

Approved: April 30, 1994

Date

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION.

The meeting was called to order by Chairman Rex Crowell at 1:30 p.m. on March 9, 1994 in Room 519-S of the Capitol.

All members were present except: Rep. Hendrix, Excused

Committee staff present: Tom Severn, Legislative Research Department
Hank Avila, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Donna Luttjohann, Committee Secretary

Conferees appearing before the committee: Mary Turkington, KMCA
Jack Tierce, KCC

Others attending: See attached list

Chairman Crowell opened the hearing on SB 760 providing for the licensing and regulation of motor transportation brokers.

Mary Turkington was recognized by the Chairman as a proponent of the bill. She testified that the bill is patterned after the Interstate Commerce Commission's regulation of transportation brokers. Ms. Turkington testified that this legislation would be administered as a new section of chapter 66 of Kansas Statutes Annotated under the direction of the Kansas Corporation Commission. It would only involve the transportation of property by a motor carrier. See Attachment 1.

The Chairman recognized Jack Tierce. He answered questions from the Chairman and Committee.

The hearing on SB 760 was closed by the Chairman.

The meeting was adjourned at 2:31 p.m. by Chairman Crowell with the next meeting scheduled for March 10, 1994, at 1:30 p.m. in Room 519-S of the Capitol.

HOUSE TRANSPORTATION COMMITTEE

March 9, 1994

Name _____

Address

Representing

MARY E TURKINGTON	TOPEKA	KANSAS NOTARY PUBLIC
TOM WHITAKER	TOPEKA	Ks MOTOR CARRIAGES ASSN.
MICHAEL W. ROSS	SALINA	ROSS TRUCK LINE INC

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

In support of Senate Bill 760 which
provides for a Motor Transportation
Broker.

Presented to the House Transportation
Committee, Rep. Rex Crowell, Chairman;
Statehouse, Topeka, Wednesday, March 9,
1994.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Mary E. Turkington, Executive Director of the Kansas Motor Carriers Association with offices in Topeka. I appear here along with Tom Whitaker, KMCA Governmental Relations Director; representing our member-firms and the highway transportation industry.

Our industry strongly supports the provisions of Senate Bill 760 which provide for a motor transportation broker.

This legislation is patterned largely after the regulation of such transportation brokers by the Interstate Commerce Commission. The ICC has regulated such brokers for many years. Kansas currently does not regulate -- nor even define a motor transportation broker, even though such services are provided in one form or another.

Senate Bill 760 does not in any way address any other type of broker -- including grain brokers.

As proposed, this legislation would be administered as a new section of chapter 66 of Kansas Statutes Annotated under the direction of the Kansas Corporation Commission and involves only the transportation of property by a motor carrier.

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Attachment 1-1

The bill also makes clear that a motor carrier, or persons who are employees or bona fide agents of such a motor carrier, are not brokers within the meaning of this act when such motor carrier, employee or bona fide agent of such motor carrier, arranges or offers to arrange the transportation of shipments which such carrier holds the authority to transport and which such carrier legally has bound itself to transport. Motor carriers would continue to provide for-hire transportation just as they do now.

The bill defines a "motor carrier", defines a "bona fide agent", and specifies that the "commission" is the state corporation commission.

The bill also defines "brokerage" or "brokerage service" as the arranging of transportation or the physical movement of a motor vehicle or of property.

The bill further provides that every motor carrier which provides transportation services to any shipper, must submit a statement for the full amount of applicable, lawful transportation charges to such shipper.

Such a statement for transportation charges may be submitted through a motor transportation broker but must only include the total lawful charges for the transportation services performed.

The shipper, in turn, must remit to the carrier, the full amount of the applicable, lawful charges for such transportation services.

In other words, the motor transportation broker cannot deduct any brokerage fee or commission from the lawful freight charges. The carrier must bill and the shipper must pay, the transportation charges in full.

The broker may collect a commission from any motor carrier -- an agreed-upon commission for brokerage service of not more than 5% of the motor carrier's applicable, lawful rate for such transportation service --- provided the motor carrier enters into an agreement with a broker for such services. The broker -- or the shipper -- however, cannot deduct such fees from the lawful transportation charges. That is discounting and is forbidden by law.

A broker also can receive compensation from more than one party (for instance from a carrier and a shipper) to the same transportation transaction.

The bill, in Section 3, sets out the requirement that a motor transportation broker be licensed, that the application for such a license be submitted to the state corporation commission, and that a one-time fee of \$500 accompany the application. Such motor transportation broker license fees would be deposited in the commission's motor carrier fee fund.

The commission shall issue a motor transportation broker's license to an applicant whom the commission finds and determines is fit, willing and able to act as a broker for transportation and who will comply with this act and the rules and regulations of the commission.

A motor carrier as defined by section 1 of the act, who is authorized by the commission to transport property for compensation over the highways of this state, cannot be granted a broker's license nor could any applicant who acts as a shipper, consignee or consignor of freight.

Sections 5, 6 and 7 of the act set out the records and reports a licensed motor transportation broker would be required to keep. Section 8 provides for a bond for a broker who handles the payment of transportation charges to a motor carrier. If the broker chooses to have the shipper pay such charges direct to the motor carrier and does not handle money on behalf of a motor carrier for transportation charges, no bond would be required.

Section 9 sets out what a motor transportation broker's license permits the broker to do. Subsection (d) of Section 9, also includes the penalties for violations of the act.

The commission is authorized to adopt such rules and regulations as may be necessary to administer the act and the act would become effective from and after its publication in the statute book.

Mr. Chairman and members of the committee, this proposal has the strong support of the Kansas Motor Carriers Association and its members. It is patterned closely after the ICC broker requirements. We have conferred at length with the corporation commission's staff to make the bill as workable as possible. We believe the bill addresses a need for competent motor transportation broker services. We further believe there are provisions which protect shippers, brokers and carriers from violations involving lawful transportation charges.

We respectfully urge this committee to recommend Senate Bill 760 favorable for passage.

I will be pleased to respond to any questions you may have.

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Attachment 1-4