

As Amended by House Committee

Session of 2004

SENATE BILL No. 472

By Committee on Agriculture

2-9

10 AN ACT concerning motor carriers; relating to ~~trucks mounted with fer-~~
11 ~~tilizer spreaders~~ **the regulation thereof**; amending K.S.A. ~~2003 Supp.~~
12 ~~66-1,109~~ **66-1,142b** and **K.S.A. 2003 Supp. 66-1,109** and **66-1,129**
13 and repealing the existing ~~section~~ **sections**.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 **New Section 1. As applied to the regulation of motor carriers,**
17 **the provisions of this act and all grants of power, authority and**
18 **jurisdiction herein made to the state corporation commission shall**
19 **be liberally construed, and all incidental powers necessary to carry**
20 **into effect the provisions of this act are expressly granted to and**
21 **conferred upon the state corporation commission.**

22 **New Sec. 2. The state corporation commission is given full**
23 **power, authority and jurisdiction to supervise and control motor**
24 **carriers, as defined in K.S.A. 66-1,108, and amendments thereto,**
25 **doing business or procuring business in Kansas, and is empowered**
26 **to do all things necessary and convenient for the exercise of such**
27 **power, authority and jurisdiction. The commission shall have gen-**
28 **eral supervision of all motor carriers operating in this state. The**
29 **commission shall inquire into any neglect or violations of the laws**
30 **pertaining to the regulation of motor carriers of this state by any**
31 **motor carrier or any person retaining the transportation services**
32 **of that motor carrier. From time to time, the commission shall**
33 **carefully examine and inspect the condition of each motor carrier,**
34 **its equipment, the manner of its conduct and its management with**
35 **reference to the public safety and convenience. Nothing in this**
36 **section shall be construed as relieving any motor carrier from re-**
37 **sponsibility or liability for damage to person or property.**

38 **New Sec. 3. The state corporation commission shall have the**
39 **authority to examine all accounts and records pertaining to its reg-**
40 **ulation of motor carriers. The agents, accountants, examiners or**
41 **inspectors designated by the commission shall have authority un-**
42 **der the direction of the transportation division to inspect and ex-**
43 **amine any and all books, accounts, papers, records, property and**

1 **memoranda pertinent to its regulation of motor carriers.**

2 ~~Section 1.~~ **Sec. 4.** K.S.A. 2003 Supp. 66-1,109 is hereby amended
3 to read as follows: 66-1,109. This act shall not require the following car-
4 riers to obtain a certificate, license or permit from the commission or file
5 rates, tariffs, annual reports or provide proof of insurance with the
6 commission:

7 (a) Transportation by motor carriers wholly within the corporate lim-
8 its of a city or village in this state, or between contiguous cities or villages
9 in this state or in this and another state, or between any city or village in
10 this or another state and the suburban territory in this state within three
11 miles of the corporate limits, or between cities and villages in this state
12 and cities and villages in another state which are within territory desig-
13 nated as a commercial zone by the relevant federal authority, except that
14 none of the exemptions specified in this subsection (a) shall apply to
15 wrecker carriers and none of such exemptions shall apply to motor car-
16 riers of passengers, other than motor carriers of passengers operating as
17 a part of the general transit system serving any such city or village in this
18 or another state, operating on regular routes and time schedules between
19 any city or village in this or another state, and the suburban territory in
20 this state;

21 (b) a private motor carrier who operates within a radius of 25 miles
22 beyond the corporate limits of its city or village of domicile, or who op-
23 erates between cities and villages in this state and cities and villages in
24 another state which are within territory designated as a commercial zone
25 by the relevant federal authority;

26 (c) the owner of livestock or producer of farm products transporting
27 livestock of such owner or farm products of such producer to market in
28 a motor vehicle of such owner or producer, or the motor vehicle of a
29 neighbor on the basis of barter or exchange for service or employment,
30 or to such owner or producer transporting supplies for the use of such
31 owner or producer in a motor vehicle of such owner or producer, or in
32 the motor vehicle of a neighbor on the basis of barter or exchange for
33 service or employment;

34 (d) persons operating motor vehicles used only to transport property
35 when no common carrier is accessible, but when common-carrier service
36 is available then this last exemption is limited to the transportation of
37 such property from origin to the nearest practicable common-carrier re-
38 ceiving or loading point, or from a common-carrier unloading point by
39 way of the shortest practicable route to destination, providing such motor
40 vehicle does not pass a practicable delivery or receiving point of a com-
41 mon carrier equipped to transport such load, or when used to transport
42 property from the point of origin to point of destination thereof when
43 the destination of such property is less distant from the point of origin

- 1 thereof than the nearest practicable common-carrier receiving or loading
2 point equipped to transport such load;
- 3 (e) (1) the transportation of children to and from school, or (2) to
4 motor vehicles owned by schools, colleges, and universities, religious or
5 charitable organizations and institutions, or governmental agencies, when
6 used to convey students, inmates, employees, athletic teams, orchestras,
7 bands or other similar activities;
- 8 (f) a new vehicle dealer as defined by K.S.A. 8-2401, and amend-
9 ments thereto, when transporting property to or from the place of busi-
10 ness of such dealer;
- 11 (g) motor vehicles carrying tools, property or material belonging to
12 the owner of the vehicle and used in repair, building or construction work,
13 not having been sold or being transported for the purpose of sale;
- 14 (h) persons operating motor vehicles which have an ad valorem tax
15 situs in and are registered in the state of Kansas, and used only to trans-
16 port grain from the producer to an elevator or other place for storage or
17 sale for a distance of not to exceed 50 miles;
- 18 (i) the operation of hearses, funeral coaches, funeral cars or ambu-
19 lances by motor carriers;
- 20 (j) motor vehicles owned and operated by the United States, the Dis-
21 trict of Columbia, any state, any municipality or any other political sub-
22 division of this state, including vehicles used exclusively for handling U.S.
23 mail, and the operation of motor vehicles used exclusively by organiza-
24 tions operating public transportation systems pursuant to 49 U.S.C. sec-
25 tions 5307, 5310 and 5311;
- 26 (k) any motor vehicle with a normal seating capacity of not more than
27 the driver and 15 passengers while used for vanpooling or otherwise not
28 for profit in transporting persons who, as a joint undertaking, bear or
29 agree to bear all the costs of such operations, or motor vehicles with a
30 normal seating capacity of not more than the driver and 15 passengers
31 for not-for-profit transportation by one or more employers of employees
32 to and from the factories, plants, offices, institutions, construction sites
33 or other places of like nature where such persons are employed or ac-
34 customed to work;
- 35 (l) motor vehicles used to transport water for domestic purposes, **as**
36 **defined by subsection (c) of K.S.A. 82a-701, and amendments**
37 **thereto**, or livestock consumption;
- 38 (m) transportation of sand, gravel, slag stone, limestone, crushed
39 stone, cinders, calcium chloride, bituminous or concrete paving mixtures,
40 blacktop, dirt or fill material to a construction site, highway maintenance
41 or construction project or other storage facility and the operation of ready-
42 mix concrete trucks in transportation of ready-mix concrete;
- 43 (n) the operation of a vehicle used exclusively for the transportation

- 1 of solid waste, as the same is defined by K.S.A. 65-3402, and amendments
2 thereto, to any solid waste processing facility or solid waste disposal area,
3 as the same is defined by K.S.A. 65-3402, and amendments thereto;
- 4 (o) the transporting of vehicles used solely in the custom combining
5 business when being transported by persons engaged in such business;
- 6 (p) the operation of vehicles used for servicing, repairing or trans-
7 porting of implements of husbandry, as defined in K.S.A. 8-1427, and
8 amendments thereto, by a person actively engaged in the business of
9 buying, selling or exchanging implements of husbandry, if such operation
10 is within 100 miles of such person's established place of business in this
11 state;
- 12 (q) transportation by taxi or bus companies operated exclusively
13 within any city or within 25 miles of the point of its domicile in a city;
- 14 (r) 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.
16 8-136, 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 (s) any person operating a motor vehicle with a gross vehicle weight
20 rating of 10,000 pounds or less, transporting property sold or to be sold
21 by the owner or operator of such motor vehicle, except motor vehicles
22 transporting hazardous materials which require placards;
- 23 (t) the operation of vehicles used for transporting materials used in
24 the servicing or repairing of the refractory linings of industrial boilers;
25 ~~and~~
- 26 (u) transportation of newspapers published at least one time each
27 week; *and*
- 28 (v) ~~trucks mounted with a fertilizer spreader used or manufactured~~
29 ~~principally to spread animal dung~~ **transportation of animal dung to**
30 **be used for fertilizer.**
- 31 **Sec. 5. K.S.A. 2003 Supp. 66-1,129 is hereby amended to read**
32 **as follows: 66-1,129. (a) The commission shall adopt rules and reg-**
33 **ulations necessary to carry out the provisions of this act. No public**
34 **motor carrier of property, household goods or passengers or pri-**
35 **vate motor carrier of property shall operate or allow the operation**
36 **of any motor vehicle on any public highway in this state except**
37 **within the provisions of the rules and regulations adopted by the**
38 **commission. Rules and regulations adopted by the commission**
39 **shall include:**
- 40 (1) **Every vehicle unit shall be maintained in a safe and sanitary**
41 **condition at all times.**
- 42 (2) **Every driver of a public motor carrier, operating as a car-**
43 **rier of intrastate commerce within this state, shall be at least 18**

1 years of age. Every driver of a private motor carrier, operating as
2 a carrier of intrastate commerce within this state, shall be at least
3 16 years of age. All such drivers shall be competent to operate the
4 motor vehicle under such driver's charge.

5 (3) Minimum age requirements for every driver of a motor car-
6 rier, operating as a carrier of interstate commerce, shall be con-
7 sistent with federal motor carrier regulations.

8 (4) Hours of service for operators of all motor carriers to which
9 this act applies shall be fixed by the commission.

10 (5) Accidents arising from or in connection with the operation
11 of motor carriers shall be reported to the commission within the
12 time, in the detail and in the manner as the commission requires.

13 (6) Every motor carrier shall have attached to each unit or ve-
14 hicle distinctive marking adopted by the commission.

15 (7) Motor carrier transportation requirements that are consis-
16 tent with continuation of the federal motor carrier safety assis-
17 tance program and other federal requirements concerning trans-
18 portation of hazardous materials.

19 (b) No rules and regulations adopted by the commission pur-
20 suant to this section shall require the operator of any motor vehicle
21 having a gross vehicle weight rating or gross combination weight
22 rating of not more than 10,000 pounds to submit to a physical
23 examination, unless required by federal laws or regulations.

24 (c) Any rules and regulations of the commission, adopted pur-
25 suant to this section, shall not apply to the following, while engaged
26 in the carriage of intrastate commerce in this state:

27 (1) The owner of livestock or producer of farm products trans-
28 porting livestock of such owner or farm products of such producer
29 to market in a motor vehicle of such owner or producer, or the
30 motor vehicle of a neighbor on the basis of barter or exchange for
31 service or employment, or to such owner or producer transporting
32 supplies for the use of such owner or producer in or producer, or
33 in the motor vehicle of a neighbor on the basis of barter or
34 exchange for service or employment.

35 (2) The transportation of children to and from school, or to
36 motor vehicles owned by schools, colleges, and universities, relig-
37 ious or charitable organizations and institutions, or governmental
38 agencies, when used to convey students, inmates, employees, ath-
39 letic teams, orchestras, bands or other similar activities.

40 (3) (A) Except for motor vehicles under subparagraph (B), mo-
41 tor vehicles, with a gross vehicle weight rating of 26,000 pounds
42 or less, carrying tools, property or material belonging to the owner
43 of the vehicle, and used in repair, building or construction work,

1 not having been sold or being transported for the purpose of sale,
2 except vehicles transporting hazardous materials which require
3 placards.

4 (B) Except vehicles transporting hazardous materials which re-
5 quire placards, motor vehicles, with a gross vehicle weight rating
6 of 26,000 pounds or less, carrying tools, property or material be-
7 longing to the owner of the vehicle and used in repair, building or
8 construction work and such tools, property or material are being
9 transported to or from an active construction site located within a
10 radius of 25 miles of the principal place of business of the motor
11 carrier.

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

16 (5) The operation of hearses, funeral coaches, funeral cars or
17 ambulances by motor carriers.

18 (6) Motor vehicles owned and operated by the United States,
19 the District of Columbia, any state, any municipality or any other
20 political subdivisions of this state.

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

30 ~~(8) Motor vehicles used to transport water for domestic purposes or~~
31 ~~livestock consumption.~~

32 *(8) Motor vehicles used to transport water for domestic use purposes,*
33 *as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto,*
34 *or livestock consumption.*

35 (9) The operation of vehicles used for servicing, repairing or
36 transporting of implements of husbandry, as defined in K.S.A. 8-
37 1427, and amendments thereto, by a person actively engaged in
38 the business of buying, selling or exchanging implements of hus-
39 bandry, if such operation is within 100 miles of such person's es-
40 tablished place of business in this state, unless the implement of
41 husbandry is transported on a commercial motor vehicle.

42 **Sec. 6. K.S.A. 66-1,142b is hereby amended to read as follows:**
43 **66-1,142b. (a) Any motor carrier person violating any statute, com-**

1 ~~mission orders or rules and regulations relevant to motor carriers~~
2 ~~adopted by the state corporation commission pursuant to the motor~~
3 ~~carrier act and other laws relevant to motor carriers shall be subject to~~
4 ~~a civil penalty of not less than \$100 and not more than \$1,000 for~~
5 ~~negligent violations, and not more than \$5,000 for intentional~~
6 ~~violations.~~

7 (b) In construing and enforcing a civil penalty in accordance
8 with this section, any act, omission or failure of any officer, agent
9 or other person acting for or employed by any motor carrier while
10 acting within the scope of such person's employment, shall in every
11 case be deemed the act, omission or failure of the motor carrier.

12 (c) Every day during which the ~~motor carrier person~~ fails to com-
13 ply with any order or direction of the commission, or any applicable
14 statute, rule or regulation, shall constitute a separate and distinct
15 violation.

16 (d) Civil penalties shall be enforced and collected by an attor-
17 ney for the corporation commission in the appropriate district
18 court.

19 (e) Civil penalties shall be remitted in accordance with the pro-
20 visions of K.S.A. 75-4215, and amendments thereto, to the state
21 treasurer. Upon receipt of each such remittance, the state trea-
22 surer shall deposit the entire amount in the state treasury to the
23 credit of the motor carrier license fee fund.

24 (f) The commission is granted the power, by general order or
25 otherwise, to prescribe reasonable rules and regulations for the
26 assessment of administrative civil penalties and sanctions for vio-
27 lations of any statute, commission orders or rules and regulations
28 adopted by the commission.

29 Sec. ~~7~~. K.S.A. ~~2003 Supp. 66-1,109~~ is 66-1,142b and K.S.A.
30 2003 Supp. 66-1,109 and 66-1,129 are hereby repealed.

31 Sec. ~~8~~. This act shall take effect and be in force from and after its
32 publication in the Kansas register.