kansas in the event that we do not satisfy the federal requirements, is the loss of \$9.2 million in federal highway funding annually. KDOT’s interest in this bill is from both a financial and safety perspective (Attachment 2).

Ted E. Smith, Attorney, Office of the Director of Vehicles, Kansas Department of Revenue, appeared in support of **HB 2484**. He stated passage of the bill will improve the professionalism of the State’s licensed commercial motor vehicle drivers. In 2003, the State made substantial changes to its commercial driver’s license(CDL) laws, modeled after the Federal Motor Carrier safety regulations. One of the changes attempted to prohibit the diverting or masking of most criminal and traffic convictions for CDL holders, regardless of whether the activity occurred in a regular vehicle or a commercial motor vehicle.

Mr. Smith noted the interpretation, by the Kansas Attorney General’s Office, of the term “driver” was construed in a manner that limited the prohibition’s usefulness and consistency with the intent of the Federal regulations. The risks to the State for being in noncompliance with the CDL Program include the potential loss of a percentage of Federal-aid highway funds, or decertification of the State CDL issuance process (Attachment 3).

There being no further conferees, the hearing on **HB 2484** was closed.

Chairman Umbarger opened the hearing on **HB 2485 - Increasing time period for audit of certain motor carriers**. Bruce Kinzie, staff revisor, reviewed the bill.

Mike Hoeme, Director of Transportation, Kansas Corporation Commission, testified as a proponent of **HB 2585**. He indicated that the bill will extend the time period from 12 to 18 months, for verifying that a motor carrier is fit, knowledgeable and in compliance with the Commission’s safety rules and regulations. The 18-month time line is consistent with the federal New Entrant rules and passage of **HB 2485** will eliminate one of the last remaining inconsistencies between state and federal programs (Attachment 4).

Written testimony in support of **HB 2485** was submitted by:

Tom Whitaker, Executive Director, Kansas Motor Carriers Association (Attachment 5)

There being no further conferees, the hearing on **HB 2485** was closed.

The Chairman called for action on **SB 480 - Regulating traffic; license plates**. Daniel Yoza, staff revisor, distributed a balloon amendment, requested at the February 26 hearing (Attachment 6).

Discussion followed relating to adding a warning period of 12 months for violators of the new regulations concerning clear or opaque coverings and frames. Senator Donovan moved, Senator Huntington seconded, to further amend the balloon amendment by adding a warning period of 12 months to New Section 1(a)(3). Motion carried.

Senator Schmidt moved, Senator Donovan seconded, to adopt the proposed balloon amendment. Motion carried.

Senator Donovan moved, Senator Huntington seconded, to recommend SB 480, as amended, favorably for passage. Motion carried.

Chairman Umbarger called for action on **HB 2510 - Temporary vehicle registration, use of permit**. He recognized Carmen Alldritt, Director, Division of Vehicles to comment on extending temporary permits from 30 days to 45 days. She stated that she needed a few days to get information on switching to 45-day tags and the cost involved. Discussion followed and the Chairman indicated he would work the bill next week.

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The Chairman called for action on **SB 538 - Extending school bus exemption to 25 years**. Concerns were raised relating to school bus safety standards and after discussion Senator Donovan moved, Senator Apple seconded, to table SB 538. Motion carried.

Chairman Umbarger called for action on **HB 2437 - Kansas arts license plates, requiring certain fees**. Senator Kultala moved, Senator Schmidt seconded, to take no action on HB 2437. Motion carried.

Senator Hensley moved, Senator Kultala seconded, to delete the contents of HB 2437, insert the contents of SB 483 - Primary seat belt law and SB 351 - Prohibiting texting while driving; penalties, retitle accordingly, and recommend S Sub for HB 2437 favorably for passage. Motion carried. Senator Marshall voted no and requested his vote recorded.

The meeting was adjourned at 9:33 a.m. The next meeting is scheduled for March 9, 2010.