

Approved: 3/18/94
Date

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 March 17, 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:

Tom Tunnel - Kansas Fertilizer and Chemical Association
Allie Devine - Kansas Livestock Association
Corey Becker - Garden City
Mark Jones - Leoti
Mike Lackey - KDOT
Mary Turkington - Kansas Motor Carriers Association
Lt. Col. Terry Scott - Kansas Highway Patrol
John Smith - Kansas Division of Vehicles

Others attending: See attached list

HB 3046 - Relating to the definition of implement of husbandry

Tom Tunnel asked the Committee to consider an amendment to this bill that would clarify what is meant by "implement of husbandry". The industry decided that a sprayer built from the ground up to be a fertilizer or agrichemical sprayer meets the definition. Pickups stripped to the chaise and converted to sprayers do not meet the definition. (Attachment 1)

Allie Devine reiterated the previous comments explaining that this bill clarifies the definition of these pieces of equipment as "implements of husbandry" for the purposes of vehicle registration requirements. (Attachment 2)

Corey Becker presented a copy of a court case dealing with the term "implement of husbandry" as interpreted by the law enforcement division, which required them to comply with the axle overweight laws. He asked that their type of business be allowed to continue using their equipment as they have been in the past. (Attachment 3)

Mark Jones presented testimony to the Committee explaining how trucks were modified for use in manure spreading operations. He explained that due to the design and placement of the box on the truck it places the load overweight by its axles although it does not exceed the gross limit. This happens because of the need for the design of the application apparatus. Inasmuch as it is a more expensive procedure to spread manure than it is liquid fertilizer it is important to keep costs down to stay competitive. Therefore he was urging the Committee to approve this bill which would change the definition of "implement of husbandry" to include vehicles used on feedlots and confined feeding operations. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES, Room 254E-Statehouse, at 9:00 a.m. on March 17, 1994.

Mike Lackey addressed the Committee in opposition to this bill stating that this legislation would open the door for a series of requests for vehicles to be exempted from regulation. There was concern that these vehicles are often overloaded and that some of the language of the bill is open to varying interpretation. It was felt that if these vehicles were exempted they would increase in size and weight without restriction and increase roadway damage as well as pose a potential danger to the traveling public. (Attachment 5)

Mary Turkington expressed strong opposition to **HB 3046** explaining that feedlot operations have been determined to be a commercial business and are required to come under the Uniform Act Regulating Traffic. Language concerning mixer-feed trucks is not defined and subject to interpretation. If this bill is passed manure spreader trucks and mixer-feed trucks would no longer be subject to the other safety equipment or traffic laws now required in the Uniform Act Regulating Traffic. She does not feel this is good public policy as this represents another exemption from registration, safety requirements and weight laws. The Motor Carriers Association supports the present law but requests that the bill remain in committee or be reported adversely. (Attachment 6)

Lt. Col. Scott also spoke in opposition to the bill citing concern for the safety of citizens using the highways and the potential for abuse by commercial feed sellers. Defining these vehicles as an "implement of husbandry" would permit them to use the highway without regard to the weight laws, insurance and safety equipment. He felt that this bill is not in the best interest of the citizens of Kansas. (Attachment 7)

SB 817 - Commercial drivers' licenses

Mr. Smith addressed this bill which would provide for the issuance of a "non-resident" commercial driver's license to a resident of a foreign country who is employed by a Kansas employer. He stated that there would be no additional costs to the state for the administration and the legislation is requested to meet the increased demand for this type of license. (Attachment 8)

HB 2995 - Relating to apportioned fleet registration

Mary Turkington spoke in support of this bill which would create a temporary "Hunter's Permit" registration for certain motor carriers. This permit would only allow the vehicle owner to operate his vehicle empty and require the vehicle to be operated only for the purpose of securing a new lease agreement. Passage of this bill would help owner-operators whose vehicles are apportioned and whose lease agreements are cancelled, to seek lawful, temporary registration for such vehicles. (Attachment 9)

The chairman called for discussion and questions. There was none. Senator Brady made a motion to pass this bill favorably. A second was made by Senator Emert. Motion carried.

A motion was made by Senator Emert to pass SB 817 favorably. Senator Burke seconded this and the motion carried.

The Committee discussed **HB 3046** and it was decided that they should look into the recommendations and concerns and address the issue at a later date.

The meeting was adjourned by the Chairman.

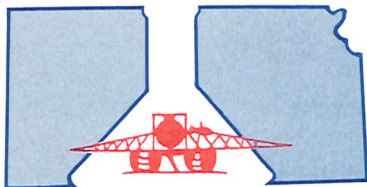
The next meeting is scheduled for March 18, 1994.

GUEST LIST

SENATE TRANSPORTATION COMMITTEE

DATE: MARCH 17, 1994

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Norman Ames	P.O. Box 387 Leoti, KS	Ames Farm
MARK JONES	PO Box 338 Leoti, KS	McDonnell Land Leasing, Inc.
Corey D Becker	4590 W Jones Garden City, KS	Delbert Becker Trucking
John W Smith	Topeka	KDOR DMV
Rick Scheibe	Topeka	KDOR
Rand Somerville	Topeka	KS Auto Dirs Assn
MARY E TURKINGTON	Topeka	Kansas Motor Carriers Assn
TOM WHITAKER	TOPEKA	KS Motor Carriers Assn
Ted Prouty	R#1 Box 130A Hesston, KS	Prouty Truck Line Inc
Mark Barnett	P.O. Box 217 Moran, KS 66855	Moran Truck Line
J.C. LONG	Topeka	U.I. Corp
TERRY J. SCOTT	Topeka	KHP
Brian Harrison	Topeka	KLA
Allie Weaver	Topeka	KLA
Jamie Clover Adams	Topeka	KFCA
Tom R Tunnell	Topeka	KFA KS FERTILIZER CHEM
Ken Gudekunt	Topeka	KDOT
Bill Watts	Topeka	KDOT
N. Bogina	"	"
Mike Hackey	Topeka	KDOT



KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

Phone 913 234-0463

816 S.W. Tyler St., Topeka, KS 66612

Fax 913 234-2930

(Mailing Address) P.O. Box 1517, Topeka, KS 66601-1517

STATEMENT OF THE
KANSAS FERTILIZER AND CHEMICAL ASSOCIATION
TO THE
SENATE TRANSPORTATION & UTILITIES COMMITTEE
SENATOR BEN VIDRICKSEN, CHAIRMAN
REGARDING H.B. 3046
MARCH 17, 1994

Mr. Chairman and members of the Committee, I am Tom Tunnell, Executive Vice-President of the Kansas Fertilizer and Chemical Association (KFCA). KFCA is the professional trade association of our state's fertilizer and agrichemical industry. Our 600 members include primarily retailers, but also distribution firms and manufacturer representatives and others which serve the industry. We support H.B. 3046.

The bill amends the definition of "implement of husbandry" to more clearly describe legislative intent. The current definition states, "every vehicle designed or adapted and used exclusively for agricultural operations and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to: ... (3) a fertilizer spreader or nurse tank used exclusively for dispensing or spreading ..." In 1988, when this definition was added to the statute, KFCA believed it was an adequate definition and example to describe the sprayers and nurse tanks used in our industry. However, time has proven us wrong.

ATTACHMENT **A**

SEN. TRAVS. 3/17/94

A-1

In our industry, the Department has decided a sprayer built from the ground up to be a fertilizer or agrichemical sprayer meets the "implement of husbandry" definition. However, those pickups stripped to the chaise and converted to sprayers do not meet the definition. This, despite the fact the definition clearly states "every vehicle designed or **adapted** and used exclusively for agricultural operations." Trucks converted to fertilizer and agrichemical sprayers are used no differently than those that come from the factory as sprayers.

KFCA requests Committee consideration of the attached amendment that clarifies, in the same manner as the introduced bill and subsequent House amendments what is meant by "implement of husbandry." It does not change any existing practice within the industry. The amendment only clarifies what KFCA believes to be the original legislative intent.

I thank you for the opportunity to comment on H.B. 3046 and I would stand for any questions the Committee may have.

1 trailers or vehicles.

2 (s) "Highway." Every way or place of whatever nature open to
3 the use of the public as a matter of right for the purpose of vehicular
4 travel. The term "highway" shall not be deemed to include a roadway
5 or driveway upon grounds owned by private owners, colleges, uni-
6 versities or other institutions.

7 (t) "Department" or "motor vehicle department" or "vehicle de-
8 partment." The division of vehicles of the department of revenue,
9 acting directly or through its duly authorized officers and agents.

10 (u) "Commission" or "state highway commission." The director
11 of vehicles of the department of revenue.

12 (v) "Division." The division of vehicles of the department of rev-
13 enue.

14 (w) "Travel trailer." Every vehicle without motive power de-
15 signed to be towed by a motor vehicle constructed primarily for
16 recreational purposes and measuring eight feet or less in width.

17 (x) "Passenger vehicle." Every motor vehicle, as herein defined,
18 which is designed primarily to carry 10 or fewer passengers, and
19 which is not used as a truck.

20 (y) "Self-propelled farm implement." Every farm implement de-
21 signed for specific use applications with its motive power unit per-
22 manently incorporated in its structural design.

23 (z) "Farm trailer." Every trailer as defined in subsection (h) of
24 this section and every semitrailer as defined in subsection (i) of this
25 section, designed and used primarily as a farm vehicle.

26 (aa) "Motorized bicycle." Every device having two tandem wheels
27 or three wheels, which may be propelled by either human power
28 or helper motor, or by both, and which has: A motor which produces
29 not more than 3.5 brake horsepower; a cylinder capacity of not more
30 than 50 cubic centimeters; an automatic transmission; and the ca-
31 pability of a maximum design speed of no more than 30 miles per
32 hour.

33 (bb) "All-terrain vehicle." Any motorized off-highway vehicle 45
34 inches or less in width, having a dry weight of 500 pounds or less,
35 traveling on three or more low-pressure tires, and having a seat
36 designed to be straddled by the operator. As used in this subsection,
37 low-pressure tire means any pneumatic tire six inches or more in
38 width, designed for use on wheels with rim diameter of 12 inches
39 or less, and utilizing an operating pressure of 10 pounds per square
40 inch or less as recommended by the vehicle manufacturer.

41 (cc) "Implement of husbandry" means every vehicle designed or
42 adapted and used exclusively for agricultural operations, *including*
43 *feedlots and confined feeding operations*, and only incidentally moved

1 or operated upon the highways. Such term shall include, but not
2 be limited to:

3 (1) A farm tractor;

4 (2) a self-propelled farm implement;

5 (3) a fertilizer spreader, ~~or~~ nurse tank ~~used~~ exclusively for dis-
6 pensing or spreading water, dust or liquid fertilizers or agricultural
7 chemicals, as defined in K.S.A. 2-2202, and amendments thereto,
8 regardless of ownership;

9 (4) a truck mounted with a fertilizer spreader used or manu-
10 factured principally to spread animal dung;

11 ~~(4)~~ (5) a mixer-feed truck specially designed and used exclusively
12 for dispensing feed to livestock, regardless of ownership.

13 (dd) "Motorized wheelchair." Any self-propelled vehicle designed
14 specifically for use by a physically disabled person that is incapable
15 of a speed in excess of 15 miles per hour.

16 Sec. 2. K.S.A. 8-128 is hereby amended to read as follows: 8-
17 128. (a) The following need not be registered under this act:

18 (1) Implement of husbandry;

19 (2) all-terrain vehicles when used for agricultural purposes;

20 (3) an off-highway truck mounted with a fertilizer spreader
21 used or manufactured principally to spread animal dung;

22 ~~(4)~~ (3) road rollers and road machinery temporarily operated
23 or moved upon the highways;

24 ~~(5)~~ (4) municipally owned fire trucks;

25 ~~(6)~~ (5) privately owned fire trucks subject to a mutual aid agree-
26 ment with a municipality; or

27 ~~(7)~~ (6) school buses owned and operated by a school district or
28 a nonpublic school which have the name of the municipality, school
29 district or nonpublic school plainly painted thereon.

30 Notwithstanding the other provisions of this subsection (a), no all-
31 terrain vehicle shall be operated on any interstate highway, federal
32 highway or state highway for agricultural purposes or any other
33 purpose. No all-terrain vehicle may be operated within the limits
34 of any first class city. No all-terrain vehicle shall be operated on
35 any public highway, street or road between the hours of 1/2 hour
36 after sunset until 1/2 hour before sunrise, unless equipped with lights
37 as is required by law for motorcycles.

38 (b) Self-propelled cranes and earth moving equipment which are
39 equipped with pneumatic tires may be moved on the highways of
40 this state from one job location to another, or to or from places of
41 storage delivery or repair, without complying with the provisions
42 of the law relating to registration and display of license plates but
43 shall comply with all the other requirements of the law relating to

or truck mounted with a spreader
designed or adapted for use

1 motor vehicles and shall not be operated on state maintained roads
2 or highways on Sundays or any legal holidays except Lincoln's birth-
3 day, Washington's birthday or Columbus day.

4 Sec. 3. K.S.A. 8-1427 is hereby amended to read as follows: 8-
5 1427. "Implement of husbandry" means every vehicle designed or
6 adapted and used exclusively for agricultural operations and only
7 incidentally moved or operated upon the highways. Such term shall
8 include, but not be limited to: (a) A fertilizer spreader, except as
9 otherwise provided in this section, or any "nurse tank" used
10 in connection therewith ~~or nurse tank~~ *used exclusively for dis-*
11 *persing or spreading water, dust or liquid fertilizers or agricultural*
12 *chemicals, as defined in K.S.A. 2-2202, and amendments thereto,*
13 *regardless of ownership; A; or (b) a truck mounted fertilizer*
14 *spreader used or manufactured principally to spread animal dung*
15 *is not an implement of husbandry for the purpose of this section*
16 *or for the purpose of the act of which this section is a part.*

17 Sec. 2 4. K.S.A. 8-128 and 8-1427 and K.S.A. 1993 Supp. 8-
18 126 is are hereby repealed.

19 Sec. 3 5. This act shall take effect and be in force from and after
20 its publication in the statute book.

or truck mounted with a spreader
designed or adapted for use



6031 S.W. 37th Street • Topeka, Kansas 66614-5128 • Telephone: (913) 273-5115
FAX: (913) 273-3399

Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

STATEMENT
OF THE
KANSAS LIVESTOCK ASSOCIATION
TO THE
SENATE COMMITTEE ON TRANSPORTATION
SENATOR BEN VIDRICKSEN, CHAIRPERSON
with respect to
MIXER-FEED TRUCKS
HB 3046
Presented by
Allie Devine, J.D.
Director of Research & Legal Affairs
March 17, 1994

Mr. Chairman and members of the committee, I am Allie Devine representing the Kansas Livestock Association. As most of you already know, KLA represents a broad range of farmers, ranchers and cattle feeders across Kansas who are involved in literally every phase of red meat production. The Kansas Livestock Association supports HB 3046, a bill approved by the House on a vote of 105-20.

A number of KLA members operate a specialized piece of equipment commonly known as "mixer-feed trucks". This bill clarifies that these specially designed pieces of equipment, used exclusively in the feeding of livestock, are defined as "implements of husbandry" for purposes of vehicle registration requirements. K.S.A. 8-128 exempts an "implement of husbandry" from registration.

Mixer-feed trucks are specially designed and adapted to haul, weigh, mix and deliver feed to livestock only short distances from the feed mill. This equipment has an additional power take off (PTO) attached to the transmission which is attached to a series of gears that operate the augers inside the feed box that mix and auger the feed into the feed bunks. Because the rate of travel is important to the amount of feed distributed, these vehicles are outfitted with low gear transmissions. The normal rate of speed would not exceed 5 or 10 mph while placing feed in the bunks and no more than 30 mph when traveling from the pen to the feedmill to get another load of feed. This equipment is not and from a practical standpoint, can not be used for any purpose other than feeding cattle. In addition, these vehicles normally operate exclusively on private property and only incidentally travel on public roads as is necessary to carry feed to nearby livestock pens. To illustrate the unique characteristics of "mixer-feed trucks" we have included photographs. As you can see from the photographs and our description of their use, these vehicles are specifically designed and adapted exclusively for agricultural activities and only incidentally travel on

ATTACHMENT 2

SEN. TRANS. 3/17/94

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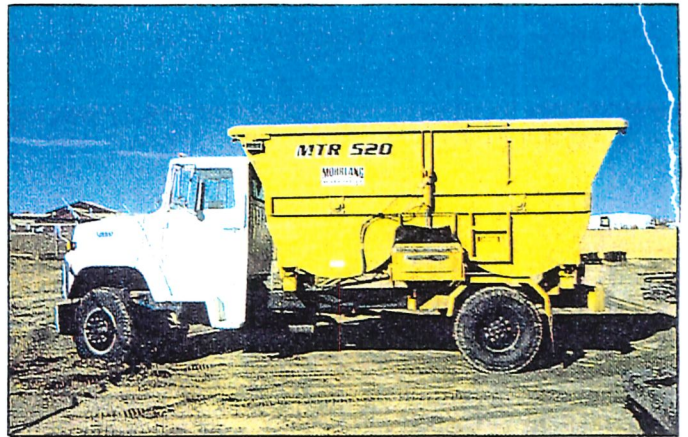
public roads which places them in the category of an "implement of husbandry".

Declaring "mixer feed-trucks" as an implement of husbandry by statute is certainly not unprecedented. As just one example, Iowa (a competitor of the Kansas cattle feeding industry) has specifically declared "mixer feed-trucks" as an implement of husbandry by statute.

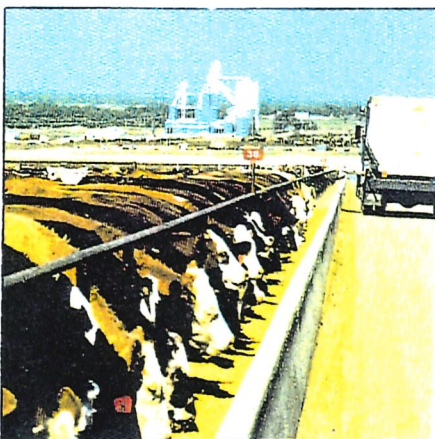
Unfortunately what seems clear to us is sometimes confusing to persons not familiar with the use and operations of "mixer-feed trucks". Passage of this bill will clarify that "mixer-feed trucks" are implements of husbandry. KLA respectfully requests your support of HB 3046.



This picture shows how a "mixer-feed truck" delivers feed into the feed bunk.



A typical "mixer-feed truck".



This is another picture of a "mixer-feed truck" delivering feed to a pen of hungry cattle.



The augers shown in this photograph are typical in a "mixer-feed truck". The augers mix corn, hay and other feed ingredients that are placed directly in the "mixer-feed truck". Consequently, there is no top to the "mixer-feed truck".

PRESENTATION TO:

KANSAS SENATE TRANSPORTATION COMMITTEE

MARCH 17, 1994

SUBJECT: HOUSE BILL 3046

SUBMITTED BY. COREY BECKER, GARDEN CITY, KS.
MARK JONES LEOTI, KS.

ATTACHMENT 3

SEN. TRANS. 3/17/94

MANURE APPLICATIONS HAVE CONTINUED OVER THE YEARS DUE IN PART TO THE ABILITY OF BUSINESSES TO TAKE A COST EFFECTIVE PIECE OF EQUIPMENT, AND TRANSFER THAT INTO AN IMPLEMENT THAT WILL SPEND ENDLESS HOURS AND MILES IN THE FIELDS. THIS EQUIPMENT IS BY OTHER STANDARDS A TRUCK.

THESE TRUCKS YOU SEE WITH MANURE BOXES MOUNTED ON THEM DID NOT COME ABOUT BY SIMPLY PLACING A BOX ON THEM. THEY COME ABOUT BY TAKING A TRUCK THAT IS LITE BY INDUSTRY STANDARDS. THE REASON FOR THIS IS THE END OVERALL WEIGHT OF THE UNIT IS VERY IMPORTANT TO THE ABILITY OF THE APPLICATION OUTFIT TO LESSEN COMPACTION. THESE LITE TRUCKS THEN REQUIRE HOURS OF IN SHOP MODIFICATIONS TO MAKE THE UNIT STAND UP TO THE RIGORS AND STRESSES OF VERY ROUGH FIELDS. THE END RESULT ON THE TRUCK IS A VERY LOW GEARING, A STRENGTHENED FRAME, REMOVAL OF SHOCKS AND OTHER OVER THE ROAD ITEMS. SMALL ENGINES UNDER 300 HP ALLOW LESS FUEL CONSUMPTION AND ALLOW FOR LESS FUEL WEIGHT ON THE TRUCK. THEN THE TRUCK IS SETUP FOR BOXES.

MANURE APPLICATION BOXES ARE JUST THAT, APPLICATION UNITS ONLY, THEY ARE NOT DESIGNED FOR TRANSPORT. THE LENGTH OF THE UNIT IS NEEDED FOR EVEN LOADING WHICH INTURN ALLOWS FOR EVEN APPLICATIONS. THE AVERAGE APPLICATION METHOD AND RATES ARE 12 TON PER ACRE. THE AVERAGE LOAD HAULED IS 12 TON. THIS ALLOWS THE APPLICATOR TO DUE AN ACRE AT A TIME. THE END RESULT IS AN EVENLY SPREAD FIELD THAT IS CLOSER TO THE GOAL OF THE FARMERS REQUESTED TON PER ACRES, THAN ANY OTHER METHOD AVAILABLE.

AT THIS POINT THE TRUCK MOUNTED SPREADER IS THE MOST COST EFFECTIVE METHOD FOR APPLYING ANIMAL DUNG. THIS IS IMPORTANT TO THE FARMERS. AT THE CURRENT MARKET PRICE FOR FERTILIZER, MANURE BY MARKET STANDARDS IS NOT COST EFFECTIVE. EXAMPLE: 12 TONS PER ACRE OF MANURE WOULD YIELD APPROXIMATLY, 120 PDS OF NITROGEN. 50 TO 70 PDS OF PHOSPHATES PLUS MAG. BROM, AND NUMEROUS OTHER NATURAL CHEMICALS, THESE FIGURES VARY DEPENDING ON QUALITY OF MANURE. THIS WOULD COST APP, 30.00 DOLLARS PER ACRE. THE SAME QUANTITIES APPLIED WITH A LIQUID FERTILIZER TO MEET THE SAME GOALS WOULD COST APPROXIMATELY 23.00 DOLLARS PER ACRE.

FROM THE STAND POINT OF INITIAL INVESTMENT, MANURE IS HIGHER AND FROM AS FAR BACK AS 1970'S IT AS BEEN COMMON PLACE. IT IS NOT A HIGHLY SOUGHT AFTER COMMODITY, AND ONLY USED ON LESS THAN ONE-THIRD OF THE FARM GROUND IN PRODUCTION. IT IS A COMMODITY THAT AS VERY FEW NEGITIVES. ASK THE PERSON ON THE STREET WHAT IS GOOD FOR THE GROUND AND THEY WILL TELL YOU MANURE. ASK THE FARMER THAT USES COMMERCIAL AND HE WILL TELL YOU MANURE IS BETTER FOR THE CROP AND THE GROUND, BUT THEY CANT JUSTIFY THE COST OF APPLICATIONS.

THE KEY TO EVERY MANURE OUTFIT IS COST. WE HAVE TO KEEP IT DOWN AND STAY COMPETITIVE. WHERE NOT ASKING YOU TO CHANGE THE LAW SO WE CAN CHANGE OURSELVES TO BECOME MORE PROFITABLE. THE DESIGNS I HAVE EXPLAINED TO YOU HAVE BEEN IN USE SINCE THE 1960'S. NOT MUCH AS CHANGED. THE BEATERS HAVE PROGRESSED ALONG WITH THE HYDRAULICS SYSTEMS, BUT VERY FEW OTHER CHANGES.

WE HAVE OPERATED IN THE SAME MANNER FOR 20 YEARS OR BETTER AND MOST OF THE EQUIPMENT IS STILL IN USE. AN AVERAGE TRUCK SET UP IN 1978 TO THIS DAY WILL HAVE LESS THAN 200,000 MILES ON IT, BUT IT WILL HAVE BETTER THAN 18000 HOURS OF OPERATION. VERY FEW MILES ON THE ROAD, AND A LOT OF HOURS IN THE FIELD.

THE MANURE SPREADER DUE TO THE DESIGN AND PLACEMENT OF THE BOX ON THE TRUCK, INHERENTLY PLACES IT OVERWEIGHT BY IT'S AXLES, WHILE AT THE SAME TIME IT WILL NOT EXCEED GROSS WEIGHT. THIS HAPPENS BECAUSE OF THE NEED FOR THE DESIGN OF THE APPLICATION APPARATUS IE: THE BEATERS AND MOTORS PAST THE BACK DRIVERS, ADD WEIGHT TO THE UNIT, THAT COUPLED WITH THE FACT THAT OVER HALF OF THE LOAD IS PLACED OVER THE DRIVERS AND YOU HAVE EXCEEDED THE ALLOWABLE AXLE LIMIT'S.

WE HOPE THAT THIS BRIEF SYNOPSIS OF OUR INDUSTRY WILL AID YOU IN MAKING A DECISION ON ADDING THE WORDING OF ANIMAL DUNG TO THE STATUE. WE HAVE NOT CHANGED OUR TECHNICS OR OUR EQUIPMENT. THE INTEREST THAT HAS COME OUR WAY RECENTLY, WAS BROUGHT ON BY RECENT DECISIONS IN THE JUDICIAL SYSTEM. THESE HAVE ALLOWED THE LAW ENFORCEMENT DIVISION TO INTERPRET THAT DUE TO LACK OF WORDING IN THE STATUE, WE MUST COMPLY WITH THE AXLE OVERWEIGHT LAWS. OUR OBJECTIVE IS TO END THIS LACK OF WORDING PROBLEM AND CONTINUE TO PROVIDE A SERVICE TO THE AGRICULTURAL INDUSTRY.

PRESENTATION TO:

KANSAS SENATE TRANSPORTATION COMMITTEE

MARCH 17, 1994

SUBJECT: HOUSE BILL 3046

SUBMITTED BY. COREY BECKER, GARDEN CITY, KS.
MARK JONES LEOTI, KS.

ATTACHMENT **4**

SEN. TRANS. 3/17/94

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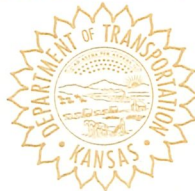
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WE HAVE OPERATED IN THE SAME MANNER FOR 20 YEARS OR BETTER AND MOST OF THE EQUIPMENT IS STILL IN USE. AN AVERAGE TRUCK SET UP IN 1978 TO THIS DAY WILL HAVE LESS THAN 200,000 MILES ON IT, BUT IT WILL HAVE BETTER THAN 18000 HOURS OF OPERATION. VERY FEW MILES ON THE ROAD, AND A LOT OF HOURS IN THE FIELD.

THE MANURE SPREADER DUE TO THE DESIGN AND PLACEMENT OF THE BOX ON THE TRUCK, INHERENTLY PLACES IT OVERWEIGHT BY IT'S AXLES, WHILE AT THE SAME TIME IT WILL NOT EXCEED GROSS WEIGHT. THIS HAPPENS BECAUSE OF THE NEED FOR THE DESIGN OF THE APPLICATION APPARATUS IE: THE BEATERS AND MOTORS PAST THE BACK DRIVERS, ADD WEIGHT TO THE UNIT, THAT COUPLED WITH THE FACT THAT OVER HALF OF THE LOAD IS PLACED OVER THE DRIVERS AND YOU HAVE EXCEEDED THE ALLOWABLE AXLE LIMIT'S.

WE HOPE THAT THIS BRIEF SYNOPSIS OF OUR INDUSTRY WILL AID YOU IN MAKING A DECISION ON ADDING THE WORDING OF ANIMAL DUNG TO THE STATUE. WE HAVE NOT CHANGED OUR TECHNIQS OR OUR EQUIPMENT. THE INTEREST THAT HAS COME OUR WAY RECENTLY, WAS BROUGHT ON BY RECENT DECISIONS IN THE JUDICIAL SYSTEM. THESE HAVE ALLOWED THE LAW ENFORCEMENT DIVISION TO INTERPRET THAT DUE TO LACK OF WORDING IN THE STATUE, WE MUST COMPLY WITH THE AXLE OVERWEIGHT LAWS. OUR OBJECTIVE IS TO END THIS LACK OF WORDING PROBLEM AND CONTINUE TO PROVIDE A SERVICE TO THE AGRICULTURAL INDUSTRY.



Michael L. Johnston
Secretary of Transportation

KANSAS DEPARTMENT OF TRANSPORTATION

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

Joan Finney
Governor of Kansas

**TESTIMONY BEFORE THE
SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES
REGARDING H.B. 3046**

MARCH 17, 1994

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to testify on behalf of the Department of Transportation in regard to House Bill 3046.

We believe this legislation would open the door to a long series of requests for vehicles to be exempted from regulation. In fact, that process has already begun. As originally proposed, this bill would have amended K.S.A. 1993 Supp. 8-126(cc) to include within the meaning of "implements of husbandry" a mixer-feed truck specially designed and exclusively used for dispensing feed to livestock. As amended by the House Committee on Transportation, the bill would further expand the definition of "implements of husbandry" to include truck-mounted fertilizer spreaders used or manufactured principally to spread animal dung. If this legislation is passed, it seems reasonable to expect that additional requests for redefinition will follow. Each exemption diminishes the state's ability to control motor vehicles operating on Kansas roadways.

Implements of husbandry are exempt from the vehicle registration requirements and also from the size and weight limitations that apply to commercial motor vehicles. Although implements of husbandry are to be "only incidentally moved or operated upon the highways," there is concern that such vehicles are often overloaded and that the term "incidentally" is open to varying interpretation. The amount of revenue lost by exempting these vehicles from registration is minimal, since registration only costs \$10 per vehicle. However, the Department's ability to regulate unregistered vehicles is effectively curtailed. Some of these vehicles are already too large and too heavy to travel on the highways legally, which is the reason they are requesting the exemption. Once exempted, they would be free to increase in size and weight without restriction. The effect of H.B. 3046, then, would be to allow unregistered, overweight and oversize vehicles free access to the state's roadways, thereby resulting in increased roadway damage and potential danger to the traveling public.

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

Expressing strong opposition to H.B. 3046
and the exemptions for certain trucks used
in feedlot operations.

Presented to the Senate Transportation
& Utilities Committee, Senator Ben
Vidricksen, Chairman; Statehouse, Topeka,
Thursday, March 17, 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 today along with Tom Whitaker, KMCA Governmental Relations Director; representing our members and the highway transportation industry.

We must strongly oppose House Bill 3046 for several specific reasons.

This proposal provides major exemptions for certain trucks used in feedlot operations by somehow transforming those motor truck vehicles into "implements of husbandry".

Introduced initially to institute this magic for "a mixer-feed truck specially designed and used exclusively for dispensing feed to livestock, regardless of ownership," the bill was amended in the House Transportation Committee to include "a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung."

ATTACHMENT 6

SEN. TRANS. 3/17/94

6-1

Let's talk first about the "mixer-feed trucks". Apparently commercial feedlot owners were disappointed when the trucks owned or used by the feedlot operations could not be registered as "farm" trucks. Feedlots were not able to qualify as a farming or ranching operation but were determined to be commercial businesses. Drivers of such trucks which had a gross vehicle weight rating of 26,001 lbs. or more also were -- and even under this bill -- will be required to have a commercial drivers license to operate such vehicles. It is our understanding that such drivers DO have their CDL's and are in compliance with this requirement.

The only other requirement which feedlot owners apparently have chosen, for the most part, to ignore is that such trucks be properly registered when they are operated on the highway.

The bill talks about such mixer-feed trucks being only incidentally moved or operated upon the highways. Our members tell us that these trucks are observed on the highways frequently and we can understand why this might be so. Most feedlots are not adjacent to one another. Such mixer-feed trucks would be required to travel some distance on roads and highways. Owners of some mixer-feed trucks tell us they have registered such trucks only for their empty weight because the main highway travel for their mixer-feed trucks is to drive them to and from town for repairs.

Registration of a truck for its empty weight is allowed by law and would offer these motor vehicle truck owners a very minimal registration cost.-- ranging from \$60 to \$130 on the "Local" fee schedule for which such vehicles easily could qualify. That should be the solution for the "mixer-feed trucks" described in this bill.

I ask you to read carefully the proposed amendment language on page 4, lines 11 and 12 of H.B. 3046. Please note that the language does not refer to mixer-feed trucks owned by a licensed feedlot. Rather the amendment broadly includes ALL such trucks designed and used exclusively for dispensing feed to livestock, regardless of ownership. (emphasis supplied). Does this mean that anyone -- whether the operator of a feedlot or a confined feeding operation could buy a mixer-feed truck, drive it on any road or highway (it would not have to be registered) and use it at whatever location its services could be provided? What's to prevent the co-op feed truck bringing mixed feed from Girard to my brother's livestock at McCune some 20 miles away and repeating this operation for any co-op customer?

The fatal flaw in the language dealing with mixer-feed trucks is that such trucks are not defined anywhere in the law and who knows how broadly such a lack of definition could reach.

Could some of our trucks qualify? Where do you draw the line?

Let's look for a moment at the language that deals with the manure trucks.

Currently, K.S.A.8-128 (which deals with the registration of vehicles) exempts from registration under paragraph (3)"an off-highway truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung."

However-- in K.S.A. 8-1427 (the uniform act regulating traffic) -- under the definition of "Implements of Husbandry", "A truck mounted fertilizer spreader used or manufactured principally to spread animal dung is not an implement of husbandry for the purpose of this section or for the purpose of this act of which this section is a part."

Under current law, even though such "off-highway manure vehicles" are not required to register -- they are required to come under the Uniform Act Regulating Traffic which includes width, length and weight laws, turn signals, lights (including headlights), horns, windshield wipers, brakes, stop signs and related traffic signals, to name just a few.

The language in H.B. 3046 which somehow transforms these trucks into implements of husbandry strikes that language on page 5 in lines 15 and 16. In other words, manure spreader trucks and mixer-feed trucks would no longer be subject to any weight, width or length laws, nor would they be subject to the other safety equipment or traffic laws now required in the Uniform Act Regulating Traffic.

The only lighting requirement would be for a single headlamp in front and red lights in the back which could be only one red light and 2 reflectors.

We cannot agree that this is good public policy -- especially for those who share the highways with these trucks.

We do understand that trucks used to spread manure have some weight problems with the spreader mechanism on the rear axle or axles. We are sympathetic with this problem but we would remind the committee that every other motor truck owner could cite "life is hard" stories in complying with weight restrictions.

We would remind the committee that these manure trucks are purchased as motor truck vehicles and are manufactured as motor trucks. Oswalt Bocats of Garden City, explained to us that they buy the mixer-feed trucks and the manure spreader trucks from Peterbilt of Garden City and then customize the appropriate body on the truck. Even the proposed new language in the bill still calls them a truck -- as indeed they are!

The bottom line on this issue is that H.B. 3046 represents yet another exemption from the registration, traffic safety requirements and the weight laws of Kansas for some owners of motor truck vehicles. While the primary author of this bill no doubt intended the measure to apply to a narrow group of owners, the language is so broad that no one in this room could honestly determine who would take advantage of this proposed revision.

Our industry has watched the compounded abuses of the farm tag schedule. Everyday farm trucks which by law absolutely are forbidden to haul "for hire", operate 18 wheelers side by side with our trucks using \$600 farm tags on those vehicles, while we properly pay either the \$1,725 or the \$1,925 registration fees on the "Regular" schedule.

We understand in the manure hauling business -- and it is a commercial business right along with the feedlot operations -- there are tractor and dump semi-trailer units hauling feedlot manure for hire on farm tags, disregarding the fact that manure is not eligible for maximum axle limitations in such units and for-hire operations are unlawful.

Our friends from Garden City and Leoti who acknowledge that they operate manure spreading businesses as the commercial businesses they are -- told us of trucks from Texas that operate in Kansas operating the same kind of manure spreading equipment addressed in H.B. 3046 -- that obviously would try to qualify as "implements of husbandry" even though there are considerable miles of highway over which those trucks have to operate between Texas and Kansas.

What will happen when the corporate farming operations expand in Western Kansas. Will those trucks also be exempted from the requirements motor truck vehicles now must meet?

We could go on to site other problems with efforts to expand exemptions and circumvent the law. Safety practices and insurance responsibilities are just a few.

We believe the feedlot mixer-feed trucks can register for their empty weight for when they are operated on the highways for maintenance or repairs and easily solve that issue. Present law allows this solution.

Present law allows off-highway manure spreader trucks not to register but does keep them subject to the Uniform Act Regulating Traffic. We can continue to support present law in this respect.

We respectfully request that H.B. 3046 remain in committee or be reported adversely. We do not believe this committee or any other deliberately would add to enforcement problems on vehicle registrations, sizes and weights and related traffic regulations. I would be pleased to respond to any questions.

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SENATE TRANSPORTATION COMMITTEE

SENATOR BEN VIDRICKSON, CHAIRMAN

Testimony by Lt. Col. Terry Scott
For the Kansas Highway Patrol

RE: HB3046

Mr. Chairman and Members of the Committee:

The Highway Patrol appears in opposition to the passage of HB3046. This Bill redefines equipment currently and presently in use in confined cattle feeding operation (feedlots) principally in the Western portion of Kansas.

There are several areas of concern from a law enforcement perspective in such matters. Obviously, our primary consideration is the safety of citizens using the highways. I'm certain that you will hear it said that these vehicles are only moved "incidentally" on the highways, to be repaired, serviced, etc. Having spent five years of my career with the Patrol serving in Garden City, I can assure you that this is not the case with the manure spreaders. One of the major feeding operations South of Garden City on U.S. 83 Highway covers over a square mile with cattle pens. You can easily see that the amount of waste generated by the animals fed out here is considerable. You can just as easily see that the waste cannot be spread on the fields adjacent to the feedlot. During the time that I was in this area, I would estimate that this one feedlot alone serviced an area of approximately thirty (30) square miles and used U.S. 83 highway and U.S. 160 highway extensively, in going to and returning from the fields where the fertilizer was spread.

The second vehicle described is a "feeder-mixer" truck. While I lack any personal experience with these vehicles, it would appear that the potential for abuse would be very high. Commercial feed sellers could utilize these vehicles to replace the trucks which they presently use to deliver feed to any location they choose. This operation is clearly not what HB3046 attempts to address but would be permitted as this Bill is written.

Defining these vehicles as an implement of husbandry would permit them to use the highway without regard to the weight laws of the State, without insurance and without many of the safety equipment requirements that even farm trucks are required to have. (Tires, brakes, lights, etc.)

We believe this Bill is not in the best interests of the citizens of Kansas and therefore oppose HB3046.

ATTACHMENT 7

SEN. TRANS. 3/17/94

7

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

From: John Smith, Administrator of Driver Control and Driver License
Kansas Division of Vehicles

Date: March 17, 1994

Mr. Chairman, Members of the Committee,

My name is John Smith, and I am the Administrator of Driver Control and Driver Licensing in the Kansas Division of Vehicles. I appear before you on behalf of Betty McBride, Director of Vehicles, and the Kansas Department of Revenue regarding Senate Bill 817.

This bill relates to the issuance of commercial driver's licenses. It would provide for the issuance of a "non-resident" CDL to a resident of a foreign country who is employed by a Kansas employer.

There would be no additional costs associated with the administration of this bill should it become law. This legislation is requested by the Department to meet the increased demand for this type of license. Furthermore, the Federal Highway Administration regulation 383.73 authorizes states to issue such license.

Thank you for the opportunity to appear before you and present my testimony. I would stand for your questions.

ATTACHMENT 8

SEN. TRANS. 3/17/94

8

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

In support of H.B. 2995 which
provides for a temporary "hunter's
permit" for certain motor vehicles.

Presented to the Senate Transportation
& Utilities Committee, Senator Ben
Vidricksen, Chairman; Statehouse,
Topeka, Thursday, March 17, 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 support the provisions of House Bill 2995 which would create a temporary "Hunter's Permit" registration for certain motor carriers.

Currently, under Kansas law, if an owner-operator leases his power unit (or a power unit and trailer) to a regulated motor carrier for more than 30 days (long-term lease), the motor carrier must register that owner-operator equipment in the name of the motor carrier, the lessee. The motor carrier owns that registration.

ATTACHMENT 9

SEN. TRANS. 3/17/94

9-1

If, for whatever reason, the lease is cancelled, the owner-operator is without a registration for his vehicle.

House Bill 2995 provides that the owner of any motor vehicle which was registered in Kansas on an apportioned basis with the division of vehicles, but which cannot legally be operated in Kansas because of a lease cancellation, may, in lieu of the payment of other registration fees, obtain a "Hunter's Permit" from the Division of Vehicles. Such vehicle owner must provide proof of ownership and appropriate insurance.

The "Hunter's Permit" only permits the vehicle owner to operate his vehicle empty and further requires the vehicle to be operated only for the purpose of securing a new lease agreement under which proper registration may be obtained. Operation of any vehicle without proper registration or a "Hunter's Permit" shall constitute a misdemeanor.

Application for a "Hunter's Permit" shall be made upon forms prescribed by the Director of Vehicles and shall be made to the Division of Vehicles.

Before a "Hunter's Permit" may be issued, the applicant shall provide:

1. A release signed by the previous registrant in such form as is acceptable to the Division of Vehicles, that the owner has surrendered all plates, cab cards and other evidence of previous registration to the previous registrant.
2. Evidence that appropriate insurance currently is in force in the vehicle owner's name.

The fee for a "Hunter's Permit" would be \$26 and such fees would be collected by the Division of Vehicles.

When the \$26 fee has been paid for a motor vehicle, no other registration fee would be required for any trailer or semi-trailer owned by the permit applicant and which is being towed by such permitted vehicle.

Nothing in the proposed legislation would be construed to change the vehicle owner's duty to timely file any necessary fuel reports and to pay any fuel taxes owed.

The "Hunter's Permit" authorized by this bill is recognized by the International Registration Plan under which apportioned vehicles are registered in this state. Missouri has a similar provision in its statutes. We strongly urge the Committee to recommend this bill for passage to help those owner-operators whose vehicles are apportioned and whose lease agreements are cancelled, to seek lawful, temporary registration for such vehicles.

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

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