

## MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Chairperson Ben Vidricksen at 9:00 a.m. on February 2, 1994 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department  
Ben Barrett, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Martha Ozias, Committee Secretary

Conferees appearing before the committee:

Senator Sheila Frahm - Majority Leader, 40th District  
Craig Cooley - Attorney, Leoti  
Roger Cooley - Farmer, Leoti  
Clement Bauck - Circle B Farms Inc., Leoti  
Tim Jaeger - Farmer, Leoti  
Clement Bauck - Farmer, Leoti  
Mike Lackey - Department of Transportation  
Mary Turkington - Executive Director of the Kansas Motor Carriers Assn.  
Senator Robert Vancrum - 11th District  
Kurt Winterhalter - Instructor, Cyr's Driving School  
Pat Easter - Kansas Driving School, Overland Park  
Chris Blair - Chris Blair, General Manager, Cyr's Driving School, Wichita  
John Holland - Midwest Driving School, Lawrence  
Jack West - Owner, Twin City Driver Education, Prairie Village

Others attending: See attached list

### **SB 527 - Relating to motor vehicles; concerning weight limitations; excess weight permits;**

Senator Frahm briefed the Committee on the bill stating that it is fashioned from a current Nebraska law dealing with harvest permits. This bill will allow farmers to purchase a 30 or 60 day permit to take their product to the market and allow the trucks to be overweight by 15%. (Attachment 1)

Written testimony was submitted from Merrill Nielsen, Past President of the Kansas Association of Wheat Growers, Sylvan Grove, Kansas, stating the position of this group. In it he asked for support for this bill, saying farmers can't be certain whether their trucks are under the weight limits and most of their traveling is done on country roads. It was pointed out that there is a limited time, due to weather and crop conditions, when farmers are able to harvest and this bill would enhance their ability to do so safely and efficiently. It would also allow them to harvest after hours and store the grain in their trucks overnight. (Attachment 2)

Craig Cooley addressed the bill stating that farmers have only a certain amount of time to get their crops from field to storage. This is especially true with corn silage and wet corn as they have only a "window" of time in which it can be harvested. The difference of one day can cause a huge difference in the crop, therefore, it is imperative to the farmer to be able to work within this time frame to harvest his entire crop. He addressed the concern of the state losing federal funding stating that the grandfather clause contained in the act permits Kansas to allow divisible loads in excess of 80,000 lbs. in present day without the fear of losing federal funding. He urge the Committee to give serious consideration to this bill as the state's farm economy depends on it. (Attachment 3)

See copy of Attorney General's Opinion - (Attachment 4)

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES, Room 254E  
Statehouse, at 9:00 a.m. on February 2, 1994.

Roger Cooley explained that it was hard to keep the right weight limit on big farm trucks and he felt a greater weight limit was needed. He told of instances during the fall harvest when trucks were being ticketed for being overweight and operating on farm tags as well as not having a harvest permit. This so intimidated the hired truck operators that they just went home and totally stopped the harvest operation in peak season for two days. He urged passage of this bill in the interest of the farmers, the community and the state. (Attachment 5)

The Committee also heard testimony from Clement Bauck who emphasized that being able to transport grain in an economical fashion is very important in his part of the state. Some of the distances from field to delivery is 20 miles or further one way and it is important to make each trip count. The ability to harvest when the time and weather is right is vital to the farmer's business. (Attachment 6)

Tim Jaeger stated that if weight laws are going to be enforced during harvest periods for farm trucks that it would be helpful to increase the legal load limits for them during the harvest season. He pointed out that if the trucks operated under weights it would increase the traffic on the roads and make it much more costly to operate a farm. (Attachment 7)

Mike Lackey spoke in opposition to **SB 527** stating it would jeopardize more than \$48 million in funding annually and accelerate the deterioration of the pavement and bridges on the State Highway System. In addition it would increase the administrative workload associated with the issuance of special permits and would be difficult to enforce. (Attachment 8)

Mary Turkington's concern dealt with the loss of federal highway funds, lack of criteria for "other seasonally harvested products", the temptation of overlapping radius permits and the lack of a definition of the term "vehicle or combination of vehicles". (Attachment 9)

Written testimony in support of this bill was submitted but not read from Ken Horton, (Attachment 10), Bret Ridder (Attachment 11), Darrel Dirks (Attachment 12), Richard Miller, (Attachment 13), and Kelley Burch (Attachment 14) from the Leoti, Kansas area.

A statement from Betty McBride, Department of Revenue, was also distributed. (Attachment 15)

### **SB 553 - Concerning drivers' training schools; relating to qualifications for instructors;**

Senator Vancrum briefed the Committee on concerns voiced from the Department of Education regarding driving schools. He felt it was inappropriate for the State Department of Education to be the ones regulating private driving schools and thought there was a great potential for conflict of interest. The schools have problems obtaining qualified new instructors that they can use during the summer months. At the present time, the only certification training approved by the Department of Education is a summer course at Emporia State and people attending cannot get their certification until September. This bill would allow instructors that have a substantial amount of experience to instruct their own instructors. Senator Vancrum stated that the driving schools perform a substantial public service in giving "non-traditional" students the opportunity to learn to drive without the inconvenience of going to drivers education courses with secondary school students. He felt the continuance of family owned driving schools should be supported. (Attachment 16)

Kurt Winterhalter addressed the bill saying the public has a need for quality driver training at a reasonable cost. Driving Schools must be able to tap the labor market for quality potential instructors and current requirements for college credit hours prohibit that. He asked for a law change that would allow them to train their own instructors for commercial driving schools so they will have instructors available to meet the need of the public to have quality driver training. (Attachment 17)

Patricia Easter spoke from the viewpoint of the needs of a small business owner. An alternative method for training instructors is needed as the present system does not coincide with the peak time of the summer months. They desire to train instructors for their own needs, insuring that they have qualified people, as their reputation depends on their quality of education. (Attachment 18)

Chris Blair reiterated previous testimony saying their need for commercial driving schools to have an alternative method of training instructors is great. The problem they have with hiring currently certified instructors is one of economics and they cannot afford to compete with the unified school districts regarding salary. **SB 553** would be a solution for existing problems as it would enable them to have more qualified instructors available during the peak summer season. (Attachment 19)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES, Room 254E  
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John Holland spoke briefly in support of this bill as well as Jack West. (Attachment 20)

Written testimony was submitted but not read from Bill Kennedy, (Attachment 21) and Darrell Cyr, (Attachments 22 and 23).

The Chairman requested introduction of an underground utility damage prevention bill. A motion was made to have this bill introduced by Senator Tiahrt and seconded by Senator Emert. Motion carried.

A motion to approve the minutes of the February 1 minutes was made by Senator Tiahrt and seconded by Senator Jones. Motion carried.

The Chairman adjourned the meeting.

**The next meeting is scheduled for February 4, 1994.**

GUEST LIST

## SENATE TRANSPORTATION COMMITTEE

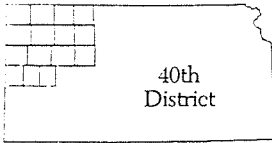
DATE: February 2, 1994

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Dave Young	354-E	Sen. Maj Leader
STEVE KEARNEY	TOPEKA	KINI
Tom Tunnell	Kansas Grain & Feed Assn	Topeka
John Howland	2563 MONTANA, LAWRENCE	Midwest Driving School
Rick Scheibe	TOPEKA	KDOR
PAT EASTER	7327 W 97 <sup>TH</sup> ST.	O.P/KS DRIVING SCHOOL
Jim KEELE	PAOLA	BLE
DON LINDSEY	OSAWATOMIE	UTU
Mary E Turkington	Topeka	Kansas Motor Carriers Assn
Tom WHITAKER	TOPEKA	KANSAS MOTOR CARRIERS ASSN
Karen Knealy	Topeka	Ks Hssn School Boards
Allie Devine	Topeka	Ks Trustee Assoc
Kurt Winterhalter	Wichita	Cyr's Driving School
Chris Blair	Wichita	Cyr's Driving School
Al & Don	Horton	Majority Leader's office
James Smith	Topeka	Ks Assoc of Counties

# KANSAS SENATE



**SHEILA FRAHM**



985 S. RANGE  
COLBY, KANSAS 67701  
913-462 6948

## OFFICE OF THE MAJORITY LEADER

STATE CAPITOL  
TOPEKA, KANSAS 66612-1504  
913-296-2497

February 1, 1994

MEMBER:  
AGRICULTURE  
INTERSTATE COOPERATION  
LEGISLATIVE COORDINATING COUNCIL  
ORGANIZATION, CALENDAR AND RULES  
STATE FINANCE COUNCIL  
VICE CHAIR:  
EDUCATION

Mr. Chairman, Members of the Committee:

Senate Bill 527 is fashioned from current Nebraska law dealing with harvest permits that are sold seasonally.

This bill will allow farmers to purchase a 30 day or 60 day permit which allows them to take their product from the field to the market place, storage or stockpile. The permit would allow the farmers' trucks to be overweight by only 15%. This 15% limit would apply to gross weight of the vehicle.

In drafting SB 527, I asked the revisor to duplicate the Nebraska statute. My concern was to not request any more legislation than a surrounding state might currently allow. Mr. Chairman, I believe there are areas of this bill your committee may want to address pursuant to current Kansas law. I, therefore, defer to the wisdom of the committee as it reviews this bill.

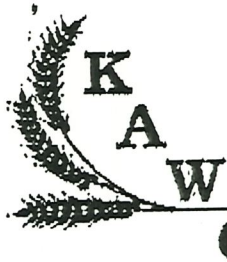
Respectfully submitted,

A handwritten signature in cursive script that reads "Sheila Frahm".  
Senator Sheila Frahm

SF/gs

ATTACHMENT 1

SEN. TRANS. 2/2/94



# Kansas Association of Wheat Growers

ONE STRONG VOICE FOR WHEAT

P.O. Box 2349

Hutchinson, Ks 67504-2349

(316) 662-2367

February 1, 1994

Senator Ben Vidricksen  
Chairman, Senate Transportation Committee  
Statehouse  
Topeka, KS 66612

Dear Mr. Chairman:

While it is not possible for me to be present in Topeka on Wednesday, February 2, for the hearing on S.B. 527, I would like to provide you and your Committee with the position of the Kansas Association of Wheat Growers (KAWG). I am the Immediate Past President and Legislation Chairman of KAWG and a wheat producer from Sylvan Grove, Kansas.

The Kansas Association of Wheat Growers supports S.B. 527, which provides for permits for overweight vehicles transporting commodities during harvest from the field to farm or to market. There are many reasons which make S.B. 527 good policy. Farmers make every effort to comply with the current law, but can't be certain when loading trucks in the field, whether they are under the weight limits.

Trucks moving from the field to the farm or country elevator for storage or market are most often traveling on country roads and are on highways for short distances. Giving them the benefit of the doubt by allowing an additional 15% weight during harvest periods will make sure that farmers are not unintentionally violating the law. This bill should not conflict with commercial trucking regulations, since it addresses short distances and trucks which are not over-the-road vehicles.

As you are aware, there is a limited time, due to weather and crop conditions, when farmers are able to harvest and store a year's crop. S.B. 527 would enhance our ability to do so safely and efficiently. Fifteen percent is small enough a percentage to protect safety and road conditions, yet large enough to give some leeway to producers and harvesters working to bring a crop to storage in good condition. This legislation may even result in some reduction in the number of trucks needed during harvest, which would also have a benefit to road conditions.

Another benefit of S.B. 527 is related to the fact that harvesting must frequently continue after elevator hours. Often due to weather considerations, it's important to get even one more hour of harvesting done. That grain then must be stored overnight in trucks. With the small margin provided by this legislation, a farmer could get in that last

ATTACHMENT 2

SEN. TRANS. 2/2/94

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**R. CRAIG COOLEY, P.A.**

**ATTORNEY AT LAW**

19 N. 4th - P.O. Box 847  
Leoti, Kansas 67861

(316) 375-4240  
Fax (316) 375-2430

February 1, 1994

To: Senate Transportation Committee

RE: Senate Bill 527

I am a solo practitioner in Leoti, Kansas, a small rural agricultural based community. Ninety percent of my clients are farmers.

I became involved in this issue when several of my clients came to me asking if anything could be done about the Department of Transportation stopping harvest trucks. I informed them that, unfortunately, nothing could be done as the DOT was enforcing the law as written.

It is no secret that farmers have overloaded their trucks for many years. In the past, for whatever reason, the DOT has not actively sought to enforce weight regulations on farmers during harvest time. In the last few years, however, this "hands off" policy by the DOT has eroded.

Farmers have only a certain amount of time to get their crops from the field to a feedlot, elevator, or their own storage. This is especially true with corn silage and wet corn. These two commodities have a "window" of time in which they can be harvested. They can neither be too wet, nor too dry. The difference of one day can cause a huge difference in the crop.

ATTACHMENT 3

SEN. TRANS. 2/2/94

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It therefore is imperative to the farmer to be able to work within this window of opportunity to harvest his entire crop. As I have stated before, farmers have overloaded their trucks with whatever commodity they were harvesting so that they could get it out of the field and into the market as quickly as possible. Even if this bill is not passed and signed into law, I seriously doubt that "Joe Farmer" will cease from overloading his truck. It is simply too economically vital to the farmer.

What must be understood is that this is the farmers entire livelihood. Farming is the only business I know where you pay all of the expenses up front, hoping and praying that there is something to pay your bills with come harvest time. The farmers entire economic future sits there in the field. One hailstorm, or windstorm, etc., could demolish him. Frankly, he could care less what Topeka or anyone else may tell him about how to load his truck during harvest. He will cut his wheat, or other crop, in the most efficient way possible, and will haul the maximum load that is safe.

The farmer also has a huge amount of money tied up in equipment. The trucks that we are talking about will only be used one to four months in a year. The rest of the year, they sit in a shed, collecting dust.

As has been referenced, Nebraska allows for the farmer to obtain a special permit that allows him to haul up to 15% greater weight than is authorized for normal truck loads. Nebraska Statute §39-6,181 specifically permits a carrier to apply for a permit, for the harvest season only, and for a route from the field to storage

or market, to haul a weight 15% greater than the maximum weight specified by law, and subject to an axle weight of 20,000 lbs. on any axle.

Concern has been expressed that if Kansas were to pass this proposed bill, that the state would lose federal funding. These concerns have been answered in Attorney General Stephan's Opinion No. 91-62. In that Opinion, the Attorney General found that because Kansas allowed weights greater than 80,000 lbs. in 1956, prior to the Federal Aid Highway Act of 1956, that the grandfather clause contained in the act permits Kansas to allow divisible loads in excess of 80,000 lbs. in present day without the fear of losing federal funding.

Agriculture, especially in our part of the state, is our economic life-blood. Our entire community hinges on our farmers harvesting their crops in a timely manner, the most efficient way possible. I ask today that Senate Bill 527 be given serious consideration as the state's farm economy depends on it.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

May 30, 1991

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 91- 62

Gary Stotts  
Secretary  
Department of Transportation  
Docking State Office Building  
Topeka, Kansas 66612

Re:           Automobiles and Other Vehicles--Uniform Act  
              Regulating Traffic on Highways -- Size, Weight and  
              Load of Vehicles, Permits for Excess Size and Weight

Synopsis:     The Federal-Aid Highway Act of 1956, as amended and  
              codified at 23 U.S.C. § 127, contains a grandfather  
              clause which has been interpreted by the courts to  
              provide that a state may allow divisible loads in  
              excess of 80,000 pounds today if in 1956 state  
              statutes or regulations would have permitted the  
              issuance of special permits for divisible excess  
              loads, regardless of actual state practice at that  
              time. Congress has acquiesced in this broad  
              interpretation. Kansas statute K.S.A. 8-5,122  
              (Corrick, 1956) was broad enough to authorize the  
              issuance of special permits for divisible loads.  
              Therefore, the Kansas department of transportation  
              can do so now pursuant to the grandfather clause.  
              Cited herein: K.S.A. 8-5,122 (Corrick, 1956);  
              K.S.A. 1990 Supp. 8-1911.

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Dear Secretary Stotts:

You inquire whether the department of transportation (KDOT)  
may issue special permits for divisible loads over 80,000  
pounds within the protection afforded by the grandfather

ATTACHMENT 4

SEN. TRANS. 2/2/94

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clause of the Federal-Aid Highway Act of 1956, codified at 23 U.S.C. § 127. You indicate that section 127 of title 23 provides that federal highway appropriations shall be withheld from any state not in compliance.

The Federal-Aid Highway Act of 1956, P.L. 84-627, as amended (P.L. 101-427, October 15, 1990, 104 Stat. 927), specifies the maximum weight that may be carried on individual axles of a vehicle and sets a limit on overall gross weight. It states in part:

"No funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned to any state which does not permit the use of the Dwight D. Eisenhower System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle . . . including a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more. . . .

[discussion of an axle weight formula]

"Provided, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of. . . . This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof which the State determines could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of

enactment of the Federal-Aid Highway  
Amendments of 1974." (Emphasis added).

The federal statute exempts from the gross weight limit: (1) nondivisible loads that have been issued special permits and (2) corresponding maximum weights permitted vehicles pursuant to state laws or regulations in effect July 1, 1956. If the overweight permits issued by a state do not come within either exception, the nondivisible load exception or the maximum weight exception of July 1, 1956 (known as the grandfather clause), the state jeopardizes the receipt of federal funds.

Your inquiry regarding special permits for divisible loads over 80,000 pounds is not directly addressed by the federal legislation. The grandfather clause in it authorizes a state to permit higher maximum weights if they fall within "maximum weights permitted for vehicles . . . under laws or regulations established by appropriate State authority in effect on July 1, 1956." For instance, if state law allowed a maximum weight of 95,000 pounds on or before July 1, 1956, then the state can still permit such weights today. However, the ability of a state to issue special permits for divisible loads higher than 80,000 pounds does not constitute the setting of maximum weight limits by state law. The literal language of the act authorizes special permits for excess weight only in cases involving nondivisible loads. But such a literal reading of section 127 has not survived the scrutiny of the courts which have interpreted its meaning, nor is it supported by Congress actions since 1956.

Though there is nothing in the federal act that discloses that Congress expressly considered the applicability of the grandfather provision to the states' 1956 special permit authority, the consistent interpretation of section 127 by the states has been to reason that the existence of any special permit authority existing in 1956 allows a state to issue special permits for divisible loads over the federal maximum weight standard without jeopardizing federal funds.

In State of Montana, ex rel. Dick Irwin, Inc. v. Anderson, 525 P.2d 564 (Mont. 1974), the Montana Supreme Court addressed whether the state's apportionment of federal funds would be jeopardized by the issuance of special permits for overweight divisible loads of up to 105,500 pounds pursuant to a 1967 statutory amendment. The court held that in 1956 the laws of Montana authorized special permits for both divisible and nondivisible loads and that such could be issued without jeopardizing federal funds notwithstanding the state highway

commission's policy in 1956 of not granting special permits for divisible loads. Similarly in South Dakota Trucking Association v. South Dakota Department of Transportation, 305 N.W.2d 682 (S.D. 1981) the South Dakota Supreme Court held that the state transportation board could issue special permits for overweight vehicles pursuant to the statutory authority in existence in 1956, notwithstanding a maximum weight limit then of 64,650 pounds in South Dakota's administrative regulations. See also state determinations in the following states: Colorado, Washington, New York, Arizona, Utah, Ohio, Oregon, New Mexico and Massachusetts.

The federal act's evolution since 1956 supports the conclusion that divisible load special permit authority is grandfathered, if such authority existed in 1956 in state statutes or regulations. Evidencing Congress' awareness of, and in response to testimony and reports of widespread use of special permit practices circumventing federal weight limits, Congress enacted a provision directing the federal highway administration (FHWA) to inventory annually the state's practices and submit reports [§ 123(b), (c) Title I, Surface Transportation Assistance Act of 1978, 92 Stat. 2701, P.L. 95-599]. In its 1981 annual report entitled "Overweight Vehicles -- Penalties and Permits In Inventory of State Practices," the FHWA criticized the grandfather clause as archaic and unwieldy and included letters expressing disapproval of states' broad construction of the grandfather clause. Despite varied testimony and reports, and despite the awareness of cases like the South Dakota and Montana decisions, Congress rejected all proposals to repeal or curtail the grandfathering of special permit practices for divisible loads. See New York Attorney General Opinion No. 86-F13 pp. 6-9 (for other references to reports and testimony.) Congress instead sided with the states in their broad interpretation of the grandfather clause. In the Surface Transportation Assistance Act of 1982, 96 Stat. 2123, P.L. No. 97-424 Congress amended section 127 by adding the words "which the state determines" (see quote, supra) and thereby directed the FHWA to defer to the state's determination of grandfathered special permit authority. See also Janklow v. Dole, U.S. District Court, Southern District, unpublished opinion, Civ. 84-4268 (June 17, 1985) (invalidating a FHWA regulation requiring that state determinations be approved by the FHWA).

It is therefore clear that Congress has acquiesced in the interpretation of section 127 adopted by the cases. Under this interpretation a state may allow divisible loads in

excess of 80,000 pounds today if, in 1956 state law or regulations would have permitted the issuance of special permits for divisible excess loads, regardless of actual state practice at that time.

Applying the broad interpretation that the grandfather provision applies to the operation of vehicles which could lawfully have operated under special permit in 1956 we find that Kansas law in 1956 authorized the issuance of special permits for divisible loads notwithstanding that the state highway commission chose not to exercise the authority. (The 1956 regulation K.A.R. 36-12-19 did not authorize issuance of special permits for divisible loads and by incorporated policy established a maximum weight limit of 63,890 pounds.)

On July 1, 1956 Kansas special permit law was contained in K.S.A. 8-5,122 (L. 1956, ch. 47, sec. 1; Laws of Kansas, Budget Session 1956, First Budget Session May 10, 1956):

"(a) The state highway commission with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction may, in their discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this act or otherwise not in conformity with the provisions of this act upon any highway under the jurisdiction of the party granting such permit and for the maintenance of which said party is responsible: Provided [farm machinery exception]. . . ." (Emphasis added).

The heart of the statute, subsection (a) is broadly drafted providing the state highway commission the discretion for good cause to issue special permits authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight or load exceeding the maximum specified in the act or otherwise not in conformity with the act. The law is not restricted to nondivisible loads, nor to a certain number of trips [subsection (b)] except to allow the commission to prescribe conditions of operation of such vehicle or vehicles to assure against undue damage to the road [subsection (c)]. [These broad powers are currently found at K.S.A. 1990 Supp. 8-1911.]

Under the interpretation discussed previously, if either Kansas law or regulation on or before 1956 could have authorized special permits for divisible loads then the law comes within the scope of the grandfather provision. K.S.A. 8-5,122 is silent as to whether permits may be issued for divisible loads. No limitations regarding the authority to do so may be implied. Even though the regulations in 1956 authorized special permits only for nondivisible loads, the statute in 1956 was clearly broad enough to authorize the issuance of permits for both non-divisible and divisible loads.

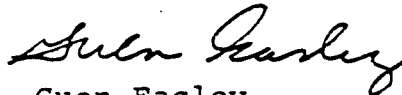
For purposes of our question, it is irrelevant that the state highway commission chose not to exercise the authority. See Janklow v. Dole, unpublished opinion, U.S. District Court, Southern District, South Dakota Civ. 84-4268, June 17, 1985 (overturning a federal regulation that would have retained federal review over these state determinations and confirming that the test is one of power or authority existing in 1956, irrespective of actual practice).

In conclusion, given the interpretation and evolution of the grandfather clause, it is our opinion that the state highway commission had the authority to issue special permits for greater gross weights for divisible loads in 1956, and the Kansas department of transportation can do so now pursuant to the grandfather clause without jeopardizing federal funding.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Guen Easley  
Assistant Attorney General

RTS:JLM:GE:jm

**Roger A. Cooley**  
Drawer 7-B  
Leoti, KS

To the Kansas Senate Transportation Committee:

My name is Roger Cooley. I am a farmer and a small custom harvester. My partner and I farm around 15,000 acres in Western Kansas. I strongly feel that something needs to be done on the weight restrictions that we have on our tandem trucks. It is very hard to stay within the legal weight limit. The trucks we use are big trucks and it is awful hard to keep the right weight limit on them. That is why I feel that we need a greater weight limit.

This fall we felt like we were being harassed by the DOT. When we are harvesting silage, we run three forage harvesters and normally run around fourteen trucks, sometimes more. The DOT came out on a Saturday afternoon about 5:00 p.m. and started stopping trucks, giving them tickets for being overweight. They also gave tickets for operating with farm tags.

The DOT came out the following day, on a Sunday about 4:00 p.m. When that happened, all my hired trucks just went home. So there we sat with three forage harvesters (costing \$140,000 apiece) setting still. All that was running were a few of my own trucks. It just totally stopped the harvest operation there for two days.

Most all of my hired trucks are owned by young men who are just out of high school or college trying to get a start in farming. They buy these trucks hoping to be able to pay them off so they can use them in their own operation and help get them started in the farming process. These young guys were scared so

much that, like I say, they just went home. It really put a crimp in our harvesting operation since we only have a few days to get the crops harvested at the right moisture.

Allow me give you an example. If we load a truck the way we do now, these trucks will usually gross around \$38.00 per load. If we were forced to cut back and haul legally, or as the DOT says we have to axle out certain pounds on certain axles, these trucks could only gross about \$25.00 a load. There is just no way that they could make any money at all at that rate. In turn, we would have to raise our rate to the farmer. The cost is so high now on harvesting that there is no way that the farmer could afford to pay the extra it would take in trucking in order to make hauling legal.

I feel that the tires that are used are much better tires than what they used to be in the past years. We're not even up near to the load capacity on our tires. The trucks handle the load very well. The trucks are built so heavy anymore that we don't feel like there is any danger involved by going up a few more pounds, like what Senate Bill 527 allows for.

Last fall when we were being stopped for overweight by the DOT they were also giving us tickets for not having a harvest permit. I had never heard of a harvest permit before in my life. I can not understand why we would have to have a harvest permit to harvest our own crops and maybe a few crops for the neighbors. Also, the DOT gave tickets to some trucks for having farm tags and hauling commercially. We were cutting our neighbors silage at the time.

Last fall when the DOT was stopping everyone there were approximately 45 - 55 trucks hauling into this particular feedlot.

Within thirty minutes of the appearance of the DOT, every truck and every cutter in the whole country was shut down, so nothing went on the rest of that day. The next day the cutters started back up, and the DOT came back out, and everyone shut down again. That just stopped the whole operation. That extended the finish time at the feedlot approximately a day and a half. That means a lot of dollars lost, because in a day and a half the feed can dry down tremendously.

I urge you to pass Senate Bill 527, as it is vital to the farmer's interests, the community's interests, and the state's interests.

Sincerely,

Roger A. Cooley

February 2, 1994

Senator Sheila Frahm  
Topeka, KS.

Senator Frahm:

I am writing this letter in reference to Senate Bill No. 527 that you introduced a few days ago. I support this bill. Being able to transport grain in an economical fashion is very important in our part of the state. With some distances from the field to the point of delivery being 20 miles one way, or further, it is important to make each trip count. The ability to harvest when the time and weather are right is vital to the farmer's business.

I have lived in Wichita County all of my life and farm about 4,500 acres on which I raise wheat, corn, grain sorghum, and soybeans. Presently I do all of my own harvesting and use two trucks that would come under this bill. The two trucks are overloaded under the present law, and will continue to be overloaded without some needed changes in the law.

Thank you for your interest and work in getting changes made in an area very important to the farmers of Kansas.

Yours truly,  
*Clement J. Bauck*  
Clement J. Bauck, President  
Circle B. Farms, Inc.  
Rt. 2 Box 31  
Leoti, KS. 67861

ATTACHMENT 6

DEV. TRANS. 2/2/94 6

To the Senate Transportation Committee:

I am a dryland farmer, and farm with my sons in Wichita, Wallace and Sherman Counties.

Most farm trucks are overloaded at harvest time. If weight laws are going to be enforced during harvest periods for farm trucks, it would be helpful to increase the legal load limits for farm trucks during the harvesting season.

If we were to load our trucks under the legal weights, not only would it stretch out our harvest time, but it would increase traffic on the roads, and be much more costly to operate a farm that is operating marginally at the present.

This topic has not been an issue before since the DOT has not enforced farm truck weight limits in the past. However, with the DOT beginning to enforce weight limits, relief must be granted from those weight limits. Millions and Millions of dollars flow through Wichita county every year from agriculture sales and related products. If that flow of money were jeopardized, it could kill our economy. Please pass Senate Bill 527.

Sincerely,

Tim Jaeger



KANSAS DEPARTMENT OF TRANSPORTATION

Michael L. Johnston  
Secretary of Transportation

Docking State Office Building  
Topeka 66612-1568  
(913) 296-3566  
FAX - (913) 296-1095

Joan Finney  
Governor of Kansas

**TESTIMONY BEFORE  
SENATE TRANSPORTATION AND UTILITIES COMMITTEE  
February 2, 1994**

**REGARDING SENATE BILL 527**

Mr. Chairman and Committee Members:

Senate Bill 527 would allow permits to be issued to transport all types of harvested products (such as grain, hay, straw, or wood) upon any roadway within Kansas with minimal restrictions. The Department of Transportation opposes this legislation for several reasons. Passage of this legislation would jeopardize more than \$48 million in funding annually. It would accelerate the deterioration of the pavement and bridges on the State Highway System. In addition, it would substantially increase the administrative workload associated with the issuance of special permits. Finally, the legislation, as drafted, would be difficult to enforce.

Federal law requires that the state limit the maximum weight of vehicles traveling on the Interstate to 20,000 pounds on a single axle, 34,000 pounds on tandem axles, and 80,000 pounds gross weight. The penalty for noncompliance is the withholding of Federal highway funds for the National Highway System (which includes the Interstate as well as other designated routes). This amounts to approximately \$48.1 million for FFY 1995. The Federal Highway Administration reviews each state's compliance with these requirements annually, and has interpreted its compliance requirements strictly in the past.

Some neighboring states do issue overweight permits under circumstances that are similar to the provisions of S.B. 527. It is our understanding that those permits are based on grandfather rights that stem from the requirements in force in those states when federal limits went into effect in 1956. The question of whether FHWA would determine that Kansas has grandfather rights in regard to "divisible loads" -- that is, loads whose weight can be reduced by removing a portion thereof -- has never been decided. Kansas had a law in effect in 1956 that would have allowed the issuance

of special permits for divisible loads, but the Highway Commission's regulations only provided for the issuance of special permits for nondivisible loads. Currently, the only permits the Department issues for divisible loads in excess of prescribed weights are for triple trailers operating on designated turnpike access routes and on the Interstate.

An second, important concern is the effect that increasing the number of overweight loads by 50 percent would have on the State's highways. Although the cost of increased roadway damage is not easily quantified, research shows that the weight of vehicles is a primary factor contributing to highway deterioration.

Currently, about 60,000 permits are approved annually for vehicles with nondivisible loads that exceed the normal weight limits to operate on Kansas highways. The Department estimates that passage of S.B. 527 could increase the number of permits approved to 90,000 annually. Unless staffing is increased, it will be difficult for the Department to process that number of additional permits without jeopardizing their timeliness and accuracy.

From the standpoint of protecting the State's highways, we believe that S.B. 527 has the potential to have a significant negative impact on the infrastructure. However, if the Legislature in its wisdom does decide to pass this bill, there are a significant number of technical items that need to be addressed.

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

-----  
Expressing opposition to S.B. 527  
authorizing increased vehicle weights  
under a permit system.  
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Presented to the Senate Transportation and  
Utilities Committee, Sen. Ben Vidricksen,  
Chairman; Statehouse, Topeka, Wednesday,  
February 2, 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.

We must strongly oppose the provisions of Senate Bill 527 as we understand them.

As the language is written, we believe the bill would allow:

1. An increase in the maximum gross weight up to 98,325 lbs.
2. On an 80,000 lb. gross weight this increase would be 92,000 lbs
3. A tandem axle would be increased up to 39,100 lbs.
4. A triple axle would be increased up to 48,300 lbs. (from 42,000).
5. Similar increases of up to 15% more load would be possible throughout the weight table limits and axle configurations.

You may ask why would the trucking industry be opposed to a proposal that permitted greater loads for a rather reasonable special permit fee.

Our answer is that we believe the bill, as written:

1. Jeopardizes the 48.1 million that Kansas now receives in federal highway funds to help build and maintain our state's highway system.

Our industry pays literally millions of highway user tax dollars into that fund. We do not want to watch those dollars go to other jurisdictions when and if that money is withheld from Kansas.

2. There appears to be no criteria for what constitutes "other seasonally harvested products." We believe this term can be broadened to cover almost any product including rock, sand, gravel, wood, produce of any kind, livestock, and related farm commodities. There are four seasons in Kansas so the permits could be utilized the year around under all kinds of road conditions.
3. Truck owners, both in-state and out-of-state, could increase their loads by 15% under the permit system. The 70-mile distance would be a 70-mile radius and easily could be utilized in any direction. The "worst case scenario" would be the temptation to have overlapping radius permits.
4. A "vehicle or combination of vehicles" also is not defined. One can only imagine the creative opportunities such authorization would allow.

Kansas currently has adopted "formula b" which establishes axle spacing and weight limitations that meet current federal standards. The basic 20-year design life of our highway system relies on those limits.

Weight is transmitted to highway surfaces through axle weight configurations. Disregard for axle weight limitations and for weight distribution criteria will accelerate destruction of our highway system.

Such an economic loss would affect every Kansas citizen and would be contrary to the best interests of the national defense or general welfare.

As Kansans we are working together to complete our comprehensive highway program to help preserve the investment Kansas citizens have made in its system of streets and highways. I do not believe any of us deliberately would do anything to weaken that program. Our state soon will be challenged to move into the next level of highway building and improvements in our state.

It is for these reasons, Mr. Chairman and members of the Committee, that we must strongly oppose Senate Bill 527.

####

# Kansas Gross Weight Table

8-1909. Gross weight limits for vehicles; exceptions; safety of certain vehicles for operation. (a) No vehicle or combination of vehicles shall be moved or operated on any highway when the gross weight on two or more consecutive axles exceeds the limitations prescribed in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles						
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles
4 .....	34,000						
5 .....	34,000						
6 .....	34,000						
7 .....	34,000						
8 and less ..	34,000	34,000					
More than 8	38,000	42,000					
9 .....	39,000	42,500					
10 .....	40,000	43,500					
11 .....		44,000					
12 .....		45,000	50,000				
13 .....		45,500	50,500				
14 .....		46,500	51,500				
15 .....		47,000	52,000				
16 .....		48,000	52,500	58,000			
17 .....		48,500	53,500	58,500			
18 .....		49,500	54,000	59,000			
19 .....		50,000	54,500	60,000			
20 .....		51,000	55,500	60,500	66,000		
21 .....		51,500	56,000	61,000	66,500		
22 .....		52,500	56,500	61,500	67,000		
23 .....		53,000	57,500	62,500	68,000		
24 .....		54,000	58,000	63,000	68,500	74,000	
25 .....		54,500	58,500	63,500	69,000	74,500	
26 .....		55,500	59,500	64,000	69,500	75,000	
27 .....		56,000	60,000	65,000	70,000	75,500	
28 .....		57,000	60,500	65,500	71,000	76,500	82,000
29 .....		57,500	61,500	66,000	71,500	77,000	82,500
30 .....		58,500	62,000	66,500	72,000	77,500	83,000
31 .....		59,000	62,500	67,500	72,500	78,000	83,500
32 .....		60,000	63,500	68,000	73,000	78,500	84,500
33 .....			64,000	68,500	74,000	79,000	85,000
34 .....			64,500	69,000	74,500	80,000	85,500
35 .....			65,500	70,000	75,000	80,500	
36 .....			66,000	70,500	75,500	81,000	
37 .....			66,500	71,000	76,000	81,500	
38 .....			67,500	72,000	77,000	82,000	
39 .....			68,000	72,500	77,500	82,500	
40 .....			68,500	73,000	78,000	83,500	
41 .....			69,500	73,500	78,500	84,000	
42 .....			70,000	74,000	79,000	84,500	
43 .....			70,500	75,000	80,000	85,000	
44 .....			71,500	75,500	80,500	85,500	
45 .....			72,000	76,000	81,000		
46 .....			72,500	76,500	81,500		
47 .....			73,500	77,500	82,000		
48 .....			74,000	78,000	83,000		
49 .....			74,500	78,500	83,500		
50 .....			75,500	79,000	84,000		
51 .....			76,000	80,000	84,500		
52 .....			76,500	80,500	85,000		
53 .....			77,500	81,000	85,500		
54 .....			78,000	81,500			
55 .....			78,500	82,500			
56 .....			79,500	83,000			
57 .....			80,000	83,500			
58 .....				84,000			
59 .....				85,000			
60 .....				85,500			

except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axles is 36 feet or more.

(1) The gross weight on any one axle of a vehicle shall not exceed the limits prescribed in K.S.A. 8-1908, and amendments thereto.

(2) For vehicles and combinations of vehicles on the interstate system the table in this section shall not authorize a maximum gross weight of more than 80,000 pounds.

(3) The table in this section shall not apply to truck tractor and dump semitrailer or truck trailer combination when such are used as a combination unit exclusively for the transportation of sand, salt for highway maintenance operations, gravel, slag stone, limestone, crushed stone, cinders, coal, blacktop, dirt or fill material, when such vehicles are used for transportation to a construction site, highway maintenance or construction project or other storage facility, except that such vehicles or combination of vehicles shall not be exempted from any application of the table as may be required to determine applicable axle weights for triple and quad axles as defined in K.S.A. 8-1908, and amendments thereto. As used in this subpart (3), the term "dump semitrailer" means any semitrailer designed in such a way as to divest itself of the load carried thereon.

Kansas Motor Carriers Association  
P.O. Box 1673  
Topeka, KS 66601-1673  
(913) 267-1641

# AXLE DEFINITIONS

**"Gross weight on any one axle"** means the total load on all wheels whose centers are included within two parallel transverse vertical planes not more than 40 inches apart.

**"Tandem axle"** means two or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced not less than 40 inches and not more than 96 inches apart.

**"Triple axle"** means three or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced more than 96 inches and not more than 120 inches apart.

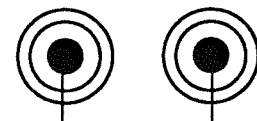
**"Quad axle"** means four or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced more than 120 inches and not more than 150 inches apart.

## AXLE LIMITATIONS

The gross weight on any one axle shall not exceed 20,000 pounds.



The gross weight on tandem axles shall not exceed 34,000 pounds.



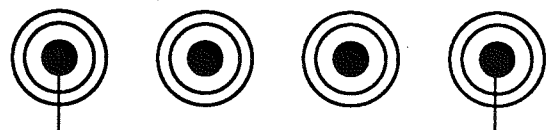
not less than 40"  
not more than 96"

The gross weight on any triple axle combination will be allowed to carry up to 42,000 lbs. if the triple axle configuration measures 8'1" to 8'11". The table applies for measurements 9' and over.



more than 96" - not more than 120"

The gross weight on any quad axle combination will be allowed to carry up to 50,000 lbs. if the quad axle measures up to 12'. The table applies for measurements over 12'.



more than 120" - not more than 150"

January 31, 1994  
Route 2 Box 137  
Leoti, Kansas 67861

Senate Transportation Committee  
State of Kansas

This letter is in regard to Senate Bill No. 527, wherein it states that during certain times of the year an application may be obtained to operate vehicles at 15% greater than the maximum weight specified.

This would be extremely beneficial to us. As a farmer, our trucks average 4,000 to 6,000 miles a year, being utilized only for short time periods, such as harvest. At harvest time, it is important to get the crop from the field to the elevator or grain bins at the farm as quickly as possible to avoid possible loss of the crop.

As the law is presently stated, we are only able to fill our trucks 2/3rds full, resulting in more trips and more trucks on the road at a busy time.

We would appreciate a yes vote in regards to Bill No. 527.

Sincerely,

*Ken Horton*

Ken Horton

ATTACHMENT *to*

SEN. TRANS. 2/2/94

*to*

January 31, 1994

Dear Committee Members,

I am writing to urge you to pass SENATE BILL No. 527. My father and I are farmers in southwest Kansas. At harvest it is essential to get our crop to a storage facility as quickly as possible. It saves time and money to load our trucks to the top. A full load on a truck is often over the legal weight limit, but the trucks and roads are quite capable of withstanding these loads.

In another situation we hire trucks to haul silage to a local feedlot, the haul is several miles and the trucks are paid by the mile and by the ton. It would be economically infeasible to not allow the trucks to be fully loaded. Also, the drivers of the trucks can not make a living hauling less than full loads.

Again I urge you to allow trucks to haul a little extra weight during the harvest seasons.

Sincerely,

*Bret Ridder*

Bret Ridder

ATTACHMENT *HR*

SEN. TRANS

2/2/94

*HR*

**STATEMENT OF DARREL DIRKS**  
**RE: AMENDMENT OF K.S.A. §8-1911(a)**

I am a farmer in Wichita and Logan County, Kansas. I farm approximately 1400 acres of dryland farm ground. I harvest my own crops. Many of my hauls are 24 miles long to take my grain to the elevator in Leoti. A round trip from the field to the elevator takes approximately two hours. It is difficult to make the trip, even with two trucks without the combine setting idle for long periods of time.

An average weight when hauling wheat would be 60,000 pounds to 63,000 pounds GVW. I consider this to be a safe load to carry, without compromising braking ability of the truck or loading the truck past its weight capabilities.

It is critical to my survival as a young farmer (33 years old) to ensure that my crop is taken to the elevator in the most timely manner possible. It would only take a half finished harvest and a heavy rain or hail storm to seriously jeopardize my economic future.

In addition., I haul corn silage during the fall months to provide additional income for my family. This extra income provides an additional 15-20% income for me. If I was forced to follow the state guidelines regarding weight limits, there is no possible way that it would be profitable for me to continue to haul corn silage. Loaded legally, my truck would only be one-half full. It takes the same amount of fuel and wear and tear on my truck to haul a half of a load as it does a full load.

Because the timeliness of harvesting our crops is so important, I ask the Kansas legislature for relief in seeing that our economic livelihood is maintained.

Darrel Dirks

*Darrel Dirks*

*dirks.smt*

January 28, 1994

To those concerned with Senate Bill No. 527:

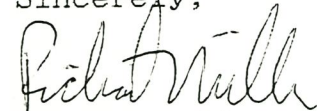
Please allow me to introduce myself. I am Richard Miller, owner and President of Miller Ag, Inc., a farming corporation in Wichita County. Together with my father and brother, I farm 5,000 acres. Our principal crops are wheat, corn, and milo.

Due to the high cost of machinery and low grain prices, farmers generally are forced to operate with a minimum amount of equipment. This is especially true at harvest time.

When crops are ready to be harvested, the quality and yields can deteriorate rapidly if not taken from the field in a timely fashion.

I firmly believe that the passage of Senate Bill No. 527 is sorely needed to help farmers with their weight limits on trucks. This would insure the timely harvest of high quality Kansas grains, the backbone of the Kansas economy.

Sincerely,



Richard Miller  
Leoti, Kansas

January 28, 1994

Kelley Burch  
R.R. 2 Box 107  
Leoti, KS 67861

To Whom It May Concern,

In regards to Senate Bill No 527, I would like to express my appreciation and support, for a bill such as this is long overdue. In my situation this bill would not only lower overhead, but help to insure that the grain would be safely in the elevator before natural disaster should occur. By overhead I mean the actual wear and tear on the truck by making more trips to accommodate the present weight limitations. Fuel costs would be less and labor expenses would be lowered. As you know, nature is one of a farmers greatest liabilities, even more so than any debt. During harvest one of the greatest concerns is that all of the product that has been so carefully tended to would reach the place of storage safely so it can eventually be sold. Otherwise it could be needlessly hammered to the ground by wind or hail because of the time factor involved in harvesting. To help insure this it would be a luxury to haul more grain per trip, thus making it a shorter harvest with less worry and more profit. What businessman would not appreciate a bill that would benefit him in such a way?

Sincerely,

*Kelley Burch*

Kelley Burch

ATTACHMENT 14

SEN. TRANS. 2/2/94

14

STATE OF KANSAS

Betty McBride, Director  
Robert B. Docking State Office Building  
915 S.W. Harrison St.  
Topeka, Kansas 66626-0001



(913) 296-3601  
FAX (913) 296-3852

Department of Revenue  
*Division of Vehicles*

To: Honorable Ben Vidricksen, Chairman, Senate Committee on  
Transportation and Utilities

From: Betty McBride, Director, Division of Vehicles

Date: February 2, 1994

Re: Senate Bill 527

Mr. Chairman, Members of the Committee,

My name is Betty McBride. I am the Director of the Kansas Division of Vehicles and appear before you on behalf of the Kansas Department of Revenue, regarding Senate Bill 527.

As introduced, this bill would allow a person to purchase a permit to operate a motor vehicle hauling grain or other seasonally harvested products 15% over the maximum weight for a distance of up to 70 miles. The fee for 30 day permit will be \$25, and 60 day permit will cost \$50.

Our only concern about this bill is that it may be in conflict with K.S.A. 66-1,109 (h) exempting vehicles hauling grain from the stockpile to a storage facility within a 50 mile distance from the requirement to obtain KCC authority. Also, because of the increase in workload an additional full time employee will be needed in the Motor Carrier Services Bureau.

Thank you for allowing me the opportunity to present my testimony regarding this bill. I would stand for your questions.

STATE OF KANSAS

BOB VANCURUM

SENATOR, ELEVENTH DISTRICT  
OVERLAND PARK, LEAWOOD,  
STANLEY, STILWELL, IN  
JOHNSON COUNTY  
9004 W. 104TH STREET  
OVERLAND PARK, KANSAS 66212  
(913) 341-2609



TOPEKA

SENATE CHAMBER

STATE CAPITOL  
TOPEKA, KANSAS 66612-1504  
(913) 296-7361

COMMITTEE ASSIGNMENTS

VICE-CHAIRMAN: ENERGY AND NATURAL RESOURCES  
MEMBER: WAYS AND MEANS  
JUDICIARY  
MEMBER: COMMERCE, LABOR AND REGULATIONS  
COMMITTEE, NATIONAL CONFERENCE ON  
STATE LEGISLATURES  
MEMBER: ENVIRONMENTAL TASK FORCE,  
COUNCIL ON STATE GOVERNMENTS

TESTIMONY FROM SENATOR BOB VANCURUM

TO

SENATE TRANSPORTATION COMMITTEE

RE: SENATE BILL 553

I introduced Senate Bill 553 after having had several meetings this summer with the owners of private drivers training schools in the State of Kansas. In fact, I also set up a meeting with them and the top officials of the Department of Education concerning several of their grievances with the department. As you may recall, I have a bill in this committee that I introduced last year which would take the regulation away from the Department of Education and give it to the Department of Revenue. Unfortunately, Revenue Department refuses to take this jurisdiction.

I really believe it is very inappropriate for the State Department of Education, which is principally concerned with public schools to be the ones regulating private driving schools. To say the least, there is a great potential for conflict of interest. But no one else seems to want to take on more supervisory duties.

One of the principal problems that schools have had is obtaining qualified new instructors that they can use during the summer months, which is their peak season. Currently the only certification training approved by the Department of Education is a nine week course conducted at Emporia State during the summer. People that the schools put into this course cannot get their certification until September. The schools have repeatedly asked the Department of Education to either license a spring course or allow them to train their own instructors with the curriculum to be regulated by the department. The bill before you would allow instructors that have a substantial amount of experience to instruct their own instructors. The behind the wheel training time is actually superior to that required in the Emporia State course. I would anticipate the department would oppose this bill, but I would ask you if they do so ask them why they are doing nothing to help the private schools meet their need for instructors.

These driving schools perform a substantial public service in giving non-traditional or older students an opportunity to learn to drive without the embarrassment and inconvenience of going to drivers education courses with secondary school students and also permit regular students who do not want to give up a class period where they could be earning academic credit or even college credit to take a drivers education course. There is no reason why we should not support the continuance of these usually small family owned driving schools.

ATTACHMENT 16

SEN. TRANS. 2/2/94

161

My name is Kurt Winterhalter. I reside in Wichita, and am employed by Cyr's Driving School as an instructor. For the past six and a half years, I have been teaching adults, teenagers, and foreign speaking clients to drive safely. I received my state certification after attending Wichita State University. However, I was trained to my occupation of in-car traing of driving students by Darrell Cyr, owner of Cyr's Driving School.

During my own college courses at Wichita State University, which have not been available for six years, I had only one hour of in-car training. In the car were myself, two fellow college students, and our instructor, there were no actual driving students. That one hour was no substitute for the vigorous training which I received from my employer. Training that covered things like how to work with and teach adults, how to teach foreign students that do not understand english speech, or how to motivate teens towards the goal of safety.

The public has a need for quality driver training, at a reasonable cost. For us as a commercial school to provide that, we must be able to tap the labor market for quality potential instructors, selectively screen them, and prepare them for the task of training the public to drive competently. Current requirements for college credit hours, and their unavailablity, prohibit us from hiring and employing instructors.

In the past three years I've had two candidates to become instructors fully trained to be able to perform both classroom, and in-car one-on-one training of students.

*Smith Trans.*  
*Feb 2, 1994*  
*Attach. # 17*

This required major commitments on their part for this training period is unpaid time, amounting to thirtytwo hours in a car observing and also time in classroom. However, after having this in-house training, both of the candidates wanted to teach either on a part-time or full-time basis. But, neither of the two candidates could justify the commitment of being out of town, at Emporia State University, for the nine weeks necessary to become state certifed. This is even with our offering to pay all expenses.

The public is willing to pay for our services as professional driving instructors. Their referals, and their second daughter or son, are what keep us in business. All that we are requesting is a law change that would allow us to train our own instructors for the commercial driving schools, so we will have instructors available in the future to meet the need of the public to have quality driver training.

My name is Patricia Easter, owner and instructor, Kansas Driving School, Overland Park.

We need to train our own instructors in order for our businesses to grow. At the present time, the only way an instructor can be trained for certification is by going to Emporia State for nine (9) weeks in the summer beginning in June and completing the first week of August. There is no guarantee these classes will be held every year. By the time paper work is completed and transcript returned from Emporia State, an instructor cannot get his/her certification until Sept. We are asking for an alternative method for training instructors as the present system does not coincide with our peak time which is the summer months.

We require high standards for our instructors as that instructor affects our business and reputation. The majority of instructors in commercial schools have received additional training by the schools owner as the training done at the university is not adequate for our needs. We want to train instructors for our own needs insuring that we have qualified people as our reputation depends on our quality of education. I want to emphasize that this would be for our own needs and we would not be an instructor training school. Our business, our name and our money are on the line. This is not a new concept, as in many states this practice already exists.

A proposed curriculum for training instructors has been submitted to the committee. In the curriculum we have a minimum of 24 hours behind-the-wheel training under the direct supervision of a certified instructor.

The question may be raised as why we do not hire currently certified instructors as summer is our busiest time and they would be available. We have many reasons including:

- 1) We provide instruction on a one-on-one basis.
- 2) They want \$15-\$20/hr. The private school cannot afford these wages as we have many costs such as overhead on office, maintenance & repairs on cars, etc. (I have supplied you with a cost sheet of maintenance to keep our cars in top working order.) The schools lease their cars, have low mileage, and repairs are not part of their costs.

- 3) They do not want to work on weekends and we must work on weekends.

The way the law is at the present time it is very difficult to sell our businesses should we wish to do so in the future. In the past, there have been driving schools in Kansas that wished to sell their business and even with ads in local, state and national papers could not sell and had to just close their doors because a school must have a certified instructor.

I am a small business owner and small businesses are the backbone of America. We provide a service by teaching students of all ages and all ethnic backgrounds. We need a solution to our problem so our businesses can grow and are asking for your support on SB 553.

**(816) 942-7100**

**Phone****Phone**Total



815 W. 103rd Street  
Kansas City, Mo. 64114



## Recommended Service Schedule Menu

Time or Mileage Intervals months or miles (000)																		
CODE	MAINTENANCE ITEMS REQUIRED	3	6	9	12	15	18	21	24	27	30	33	36	39	42	45	48	PRICE
LOF	Engine Oil, Filter Change, Chassis Lub (Inc. Parts)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	1995
A	Transmission/Transaxle Service (Except 4T60E)						X						X					8995
B	Cooling Syst. Serv. Flush & Fill New Coolant							X							X			8995
C D E	Minor Engine Tune-up Inc. plugs, & diag. ck.								X								X	8995
F	Emission Service Complete					X					X					X		100 <sup>00</sup>
G	Complete 27 Point Inspection																	290 <sup>00</sup>
H	Injector Cleaning & Balance Test (Inc. Parts)					X					X					X		6495
I	Brake System Check & Adjust				X				X				X				X	2995
J	AC & Heating System Check			X			X			X			X			X		3495
K	Tire Rotation & Balance		X		X		X		X		X		X		X		X	4495
L	Align Front Suspension				X				X				X				X	4995
M	Rear Axle Service					X					X					X		—
N	Driveability Set up								X								X	6495
O	Full Scope & Cams Test								X								X	56 <sup>00</sup>
P	4 Wheel Alignment								X								X	9995
	Shocks (2) Lifetime Guarantee										X							120 <sup>00</sup>
Q	Brakes (per axle) Buick																	1166 <sup>95</sup>
QC	Brakes (per axle) Cadillac																	—
R	Repack Wheel Bearings (1.2) RWD only										X							—
S	Charging System Insp.										X							3995
T	Transmission Service Electric Shift								X								X	—
VRB	Vogue Tires Rotate & Balance		X		X		X		X		X		X		X		X	—

Call (816) 942-7100 for  
Service Reservation



Hours: 7:00 am - 7:00 pm  
Monday - Thursday  
8:00 am - 5:00 pm Saturdays

Mr. Goodwrench

My name is Chris Blair, General Manager and instructor, at Cyr's Driving School in Wichita.

The need for commercial driving schools to have an alternative method of training instructors is great. Under the current law only Emporia State University presents such a program. It is only presented in the summer months with no guarantee that it will be available next summer or subsequent summers. When it is available, it requires a prospective instructor to spend 9 weeks, from June to early August, being trained. We cannot expect a prospective instructor to spend all summer in college, an additional 4 to 6 weeks waiting to receive certification and then sit back and wait until the following summer when we again need their services. Nor can we be expected to place an unproductive person on the payroll hoping he or she will be available when next summer rolls around. It is simply not good business.

The problem we have with hiring currently certified instructors is basically one of economics. We cannot afford to compete with the unified school districts regarding salary. The other problems we face are their refusal to go through our training; work one-on-one; work evenings and week-ends and work with sometimes older students or students who don't speak English very well.

We view Senate Bill 553 as a solution for an existing problem. It will benefit the community by enabling us to have more qualified instructors available during our peak season and revitalize an industry that has gone from 9 schools to 6 schools in our state over the past 5 years.

We do not regard the bill as permission to train instructors on a wholesale basis. We demand very high standards for our instructors so it just makes good business sense to train only those who can perform to expectations and train only enough instructors to meet our needs.

TWIN CITY DRIVER EDUCATION  
4503 W. 90th Street  
Prairie Village, KS 66207-2303

1 Feb 1994

Senator Vidricksen,

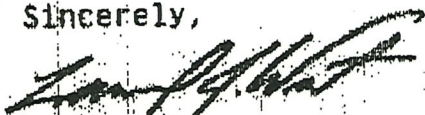
We are strongly opposed to Bill 553 that would allow commercial driving schools in the state of Kansas to train and certify their own instructors. There are several important factors that must be weighed before considering this kind of legislation.

1. Current certification includes a college curriculum that insures the competence of the instructor. It also gives third party credibility to the to the certification process. Driving schools certifying our own instructors would eliminate this.
2. Commercial driving schools follow the guidelines of the Kansas Department of Education and the Division of Vehicles. These agencies allow us to offer a program consisting of 8 classroom hours, and 6 behind-the-wheel hours to our students. We are authorized to obtain permits and issue a certificate of completion to each student who successfully completes our course. Self-certifying instructors could jeopardize this situation. Will the Department of Education and Division of Vehicles still grant us this privilege if the instructors have no formal training in driver education or traffic safety?
3. If the Department of Education and Division of Vehicles will no longer allow commercial driving schools to issue the permits and certificates of completion for the license, are the driver license testing offices staffed for the increased workload?
4. If we were able to hire someone that had no background in education or driver training for considerably less than an instructor who is currently certified, would this not degrade the quality of instruction that we give? What standards would we follow in certifying someone and would anyone ever fail to meet these standards (which don't exist)? Is there not a conflict of interest on the part of the driving schools? I believe there needs to be continued regulations in this loop that would ensure the credentials of the instructors, and the integrity of the commercial driving schools themselves.

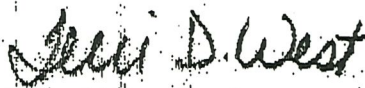
We do agree that it is difficult to find good certified instructors. There is only one university in Kansas that currently certifies instructors (Emporia State), and it offers the program only in the summer. It would be convenient if this were offered by other universities or at the community college level, as well as offering the courses year-round.

We would like to see university educators continue to train driving instructors at the college level, but on an expanded basis. This is where we think the efforts should be concentrated. We do not believe driving school owners are qualified to certify driving instructors nor do we think it is in the best interest of the industry or state to do so.

Sincerely,



Jack (Leonard J.) West  
Co-owners, TWIN CITY DRIVER EDUCATION



Terri D. West

Dear sir:

2-1-94

In reference to the Senate Bill # 553, I am opposed to any reduction in the requirements for the commercial driving schools in Kansas. In order to maintain the integrity and up-grade the professionalism in the academic areas for driving schools, the teaching requirements need to be elevated not reduced. In my opinion, allowing an owner to train "anyone" who has not had any formal course work in driver education is in direct opposition to the State Board of Education's approach to improving the "EXCELLENCE IN EDUCATION".

Granted, it would be easier to find someone to teach the course, but I'm not sure the level of training (30 hours classroom and 20 hours of driving) would be equal to the nine (9) hours of credit of college level work, which is now required.

My suggestion, as an educator, would be to up-grade the commercial programs be doing the following:

1. Require a teacher of a commercial driving school to not only have the nine (9) hours of credit, but also a current Kansas teaching certificate....or
2. At the very least, if an owner of a commercial driving school intends to train just "anyone" with 30 hours of classroom work and 20 hours of driving, that person should have a current Kansas teaching certificate.

By requiring a current Kansas teaching certificate, this would provide a teacher with a background in "how-to-teach" and thus insure the integrity and professionalism in the commercial driving schools in Kansas.

I personally would not want any one (1) of my four (4) daughters to be taught the important skills of driving by just anyone. To provide this critical driving experience, I would want a person who is a professional educator with a formal education in teaching, not just a few hours of unstructured training. I'm sure there are many parents across the state who feel the same way.

Your sincere consideration would be greatly appreciated,

Bill Kennedy

*Bill Kennedy*

OWNER, TOPEKA DRIVING SCHOOL

My name is Darrell Cyr. I have owned and operated Cyr's Driving School in Wichita for 32 years. I am Regional Vice President of DSAA, Driving School Association of the Americas, encompassing Canada, Mexico and the United States. This is a trade organization that firmly supports education of driving instructors, including continuing education given at conventions and regional conferences. In the past year, AGC Simulation Products, a division of Atari, has consulted me on the development of driving simulators with computer generated images in real time. These simulators will in the future replace movie projection units that do not respond to incorrect decisions of students, thus greatly enhancing simulation as a form of education.

We train the public to drive 365 days of the year. It is our business and our reputation, to have the highest quality instructors representing my company. In our own best interests, we have always provided training to our instructors, because the credit hours given at a university just doesn't prepare them for our business and was never designed to. It is set up to produce teachers for the public school systems and to meet their needs. We need an alternative to this old training system, which is offered at one state university, to meet the growing needs for instructors in the private sector.

*Eyn's* - DRIVING SCHOOL, INC  
1518 W. Douglas  
Wichita, Kansas 67203  
(316) 265-9871



Proposed Curriculum for the training of driving instructors leading to the testing and certification by the Kansas Division of Motor Vehicles.

We recommend the following courses be taught. The hourly breakdown show 30 hours. The absolute minimum should be no less than 16 hours of classroom training.

<u>Hours</u>	<u>Subject</u>
2	Kansas Traffic Laws
2	Evolution and Impact of Vehicles and Highways
3	Responsibility of Vehicle Operation Understanding kinetic energy, centrifugal force, gravity, tire design, steering and braking, hydroplaning, adhesion.
3	Mechanical and Control Features of the Vehicle Instrumentation, seat and steering wheel design, car care maintenance.
3	Environmental Dynamics of Driving Weather, road conditions, traffic conditions.
3	Psychophysical Aspects of Driving Absorbing energy, bone structure, mental attitude, emotions.
2	Record Keeping Basic in-house record keeping
2	Course Development and Scheduling Time management, communication skills
3	Driving Procedures Pre-driving skills
2	Effects of Drugs and Alcohol
3	Test Administration Learning to administer tests for color vision, peripheral vision, acuity, depth perception and reaction timing.
2	First Aid
<hr/> 30 hours total	

Textbooks Used: Kansas Driving Handbook (8/88)  
Handbook Plus (DSAA/92)  
Red Cross CPR Handbook

Films Used: You As A Driver  
Expert Seeing Habits  
Your Responsibility As A Driver  
Seven Deadly Sins  
Turn Left - Right  
High Performance Driving Skills (Mercedes-Benz)  
The Hazards of Drugged Driving  
Survival (Mazda)  
High Speed Sign Reading and Navigation  
You Auto Know

We recommend the following in-car training be given. The applicant should have 5 hours in each of the following procedures totaling 40 hours. The absolute minimum should be no less than 24 hours of in-car training.

#### Predriving Checks and Procedures

Outside PreDriving Checks: checks under car; checks for children, pets and other objects; checks for leaks and/or damage to the car; checks tires. All these are visual procedures.

Inside PreDriving Checks: enters car safely; assumes proper position behind the steering wheel; places key in ignition; closes and locks door (requires same of passengers); adjusts ventilation; adjusts seat; adjusts head restraint; adjusts rear view mirrors; fastens seat belt (requires same of passengers).

#### Starting and Stopping

Starts engine properly; checks parking brake; right foot on brake firmly/selects proper gear position; checks mirrors, blind spot and gives proper signal before pulling out; hands in proper position on steering wheel; releases foot brake and accelerates smoothly; checks traffic before stopping and signals to stop; does not ride brake; brakes smoothly and stops in the right position; leaves car in the proper park position, removes key from ignition and leaves the car safely.

#### Residential Driving/Steering and Turning the Car

Gives proper signal for turns; signals 100 feet ahead of a turn; checks traffic left-right-left at all unmarked intersections; uses proper turning points; completes all turns in proper land; makes all turns at correct speed; accelerates slightly out of turns; uses hand over hand steering techniques where needed; uses proper recovery techniques (hand over hand or controlled slipping); observes all stop and yield signs and all speed limits.

#### Turning the Car Around/Three-Point Turn and Driveway

Chooses site that is legal and safe for 3-point turn; signals right turn/flashes brake lights; pulls to the far right and stops; signals left turn/checks traffic; turns wheels sharply left/aims for far side of street; stops near curb/turns wheel sharply right without bumping curb; checks traffic/backs slowly/straightens wheels/stops; drives forward slowly into chosen lane; signals and enters driveway squarely; checks traffic/backs slowly into proper traffic lane; straightens wheels and drives forward in proper lane.

#### Angle/Perpendicular/Hill Parking

Checks traffic/signals right turn/flashes brake light; positions car correctly for turning in space; turns sharply right/enters space slowly checking left front bumper and right front fender clearance; centers car in parking space/picks up correct angle; does not bump curb, stanchion lines or cars on sides; checks traffic/moves back slowly until street is visible; checks for clearance/turns sharply right/back into nearest lane; backs until car is parallel/straightens wheels/moves ahead; parks uphill with front wheels turned out toward street; parks downhill with front wheels turned in toward curb; parallel parking as instructed.

#### Rural and Highway Driving

Regulates speed according to road conditions; uses accelerator to reduce, maintain, and increase speed; uses brake properly to slow and/or stop car; selects speed appropriate for road design, type and condition; centers in lane/uses target steering (aim high and center); overtakes and passes properly using 4-step procedure (mirrors, signal, glance, check blind spot), go; maintains proper space cushion (3-second rule); observes all right-of-way rules at intersections; slows down at crest of hills/obstacles or approaching traffic.

#### Heavy City Traffic

Moves along properly with traffic/obeys speed limits; maintains a safe cushion on all sides; maintains a proper following distance/drives defensively; watches ahead for obstacles in lane; yields right-of-way to pedestrians/stops behind pedestrian cross walks; looks ahead/avoids running yellow or red lights; gets into proper lane for all turns/intersects properly at all intersections/signals intentions; makes all lane changes correctly (mirrors, signals, blind spot), change lane; checks for one-way street signs/other traffic control signs/both sides of street; turns into proper lane when turning from a two-way to a one-way street; uses proper lane when turning from a one-way to a two-way street; uses proper lane when turning from a one-way to a one-way street; steers, brakes and accelerates smoothly.

Road Test

Performs all outside predriving checks; performs all inside predriving checks; observes and obeys all traffic regulations; observes proper following distance formula; turns, accelerates and brakes smoothly; properly judges time-space gap for passing; knows and uses emergency power when necessary to pass (passing gear); slows for road hazards and railroad crossings; completes 3-point turn correctly on first try; parallel parks within 12 inches of curb on first try; angle and perpendicular parks without touching stanchion lines on first try; cranks window up and down without abrupt change in steering; has good attitude in driving and is patient with other highway users; able to read road signs aloud verbatim; able to use proper emergency starting procedures when necessary; accepts and utilizes constructive criticism.