



Since 1894

To: House Committee on Transportation
Rep. Richard Proehl, Chair

From: Tucker Stewart, Associate Counsel, Kansas Livestock Association

Re: **HB 2248 - Allowing all-terrain vehicles to cross federal or state highways**

Date: February 20, 2019

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing nearly 5,600 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker cattle production, cattle feeding, dairy production, swine production, grazing land management, and diversified farming operations.

Thank you, Chairman Proehl and members of the Committee, my name is Tucker Stewart and I am with the Kansas Livestock Association (KLA).

KLA supports HB 2248, a bill that allows all-terrain vehicles (ATVs) to cross state and federal highways. This bill will help farmers and ranchers access property with equipment often used in the industry. The bill was introduced at the request of one of our members who also lives along a highway. Last week KLA members from around the state directed staff at the KLA Legislative Meeting to support this bill, and that recommendation was ratified by the KLA Board of Directors. The Board also recognized that this bill may not offer the flexibility our member who requested the bill needs. Therefore, KLA also suggests the Committee adopt one of two proposed amendments attached to this testimony. It is important to note, HB 2248 and KLA's proposed amendments do not allow such vehicles to operate upon interstate highways.

A number of KLA members operate farms and ranches along state and federal highways. Current law prohibits the use of ATVs and work-site utility vehicles (UTVs) upon state and federal highways. This presents a number of issues. Farmers and ranchers are technically prohibited from crossing state and federal highways to access property on the other side of the road with ATVs and UTVs. This would mean they would have to drive a vehicle allowed on state and federal highways with an ATV or UTV in tow to check cattle, crops, and perform various other agricultural activities. Similarly, a farmer or rancher would not be able to use the highway or right-of-way to access nearby property or a nearby county road if their farm or ranch is located adjacent to a highway with no other access. If cattle are out on a state or federal right-of-way, livestock owners are technically prohibited from utilizing ATVs or UTVs to get the

cattle back into the enclosure from which they escaped. These are just a few highlighted issues with current law.

KLA's proposed amendments would allow farmers and ranchers access to state and federal highways incidentally and for a limited purpose, agriculture. One amendment takes a more direct approach to accomplish that goal while the other amendment includes ATVs and UTVs in the definition of "implements of husbandry" allowing them to operate on state and federal highways. This bill should not adversely affect safety on state or federal highways. Other slow moving equipment such as tractors, combines, and other implements of husbandry can operate on federal and state highways. These vehicles are sometimes wider than the center line. Bicycles, horse drawn carriages, and horses themselves are also allowed to operate on federal and state highways. Most ATVs and UTVs are equipped with lights and many UTVs even have seat belts. Often, general farm liability insurance covers ATV and UTV operation. ATVs and UTVs are also able to move over onto the shoulder to allow other vehicles to pass safely. Keep in mind, both of KLA's amendments only allow incidental use on state and federal highways limiting the number of drivers who can be on the road.

This idea is not a novel one, but it is certainly narrowly tailored. For instance, Wyoming passed a law in 2007 that allows all multipurpose vehicles (which includes ATVs and UTVs) on state and federal highways. Wyoming's law is not agriculture specific. Wyoming requires multipurpose vehicles to be titled and registered, have lights, and operate at the extreme right hand side of the road with a reflectorized flag or slow moving sign when they cannot travel the minimum required speed limit. Rather than proposing broad access to highways, KLA kept its amendments limited in scope.

KLA asks this committee to support HB 2248 and adopt either amendment. This will give our members and farmers across Kansas the flexibility needed to utilize common equipment in the industry when their operations are near state or federal highways.

Thank you!

Substitute Amendment 1.

8-15,100. Operation of all-terrain vehicles; where; when; exceptions.

(a) Except as provided in subsection (b), it shall be unlawful for any person to operate an all-terrain vehicle: (1) On any interstate highway, federal highway or state highway; or (2) within the corporate limits of any city unless authorized by such city.

(b) Notwithstanding the provisions of subsection (a), all-terrain vehicles owned and operated by a county noxious weed department, or all-terrain vehicles owned and operated by persons contracting with a county noxious weed department or the Kansas department of transportation may be allowed to operate such all-terrain vehicles upon the right-of-way of any federal highway or state highway for the purpose of eradicating noxious weeds and such all-terrain vehicles may be operated incidentally upon such federal highway or state highway.

(c) Notwithstanding the provisions of subsection (a), all-terrain vehicles may be incidentally operated upon any federal or state highway for agricultural purposes.

~~(e)~~ No all-terrain vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.

~~(e)~~ This section shall be part of and supplemental to the uniform act regulating traffic on highways.

8-15,109. Operation of work-site utility vehicle; where; when.

(a) It shall be unlawful for any person to operate a work-site utility vehicle: (1) On any interstate highway, federal highway or state highway; or (2) within the corporate limits of any city unless authorized by such city.

(b) (c) Notwithstanding the provisions of subsection (a), work-site utility vehicles may be incidentally operated upon any federal or state highway for agricultural purposes.

~~(b)~~ No work-site utility vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.

~~(e)~~ This section shall be part of and supplemental to the uniform act regulating traffic on highways.

Substitute Amendment 2.

Amending 8-1427. "Implement of husbandry" defined:

"Implement of husbandry" means 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, a fertilizer spreader or nurse tank used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership. For the purpose of this section or for the purpose of the act of which this section is a part, "implement of husbandry" shall not include: (a) A truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung; (b) a mixer-feed truck owned and used by a feedlot, as defined by K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing feed to livestock in such feedlot; ~~or~~ (c) a truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership; (d) a work-site utility vehicle used exclusively for agricultural operations; or (e) an all-terrain vehicle used exclusively for agricultural operations.

Amending K.S.A. 8-126:

(p) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

(1) A farm tractor;

(2) a self-propelled farm implement;

(3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;

(4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;

(5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot;

(6) a work-site utility vehicle used exclusively for agricultural operations;

(7) an all-terrain vehicle used exclusively for agricultural operations.

Amending 8-15,100. Operation of all-terrain vehicles; where; when; exceptions.

(a) Except as provided in subsection (b), it shall be unlawful for any person to operate an all-terrain vehicle: (1) On any interstate highway, federal highway or state highway; or (2) within the corporate limits of any city unless authorized by such city.

(b) Notwithstanding the provisions of subsection (a), all-terrain vehicles owned and operated by a county noxious weed department, or all-terrain vehicles owned and operated by persons contracting with a county noxious weed department or the Kansas department of transportation may be allowed to operate such all-terrain vehicles upon the right-of-way of any federal highway or state highway for the

Substitute Amendment 2.

purpose of eradicating noxious weeds and such all-terrain vehicles may be operated incidentally upon such federal highway or state highway.

(c) No all-terrain vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.

(d) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

(e) This section shall not prohibit the use of any implement of husbandry upon any federal or state highway.

Amending 8-15,109. Operation of work-site utility vehicle; where; when.

(a) It shall be unlawful for any person to operate a work-site utility vehicle: (1) On any interstate highway, federal highway or state highway; or (2) within the corporate limits of any city unless authorized by such city.

(b) No work-site utility vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.

(c) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

(d) This section shall not prohibit the use of any implement of husbandry upon any federal or state highway.