

Chair Petersen, Vice Chair Kloos and Members of the Committee, thank you for the opportunity to testify before you today in support of HB 2020. My name is Prasad Sharma, and I am a transportation attorney in the D.C. office of Scopelitis, Garvin, Light, Hanson & Feary. I have been involved in trucking for over twenty years, including as general counsel for the American Trucking Associations, the leading national trade association of the trucking industry. I am pleased to be joined in support of this bill by the Kansas Motor Carriers Association, the leading advocate for safe trucking in the state of Kansas.

You may recognize the language in HB 2020. The same language passed out of this committee as SB 494 during the last session and then passed the Senate by a vote of 39-0 before dying in the House. This time, the language started in the House and passed that body by a vote of 122-0.

Make no mistake about it – HB 2020 is a common-sense, pro-safety bill. It removes an impediment to the adoption and use of safety technologies and practices by fleets that use independent contractors. By doing so, it will foster safer driving habits that benefit the driver, the carrier, and most importantly, the motoring public.

In 2017, the AAA Foundation, a group that does research on behalf of the motoring public, did a study and found that the deployment of safety technologies on large trucks can provide significant societal benefits in terms of crash risk

reduction. However, the study noted that maximizing the benefits of that technology requires – they used the term *depends on* - driver monitoring and driver coaching.

This leads me to a situation I face all too often in counseling trucking companies. A carrier may see safety benefits when implementing a technology with its employee drivers and inquire about using it with its independent contractors. Now here's the rub – requiring the use of technologies can be viewed by courts and regulators as exerting control. So can monitoring, coaching, and training your drivers. Therefore, I have to remind the carrier that pursuing the safety improvement with their independent contractors can risk making them employees. A carrier with independent contractors is left with the unappealing choice of improving safety but running the risk of reclassification or foregoing the ability to potentially improve safety to better protect the independent contractor status. No amount of counseling by lawyers – even those far wiser than me – can thread the needle without some trade-off in risk.

HB 2020 is a narrowly targeted, common-sense solution to that dilemma. It simply establishes that the use of safety improvements, i.e., technologies or operating practices intended and primarily used to improve safety, does not get considered when evaluating the status of a driver as an independent contractor or employee under any of the state's laws dependent on the worker's classification.

What the bill does not do is equally important. It does not change any of the state's existing tests for determining whether a worker is an independent contractor or an employee, and it does not tip the scale one way or the other. The bill also does not mandate the use of any particular technology. But it does allow a broader swath of the industry to use or test out safety technologies to see what works for their particular operation.

Oftentimes, legislation has winners and losers. Here, safety creates a lot of winners -- the motoring public (who benefit from safer trucking companies), truck drivers (who also benefit from safer driving), and trucking companies. I'm hard-pressed to come up with a loser.

The fact of the matter is independent contractors are an integral part of the trucking industry. Therefore, the pursuit of safety should not suffer as a result of courts trying to determine whether a safety improvement is impermissible control. I think we can all agree that fewer crashes is the higher goal. Mr. Chairman, and members of the committee, thank you for the opportunity to testify, and I urge your support of HB 2020. I'd be happy to answer any questions at the appropriate time.