

HOUSE BILL No. 2289

By Committee on Federal and State Affairs

2-13

1 AN ACT concerning motor carriers; repealing public convenience and
2 necessity requirements; amending K.S.A. 66-1,108b, 66-1,110, 66-
3 1,112g, 66-1,112h, 66-1,112j, 66-1,115, 66-1,117, 66-1,119, 66-1,119a,
4 66-1,126, 66-1,129a and 66-1,142d and repealing the existing sections;
5 also repealing K.S.A. 66-1,114, 66-1,114b, 66-1,115a and 66-1,118.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 66-1,108b is hereby amended to read as follows:
9 66-1,108b. The state corporation commission is given full power, authority
10 and jurisdiction to supervise and control motor carriers, as defined in 49
11 C.F.R. § 390.5, as in effect on July 1, 2017, or any later version as
12 established in rules and regulations adopted by the state corporation
13 commission, doing business or procuring business in Kansas, and is
14 empowered to do all things necessary and convenient for the exercise of
15 such power, authority and jurisdiction. The commission shall have general
16 supervision of all motor carriers operating in this state. The commission
17 shall inquire into any neglect or violations of the laws pertaining to the
18 regulation of motor carriers of this state by any motor carrier or any person
19 retaining the transportation services of that motor carrier. From time to
20 time, the commission shall carefully examine and inspect the condition of
21 each motor carrier, its equipment, the manner of its conduct and its
22 management with reference to the public safety ~~and convenience~~. Nothing
23 in this section shall be construed as relieving any motor carrier from
24 responsibility or liability for damage to person or property.

25 Sec. 2. K.S.A. 66-1,110 is hereby amended to read as follows: 66-
26 1,110. All "public motor carriers of property, of household goods or of
27 passengers" as defined in this act are ~~hereby declared to be common~~
28 ~~carriers within the meaning of the public utility laws of this state, and are~~
29 ~~hereby declared to be affected with a public interest and subject to this act~~
30 and to the laws of this state, including the regulation of all rates and
31 charges now in force or that hereafter may be enacted, ~~pertaining to public~~
32 ~~utilities and common carriers as far as applicable~~, and not in conflict.

33 Sec. 3. K.S.A. 66-1,112g is hereby amended to read as follows: 66-
34 1,112g. The commission shall issue permits to private *and public* motor
35 carriers of property, *household goods or passengers* and require the filing
36 of annual and other reports, and such additional data as may be required by

1 the commission in carrying out the provisions of this act. ~~The commission~~
2 ~~may adopt rules and regulations relating to private motor carriers of~~
3 ~~property.~~

4 Sec. 4. K.S.A. 66-1,112h is hereby amended to read as follows: 66-
5 1,112h. Upon the request of the holder of any ~~private~~ carrier permit or
6 interstate license, while serving in the armed forces of the United States,
7 the commission is hereby authorized to grant to such holder a suspension
8 of such permit or license for such period and upon such terms and
9 conditions as the commission may determine, except that nothing herein
10 shall be construed to limit the authority of the commission to cancel or
11 revoke a permit or license for violations of statutes or rules and regulations
12 which have occurred prior to or during such suspension.

13 Sec. 5. K.S.A. 66-1,112j is hereby amended to read as follows: 66-
14 1,112j. Upon failure to comply with the provisions of the motor carrier law
15 or other laws of the state relating to motor carriers, or upon failure to
16 comply with motor carrier rules and regulations of the commission, or
17 rules and regulations of the state property valuation department, the
18 department of revenue relating to taxation of motor carriers, or the port of
19 entry board relating to motor carriers, the commission may suspend or
20 completely revoke, at any time, any permit, ~~certificate~~ or interstate license
21 after notice and an opportunity to be heard has been given to the grantee in
22 accordance with the provisions of the Kansas administrative procedure act.

23 Sec. 6. K.S.A. 66-1,115 is hereby amended to read as follows: 66-
24 1,115. It shall be unlawful for any private *or public* motor carrier to
25 operate as a carrier of property, *household goods* or passengers within this
26 state either in intrastate commerce or in interstate commerce without first
27 having obtained from the commission a license or permit or without being
28 registered pursuant to federal statutes. An application shall be made to the
29 commission in writing stating such information as the commission may
30 request. Upon receipt of such information and on compliance with the
31 rules and regulations and payment of fees, the commission shall issue a
32 license or permit to such applicant.

33 Sec. 7. K.S.A. 66-1,117 is hereby amended to read as follows: 66-
34 1,117. The corporation commission shall prescribe forms of applications
35 for ~~certificates~~, permits and licenses for the use of prospective applicants
36 and shall make regulations for the filing thereof. The commission may use
37 a presiding officer from the office of administrative hearings as a presiding
38 officer for any hearing that may be required concerning any application for
39 a ~~certificate~~ *permit* or license and the presiding officer shall make written
40 findings and recommendations to the commission.

41 Sec. 8. K.S.A. 66-1,119 is hereby amended to read as follows: 66-
42 1,119. ~~No public motor carrier authorized by this act to operate shall~~
43 ~~change, abandon or discontinue any service established by this act or~~

1 operations under any certificate of convenience and necessity issued for
2 carriers of household goods or passengers without consent of the
3 commission after written application. Failure of any motor carrier to
4 annually renew its authority, certificate or permit in a timely manner shall
5 result in a termination of that motor carrier's authority by operation of law.
6 A list of applications for changes to, abandonments of or discontinuances
7 of any authority, as well as any abandonments of authority by operation of
8 law for failure to renew, shall be published on the commission's web site.

9 Sec. 9. K.S.A. 66-1,119a is hereby amended to read as follows: 66-
10 1,119a. No public motor carrier authorized under the provisions of the
11 motor carrier act to operate shall by contract, lease, agreement or any other
12 means made with any person, partnership, association or corporation, lease
13 or assign any authority or operating rights to perform any transportation
14 service or operations authorized or assign any territory granted by any
15 certificate of convenience and necessity or certificate of public service by
16 a permit issued to such motor carrier. When the relevant federal agency
17 has issued an order approving and authorizing a pooling agreement
18 between two or more motor carriers covering points and places in this
19 state, nothing herein shall be construed as prohibiting, invalidating or
20 otherwise affecting any agreement between such motor carriers insofar as
21 it relates to service or operations between the same points and places in
22 intrastate commerce within this state. Any such order shall be filed with
23 the corporation commission, and such agreement shall not be effective
24 unless the commission finds that the proposed service or any part thereof
25 is proposed to be performed by the applicants and that the applicants are
26 fit, willing and able to perform such service or fit, knowledgeable and in
27 compliance with the commission's safety rules and regulations and liability
28 and cargo insurance requirements. If the commission makes such findings,
29 the commission shall approve such agreement, ~~except that if the~~
30 ~~commission finds that the proposed service is inconsistent with the public~~
31 ~~convenience and necessity, the commission shall not approve the~~
32 ~~agreement.~~

33 Sec. 10. K.S.A. 66-1,126 is hereby amended to read as follows: 66-
34 1,126. Any person who shall operate as any carrier to which this act
35 applies without first obtaining a certificate, permit or license or in
36 violation of any of the terms thereof, or who fails to make any return or
37 report required by this act or by the commission, or who denies to the
38 commission access to such carrier's books or records, or who fails to
39 comply with any commission order requiring the payment of a penalty,
40 orders requiring the cease and desist of certain operations or orders placing
41 a motor carrier out of service, shall be guilty of a misdemeanor and shall
42 be punished as provided in K.S.A. 66-1,130, and amendments thereto.

43 Sec. 11. K.S.A. 66-1,129a is hereby amended to read as follows: 66-

1 1,129a. (a) The commission, at any time for good cause shown, may
2 suspend the operation of any motor carrier subject to economic or safety
3 rules and regulations adopted by the commission. Upon notice and an
4 opportunity to be heard in accordance with the provisions of the Kansas
5 administrative procedure act, the commission may revoke, ~~amend~~, initiate
6 sanctions or fine any motor carrier who has a ~~certificate~~, license or permit
7 issued by the commission or is subject to the safety rules and regulations
8 adopted by the commission. Any motor carrier suspended prior to a
9 hearing must be afforded the opportunity of a hearing on the matter. If
10 such a hearing is requested, the hearing shall be held within 10 days of the
11 request.

12 (b) The director of the commission's transportation division, at any
13 time for good cause shown, may request the Kansas highway patrol to
14 impound a motor carrier's vehicle or vehicles when that motor carrier has:

- 15 (1) Failed to comply with an out-of-service order;
- 16 (2) failed to comply with a cease or desist order;
- 17 (3) failed to obtain commission authority to operate;
- 18 (4) failed to pay a commission-assessed civil penalty; or
- 19 (5) has otherwise failed to comply with a commission order. Any
20 motor carrier whose vehicle is impounded prior to a hearing must be
21 afforded the opportunity of a hearing on the matter. If such a hearing is
22 requested, the hearing shall be held within 10 days of the request.

23 (c) The commission is authorized to enter into any contracts or
24 agreements necessary with the superintendent of the Kansas highway
25 patrol, in order to provide facilities and personnel to accomplish the
26 impounding of vehicles.

27 (d) If the owner of a motor vehicle which has been impounded
28 pursuant to this section refuses to pay any towing, impoundment, storage
29 or other fees relating to the impoundment of such vehicle or fails to take
30 possession of such vehicle within 30 days following the date of the
31 expiration of the impoundment period, such vehicle shall be deemed
32 abandoned and the vehicle may be disposed of by the person having
33 possession of such vehicle.

34 (1) If the person having possession of such vehicle is a public agency,
35 disposition of such vehicle shall be in compliance with the procedures for
36 notice and public auction provided by ~~paragraph (2) of subsection (a) of~~
37 K.S.A. 8-1102(a)(2), and amendments thereto.

38 (2) If the person having possession of such vehicle is not a public
39 agency, disposition of such vehicle shall be in compliance with K.S.A. 8-
40 1103 through 8-1108, and amendments thereto.

41 (3) For the purposes of disposing of a vehicle that has been
42 impounded by the state corporation commission under the authority
43 granted by ~~section~~ subsection (b), if the state corporation commission is in

1 possession of the vehicle, the state corporation commission shall be
2 considered a public agency for the purpose of disposing of an abandoned
3 vehicle under the provisions of K.S.A. 8-1102, and amendments thereto.

4 (e) Notwithstanding the provisions of ~~subsection (c)(3) of~~ K.S.A. 8-
5 1102(c)(3), and amendments thereto, the proceeds from the sale of any
6 vehicle impounded at the direction of the director of the division of
7 transportation of the state corporation commission, received pursuant to
8 subsection (b), except for reimbursement of expenses of the impoundment
9 and sale, by any public agency, including the state corporation
10 commission, shall be deposited in the state treasury in accordance with
11 K.S.A. 75-4215, and amendments thereto, and shall be credited to the state
12 general fund.

13 Sec. 12. K.S.A. 66-1,142d is hereby amended to read as follows: 66-
14 1,142d. ~~Contract~~ Motor carriers transporting *property*, household goods or
15 passengers holding permits *or certificates* issued by the commission under
16 the former authority of K.S.A. 66-1,112a, 66-1,112b or 66-1,112c, ~~and~~
17 ~~amendments thereto prior to their repeal~~, shall now be considered as
18 holding ~~certificates of convenience and necessity to transport such~~
19 ~~household goods and passengers as originally granted to that motor carrier~~
20 ~~by the commission. Contract motor carriers transporting property other~~
21 ~~than household goods or transporting passengers and holding permits~~
22 ~~issued by the commission under the former authority of K.S.A. 66-1,112a,~~
23 ~~66-1,112b or 66-1,112c, and amendments thereto, shall now be considered~~
24 ~~as holding certificates of public service to transport such property other~~
25 ~~than household goods or transporting passengers as originally granted to~~
26 ~~that motor carrier by the commission. Contract motor carriers with rates~~
27 ~~and tariffs on file with the commission under the authority of K.S.A. 66-~~
28 ~~1,112 and 66-1,112f, and amendments thereto, shall be considered public~~
29 ~~motor carriers with the same rates and tariffs on file with the commission~~
30 *permits.*

31 Sec. 13. K.S.A. 66-1,108b, 66-1,110, 66-1,112g, 66-1,112h, 66-
32 1,112j, 66-1,114, 66-1,114b, 66-1,115, 66-1,115a, 66-1,117, 66-1,118, 66-
33 1,119, 66-1,119a, 66-1,126, 66-1,129a and 66-1,142d are hereby repealed.

34 Sec. 14. This act shall take effect and be in force from and after its
35 publication in the statute book.