



Since 1894

To: Senate Committee on Transportation
Sen. Mike Petersen, Chair

From: Tucker Stewart, Associate Counsel, Kansas Livestock Association

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

Date: March 19, 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 Petersen 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. In February, 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 seeks an amendment to the bill.

KLA originally proposed amendments in the House Committee to offer more flexibility for agriculture, however the Kansas Department of Transportation (KDoT) raised concerns with the language. The bill was passed out of the House without amendments with the intent to allow KLA, the Kansas Farm Bureau, and government agencies to find common ground in an amendment. KDoT subsequently proposed language for an amendment. The KDoT language allows both ATVs and work-site utility vehicles (UTVs) to cross any state and federal highway. The language also allows ATVs and UTVs to be operated on state and federal highways under certain circumstances. 1. The driver must have a license. 2. The highway must have a posted speed limit of 65 mph or less. 3. The vehicle must be operated on the far right hand side of the road. 4. The operation can only be between a residence and owned or leased agricultural property or between two owned or leased agricultural properties. 5. The travel may only be for agricultural purposes. It is important to note, HB 2248 and the proposed amendment does not allow such vehicles to operate upon interstate highways.

Ultimately KLA is content with KDoT's proposed language, however, would like to raise one concern. Subsection (d)(4) may be confusing to some, hard to enforce, and unnecessary because

of the other safety limitations contained in the amendment. Therefore, KLA asks the Committee to adopt the amendment attached to this testimony and consider eliminating subsection (d)(4).

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.

The proposed amendment would allow farmers and ranchers access to state and federal highways safely and for a limited purpose, agriculture. This bill and the amendment 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.

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 but many other states do have agricultural exemptions for ATVs and UTVs on state and federal highways.

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 for the opportunity to testify today.

HB2248 amendment language

8-15,100. Operation of all-terrain vehicles; where; when; exceptions. (a) Except as provided in subsection (b), (c), and (d) 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 operated to cross a federal highway or state highway.

(d) Notwithstanding the provisions of subsection (a), persons engaged in agricultural may operate an all-terrain vehicle on a federal highway or state highway, under the following conditions:

(1) The operator of the all-terrain vehicle must be a licensed driver and be operating within the restrictions of their license;

(2) The federal highway or state highway must have a posted speed limit of 65 miles per hour or less;

(3) The operator of the all-terrain vehicle must operate the all-terrain vehicle as near to the right side of the roadway as practicable, except when making or preparing to make a left hand turn.

~~(34)~~ The operation on a federal highway or state highway must be between the persons residence and agricultural property owned or leased by the person engaged in agricultural or an employee thereof; or between agricultural properties owned or leased by the person engaged in agricultural or an employee thereof; and,

~~(45)~~ The purpose of the trip using the all-terrain vehicle must be 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.

(f) 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) Except as provided in (b) and (c) 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.

Commented [TS1]: May be confusing to some, hard to enforce, and unnecessary because of the other safety limitations. KLA recommends to delete.

(b) Notwithstanding the provisions of subsection (a) work-site utility vehicles ~~all-terrain vehicles~~ may be operated to cross a federal highway or state highway.

(c) Notwithstanding the provisions of subsection (a) persons engaged in agriculture may operate an work-site utility vehicle ~~all-terrain vehicle~~ on a federal highway or state highway, under the following conditions:

(1) The operator of the work-site utility vehicle must be a licensed driver and be operating within the restrictions of their license;

(2) The federal highway or state highway must have a posted speed limit of 65 miles per hour or less;

(3) The operator of the work-site vehicle must operate the work-site utility vehicle as near to the right side of the roadway as practicable, except when making or preparing to make a left hand turn.

~~(4)~~ The operation on a federal highway or state highway must be between the persons residence and agricultural property owned or leased by the person engaged in agricultural or an employee thereof; or between agricultural properties owned or leased by the person engaged in agricultural or an employee thereof; and,

~~(4)~~ The purpose of the trip using the work-site vehicle must be for agricultural purposes.

(d) 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.

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KLA recommends to delete.