

Approved: April 1, 1994  
Date

## MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairman Lana Oleen at 3:05 p.m. on February 25, 1994 at the Rail of the Capitol.

### Members present:

Sens. Oleen, Papay, Tillotson, Gooch, Jones, Walker, Ramirez, Praeger

Sen. Oleen referred to a proposal (Attachment 1) regarding commercial drivers' licenses for nonresidents, as requested by Sen. Frahm. Sen. Walker made a motion the proposal be introduced as a bill, and it was seconded by Sen. Tillotson; the motion passed.

Meeting adjourned at 3:10.

*FRAhm*

3 RS 2508

*2/25*

*Attachment 1*

SENATE BILL NO. \_\_\_\_

By

AN ACT relating to commercial drivers' licenses; providing for the issuance to nonresidents; amending K.S.A. 8-2,128 and K.S.A. 1993 Supp. 8-2,133 and and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) The division may issue a nonresident commercial driver's license to an applicant who is at least 18 years of age and employed by a Kansas employer but is a resident of a foreign country for the operation of any commercial class of vehicles if such person has passed a knowledge and skills test pursuant to K.S.A. 8-2,133, and amendments thereto. Any person who is applying for a nonresident commercial driver's license shall be subject to the provisions of K.S.A. 8-2,125 through 8-2,145, and amendments thereto;

(b) A nonresident commercial driver's license issued pursuant to subsection (a) shall contain on the face of the license the statement "nonresident commercial driver's license" or "nonresident CDL";

(c) Any such license issued pursuant to subsection (a) shall be valid only for the period the nonresident is authorized to be employed in the United States. The fee for a nonresident commercial driver's license will be the same as for a resident commercial driver's license;

(d) If the nonresident applicant is the holder of a nonresident commercial driver's license issued by another state, such license shall be surrendered to the state of Kansas at the time a Kansas nonresident commercial driver's license is issued;

(e) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

*Senate Fed + State*  
*Feb. 25, 1994 pm*  
*Attachment 1*

Section 2. K.S.A. 8-2,128 is hereby amended to read as follows: 8-2,128. As used in this act:

(a) "Alcohol" means any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol and isopropanol;

(b) "alcohol concentration" means:

(1) The number of grams of alcohol per 100 milliliters of blood; or

(2) the number of grams of alcohol per 210 liters of breath;

(c) "commercial driver's license" means a license issued pursuant to K.S.A. 8-234b, and amendments thereto;

(d) "commercial driver license system" means the information system established pursuant to the commercial motor vehicle safety act of 1986 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers;

(e) "instruction permit" means a permit issued pursuant to K.S.A. 8-294, and amendments thereto;

(f) "commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property, if:

(1) The vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating, as determined by rules and regulations adopted by the secretary, but shall not be more restrictive than the federal regulation;

(2) the vehicle is designed to transport 16 or more passengers, including the driver; or

(3) the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. 172, subpart F, effective January 1, 1991;

(g) "controlled substance" means any substance so classified under K.S.A. 65-4101, and amendments thereto;

(h) "conviction" means an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law and in a court of original jurisdiction or an administrative proceeding, an unvacated forfeiture of bail or

collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated;

(i) "disqualification" means a prohibition against driving a commercial motor vehicle, including the suspension, revocation or cancellation of the privilege to drive a commercial motor vehicle;

(j) "drive" means to drive, operate or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of K.S.A. 8-2,144 and 8-2,145 and K.S.A. 8-2,137, 8-2,138 and 8-2,142, and amendments thereto, "drive" includes operation or physical control of a motor vehicle anywhere in the state;

(k) "driver" means any person who drives, operates or is in physical control of a commercial motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a commercial driver's license;

(l) "driver's license" means any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

- (1) Any temporary license or instruction;
- (2) the privilege of any person to drive a motor vehicle whether or not such person holds a valid license; or
- (3) any nonresident's operating privilege;

(m) "employer" means any person, including the United States, a state or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle;

(n) "endorsement" means an authorization to an individual's commercial driver's license required to permit the individual to operate certain types of commercial motor vehicles;

(o) "felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding

one year;

(p) "gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle, or registered gross weight, whichever is greater. The gross vehicle weight rating of a combination (articulated) vehicle (commonly referred to as the "gross combination weight rating" is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of the towed unit or units;

(q) "hazardous materials" has the meaning as that found in section 103 of the hazardous materials transportation act, 49 U.S.C. 1801 et seq;

(r) "motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheel chairs;

(s) "out of service order" means a temporary prohibition against driving a commercial motor vehicle, which is imposed when a driver has any measured or detected alcohol concentration while on duty, or operating, or in physical control of a commercial motor vehicle;

(t) "residence" means the place which is adopted by a person as the person's place of habitation and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's residence;

(u) "secretary" means the secretary of the Kansas department of revenue;

(v) "serious traffic violation" means:

(1) Excessive speeding, is defined as 15 miles per hour or more over the posted speed limit;

(2) reckless driving, as defined under K.S.A. 8-1566, and amendments thereto;

(3) a violation of any state or local law relating to motor

vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(4) changing lanes of traffic illegally or erratically, as defined under K.S.A. 8-1548, and amendments thereto;

(5) following another vehicle too closely, as defined under K.S.A. 8-1523, and amendments thereto; or

(6) any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, which the secretary determines by rule and regulation to be serious;

(w) "state" means a state of the United States and the District of Columbia;

(x) "state of domicile" means that state where a person has such person's true, fixed and permanent home and principal residence and to which such person has the intention of returning whenever such person is absent;

(y) "tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks, as defined in 49 C.F.R. 171 in effect on January 1, 1991. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons;

(z) "United States" means the 50 states and the District of Columbia;

(aa) "division" means the division of vehicles of the Kansas department of revenue;

(bb) "director" means the director of the division of vehicles of the Kansas department of revenue;

(cc) "foreign country" means any jurisdiction other than the United States;

(dd) "nonresident commercial driver's license" means a license issued pursuant to section 1.

Sec. 3. K.S.A. 1993 Supp. 8-2,133 is hereby amended to read

as follows: 8-2,133. (a) Except as provided in K.S.A. 1993 Supp. 8-2,146 or as provided in section 1, no person may be issued a commercial driver's license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by 49 C.F.R. 383, subparts G and H, effective January 1, 1991, and has satisfied all other requirements of the commercial motor vehicle safety act in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the secretary, except that the secretary may accept the results of a person's knowledge test conducted in another state if such test complies with minimum federal standards;

(b) the following criteria shall be met before an applicant who is currently licensed to drive a commercial motor vehicle may be exempt from the driving skills portion of the commercial driver license testing. The applicant shall provide evidence and certify that for the two-year period, except that for paragraph (F) of subsection (1) it shall be a five-year period, immediately prior to applying for a commercial driver's license, the applicant:

(1) (A) Has held only one license, except under the conditions outlined in 49 C.F.R. 383.21(b), effective January 1, 1991;

(B) currently has no actions pending which could result in the license of the driver being revoked, suspended or canceled or the driver being disqualified pursuant to 49 C.F.R. 383.51, effective January 1, 1991;

(C) has not had any driver's license suspended, revoked or canceled, except as otherwise provided within this statute;

(D) has not been convicted of any type of the disqualifications listed in paragraph (2) of subsection (b) of 49 C.F.R. 383.51, effective January 1, 1991; and

(E) has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, other than

parking, arising out of a traffic accident, and has no record of an accident in which the applicant was at fault; and

(F) had no convictions for violations enumerated in K.S.A. 8-254, and amendments thereto, or K.S.A. 8-285, and amendments thereto; and

(G) has not had more than one conviction for serious traffic violations as defined in K.S.A. 8-2,128, and amendments thereto; and

(2) (A) has previously taken and passed, within the previous two years, the required skills test through a state with a classified licensing and testing system and behind the wheel test in a representative vehicle in the class the applicant is now desiring to be tested in; or

(B) operated, for at least two years immediately preceding the application for a commercial driver's license, a representative vehicle that the applicant currently operates or expects to operate;

(c) the secretary may authorize a person, including an agency of this or another state, an employer, a private driver training facility or other private institution, or a department, agency or instrumentality of local government, to administer the skills test specified by this section, if:

(1) The test is the same which would otherwise be administered by the state; and

(2) the third party has entered into an agreement with the state which complies with requirements of 49 C.F.R. 383.75, effective January 1, 1991.

(d) A commercial driver's license or commercial driver's instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked or cancelled in any state; nor shall a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the



issuing state for cancellation.

Sec. 4. K.S.A. 8-2,128 and K.S.A. 1993 Supp. 8-2,133 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.