



**Support Testimony for Senate Bill 398  
Before the Senate Judiciary Committee  
Senator Warren, Chair**

**By the Kansas Motor Carriers Association and the American Trucking Associations  
February 5, 2026**

Chair Warren, Vice Chair Titus, and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill 398 on behalf of the Kansas Motor Carriers Association (KMCA) and the American Trucking Associations (ATA). KMCA represents over 600 members in Kansas' trucking and transportation industries. ATA is the national trucking association, which in conjunction with the 50 affiliated state trucking associations, including KMCA, represent over 30,000 motor carriers of every size, type, and class of operation.

Both plaintiffs and defendants in civil trials use expert witness testimony to explain scientific and technical matters that may have relevance to the issues in a case. Expert witness testimony can have a powerful influence in front of a jury. Expert witnesses are asked to provide a professional opinion based on the facts of the case, although the expert does not have firsthand observations of the event that is at the center of the lawsuit. In accident cases involving commercial motor vehicles, it is quite common for expert witnesses to provide medical, accident reconstruction and biomechanical opinion testimony. And growing in popularity is the retention of experts testifying about trucking industry standards and whether a particular motor carrier complied with those standards. Expert witnesses provide answers beyond the life experiences and common knowledge of jurors. If courts do not thoroughly vet expert witnesses prior to their testimony, witnesses unqualified to offer expert opinion testimony may be allowed to testify to the detriment of the case. When unreliable expert testimony is admitted, juries may be led by weak science-based opinions to make unjust decisions.

Our legal system, though, places an enormous burden on jurors, who are often laypeople. Often jurors have a lack of expertise in a particular subject matter relevant to the issues in dispute, yet they must evaluate the merits of each piece of evidence throughout trial, including technical information presented by expert witnesses. Unsurprisingly, jurors often struggle with expert testimony, and their evaluations of that testimony can be guided by factors that cause outdated or unproven science to find traction in a specific case. Even the most motivated and well-intentioned juror can lack the specialized training and knowledge needed to make an independent assessment of an expert witness' opinion testimony. It is critical that our court system lives up to the responsibility embodied in our rules of evidence to ensure that lawsuits are grounded in reliable scientific principles and methods. Admission of unreliable and unproven expert opinion testimony can mislead juries, undermine civil justice and fairness, and erode confidence in the court system. Inconsistency in the treatment of expert opinion testimony by different courts leaves the parties – both plaintiffs and defendants – guessing about how courts will address critical evidence to the issues in dispute.

As you are likely aware, on December 1, 2023, the amended Federal Rule of Evidence 702 went into effect. Kansas expressly moved toward the *Daubert* standard through the adoption KSA §60-456(b) more than 10 years ago, which mirrors Federal Rule of Evidence 702. Given the recent amendments to Federal Rule 702, it is an opportune time for Kansas to align its rule with Federal rule amendments, ensuring the integrity of the Kansas state courts. The amendments are designed to prevent misapplication by clarifying (1) the court must decide admissibility employing Rule 702's standards; (2) the proponent of expert testimony must establish its admissibility to the court by a preponderance of the evidence; and (3) the court's gatekeeping responsibility is ongoing – the decision to admit testimony does not allow the expert to offer an opinion that is not grounded in Rule 702's standards.

In considering the 2023 Amendments, the federal judiciary's Advisory Committee on Evidence Rules independently studied the issue and agreed that many courts had failed to correctly apply Fed. R. Evid. 702. As the advisory committee observed, "many courts have held that the critical questions of the sufficiency of an expert's basis and the application of the expert's methodology, are questions of weight and not admissibility. These rulings are an incorrect application of Rules 702 and 104(a)." A Court's failure to apply the preponderance of the evidence standard may have stemmed from the fact that the standard was not explicitly included in the former text of Fed. R. Evid. 702. And while *Daubert* mentions the standard, it is only in a footnote. The amended Fed. R. Evid. 702 resolves that lack of clarity. Like the Federal rule amendments, we respectfully urge the passage of SB 398 so that there is an unambiguous rule clarifying the burden that must be met by proponents of expert testimony before that testimony is presented to Kansas juries.

Other states are moving in this direction (Oklahoma, adopted a comparable statute in the 2025 session; Missouri has a pending bill with comparable statutory amendments; and the Wisconsin General Assembly just passed a comparable bill in the early weeks of 2026). Passage of SB 398 serves an admirable goal –fair and evenhanded administration of justice throughout the courts in Kansas without the taint of unreliable expert testimony.

We thank the Committee for considering our feedback, and we thank you for the opportunity to appear before you this afternoon and to present the viewpoints of our members on this legislation. I am happy to stand for questions at the appropriate time.

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