

Division of Vehicles  
300 SW 29<sup>th</sup> Street  
PO Box 2505  
Topeka KS 66601-2505  
Mark Burghart, Secretary



Phone: 785-296-3601  
[www.ksrevenue.org](http://www.ksrevenue.org)  
Laura Kelly, Governor

**Senate Judiciary Committee  
SB 533**

Proponent Testimony  
Ted Smith, Attorney, Kansas Department of Revenue  
March 18, 2022

Good morning, Chairperson and Members of the Committee:

The Kansas Division of Vehicles supports Senate Bill 533.

The Bill adds language in K.S.A. 2021 Supp. 8-2,142, to improve the State's conformance with Federal standards associated with the issuance of commercial driver's licenses (CDL) that are recognized by other states and Canadian provinces - permitting the interstate operation of Kansas based commercial motor vehicles and drivers.

This bill concerns how the State addresses DUI prosecutions for CDL holders and how such events are recorded in our State system. Kansas has a diversion program that permits the DUI charge to be dismissed if certain conditions are satisfied by the criminal defendant. Those conditions will normally include requirements that are equivalent to the sanctions imposed by a Court if the driver is convicted of DUI. The benefit to the driver is that he or she can avoid the stigma associated with a DUI conviction and may avoid driver's license sanction.<sup>12</sup> The diversion is not recorded on the driver's public record so the effect on the driver's insurance rates is reduced. When a diversion is entered into at the State Court level, the normal DUI fines are retained by the county rather than distributed to the State general fund.<sup>3</sup>

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<sup>1</sup> There may still be consequences imposed through administrative action under K.S.A. 2021 Supp. 8-1020.

<sup>2</sup> K.S.A. 2021 Supp. 8-1014(b)(2).

<sup>3</sup> K.S.A. 2021 Supp. 22-2907(d).

This Bill would clear up the confusion by explicitly prohibiting prosecutors from entering such arrangements. The Bill also adjusts the prohibition to better match with Federal rules - traffic charges are only associated with parking, vehicle weight, or vehicle defect violations would no longer be prohibited from entering a diversion.

The Federal government prohibits the states from masking traffic, including DUI charges,<sup>4</sup> because resolving the traffic charges in a manner that is not a conviction results in the diversion or informal resolution being improperly classified and overlooked by other states that participate in an interstate system that shares conviction and driver safety information. This system is called CDLIS (Commercial Driver's Information License System) and is the backbone of the Federal Department of Transportation's interstate commercial driver's license program. The Division of Vehicles must have access to this system to issue commercial driver's licenses that are recognized by other states. To interact with this system, the Division of Vehicles must comply with Federal requirements. The Division of Vehicles CDL issuance program is annually audited by the Federal Motor Carrier Safety Administration (FMSCA) and in the most recent audit year FMSCA entered a negative finding against the State's program, stating that the prosecutors' actions result in the DUI events not being properly recorded on the CDLIS driver record for consideration by all states.<sup>5</sup> The FMSCA believes that a CDL is a professional license and that only safe drivers should be permitted to operate commercial motor vehicles in commerce. When dealing with serious traffic offenses, like a DUI, the practices of a CDL holder in his non-CMV vehicle can affect his/her CDL status.

Passage of Senate Bill 533 would prohibit the continuing practice of some county and municipal prosecutors to mask or divert traffic charges, including DUIs, for holders/drivers of commercial class driver's licenses. The Division would ask that the Committee consider the Bill favorable and pass the matter on to the full Senate for consideration and approval.

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<sup>4</sup> 49 C.F.R. Sec. 384.226.

<sup>5</sup> State of Kansas Annual Program Reviews (APR) for Calendar Year 2020, FMSCA, pg. 5.