

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 4th Meeting of the 2020 Interim

September 15, 2020

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Transportation was held on Tuesday, September 15, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll. The minutes for the August 18, 2020 meeting were approved.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Ralph Alvarado, C.B. Embry Jr., Stephen Meredith, Johnny Ray Turner, and Mike Wilson; Representatives Terri Branham Clark, Randy Bridges, Chris Fugate, Al Gentry, Robert Goforth, David Hale, Samara Heavrin, Kathy Hinkle, Thomas Huff, Derek Lewis, Savannah Maddox, Sal Santoro, Maria Sorolis, Cherlynn Stevenson, Jim Stewart III, Ashley Tackett Laferty, and Walker Thomas.

Guests: Matt Cole, Acting Commissioner, Department of Vehicle Regulation, Kentucky Transportation Cabinet (KYTC); Major Nathan Day, Director Commercial Vehicle Enforcement Division, Kentucky State Police (KSP); Captain Marshall Johnson, Commander Driver Testing Branch, KSP; Carlos Cassady, Executive Director Kentucky Motor Vehicle Commission; Doug Dotson, Chairman, Kentucky Motor Vehicle Commission; Ray Cottrell, Member Kentucky Motor Vehicle Commission; Chuck Coldiron, Member Kentucky Motor Vehicle Commission; and Ron Jackson, Member Kentucky Motor Vehicle Commission

LRC Staff: John Snyder, Dana Fugazzi, and Christina Williams

Driver's License Issuance and Testing

Matt Cole, Acting Commissioner, Department of Vehicle Regulation, KYTC, gave a brief overview of driver's license issuance and testing procedures since the beginning of the Covid-19 pandemic. Commissioner Cole stated there are eight regional offices and five temporary field offices open that are issuing credentials at this time. The open regional offices are in Elizabethtown, Frankfort, Lexington, Madisonville, Morehead, Paducah, Prestonsburg, and Somerset. The open field offices are in Bowling Green, Catlettsburg, Florence, KYTC Bowman, and Owensboro. There will be three more regional offices opening in three to four weeks in Columbia, Jackson, and Richmond. Two more regional offices will began operating in Bowling Green and Burlington near the end of October.

Commissioner Cole stated KYTC continues to evaluate new credential sites for areas that can best serve the Commonwealth by continuing to review the needs of populations, as well as ensuring evenly spaced offices throughout the state. Many locations are still being considered, but KYTC hopes to have 16 or 17 locations up and running by the end of 2020 and 25 to 28 regional offices by the conclusion of the construction of all credential offices.

Commissioner Cole stated that masks are required to be worn at all times in each office, and social distancing is strictly enforced. A full sanitizing of all equipment between customers is also completed. The required level of safety precautions does come with a cost, which is the efficiency and the total number of people that can be assisted daily is reduced. KYTC is happy to take on the additional costs needed, as it is the right thing to do.

Commissioner Cole stated citizens are able to get their standard ID credentials by either going to the Circuit Court Clerk in their county of residence (if that office is available for walk-in traffic), or they could also use the mail-in form for renewals or duplicates. The mail-in form can be found at the Administrative Office of the Courts' website and should be sent to the person's Circuit Court Clerk's office. The Circuit Court Clerk's office will then process payment from the information provided and will mail the new license or ID card to the applicant in the mail.

Another way to get an ID or license, including REAL ID compliant documents, is to go to any conveniently located KYTC regional office or temporary field office in the state. Appointments for the application of an ID are currently offered on the Drive.ky.gov website. Walk-in slots are also available as daily capacity allows at the KYTC regional offices. Due to their smaller capacity, the KYTC temporary field office locations are by appointment only in order to help control the flow of traffic. Commissioner Cole stated the options available are necessary for KYTC to provide during the Covid-19 pandemic, and the Cabinet will continue to offer them for the foreseeable future.

Commissioner Cole addressed the issue of enforcement for obtaining a REAL ID and how that has changed since the pandemic. Commissioner Cole stated that earlier this year, the Department of Homeland Security pushed the enforcement deadline back one year to October 1, 2021. KYTC projections estimate that 30-35% of Kentucky's population will opt into getting a REAL ID. This projection was arrived at by considering how other states of Kentucky's size and urban/rural composition have fared in their transitions. Conversations continue to occur at the national level about the possibility of moving the enforcement date further out. The Cabinet will continue to monitor the results of those conversations as they become available.

KYTC will now look to the next wave of technologies available. He added that mobile units will be able to deploy to all counties in Kentucky which do not have a regional office, a provision of House Bill 463 of the 2020 Regular Session. Those mobile units are expected to arrive sometime this fall from the vendor. Mobile driver licenses, electronic IDs, and online renewals have already begun to permeate the industry. KYTC will continue to utilize state and national level partners along with vendors to better understand these new options, and how the best versions of these opportunities can be brought to the Commonwealth.

In response to a question asked by Chairman Higdon concerning the current responsibilities of Circuit Court Clerks and KSP regarding licensure and permitting, Commissioner Cole stated currently the duties of each unit remains the same. He added there is a collaborative effort to move towards a smooth transition of duties in the near future.

In response to a question asked by Chairman Higdon, Commissioner Cole stated KSP was among the first in the nation to bring back Commercial Driver License (CDL) testing and issuance after the shutdown due to the pandemic, as the impact to the industry and the economy was quickly realized. Commissioner Cole stated the issuance of CDLs have become a priority.

Major Nathan Day, Director Commercial Vehicle Enforcement Division, KSP, introduced Captain Marshall Johnson, Commander Driver Testing Branch, KSP. Captain Johnson addressed driver's license issuance and testing. Captain Johnson stated in-person services including knowledge and skills testing for vehicle operators, motorcycle operators, and CDLS were halted in March. On June 1, 2020 knowledge testing resumed. It was realized that in order to follow CDC guidelines and continue to keep social distancing a priority, the current testing facilities were inadequate to test multiple persons at one time; therefore, they were unable to quickly address the backlog that had accumulated. Many locations now have a walk-in scheduling practice. In many counties, regional testing sites have been set up, with safe practices being applied so that the backlog can be addressed. Most of these regional offices resumed testing in July when skills testing resumed.

Captain Johnson stated he believes a significant dent has been made in the permit testing backlog. It is hard to estimate permit testing needs, because eligibility does not necessarily relate to testing. Many 16-year olds want to test right away, while others wait to test.

Captain Johnson stated as of August 31, 2020, there have been 33,400 knowledge tests administered across the state. The Floyd County regional testing site tested almost 800 applicants. The Franklin County regional testing site has tested over 2,700 applicants. The Hardin County testing site has tested over 900 applicants. Many locations are very successful in putting a dent in the backlog.

Captain Johnson stated the skills test, which is commonly referred to as the road test, resumed in July. Unlike the permit test, the challenge of the skills test is that there must be a one to one ratio, as only one examiner can get into the car with one person at a time. Examiners have been conducting road tests at maximum capacity since July.

Captain Johnson stated that testing numbers so far would suggest that efforts have been significant in reducing the backlog. Prior to resuming testing, the data indicated approximately 19,400 eligible permit holders were identified in Kentucky as of January 2020. Since August, 17,891 eligible permit holders have been tested statewide. Captain Johnson indicated that there has been about five months' worth of road tests done over two and a half months to help eliminate backlog.

Captain Johnson stated that because a person can hold a permit for up to three years, neither age, nor eligibility can necessarily determine if a testing need exists. People who urgently need licenses have been taken care of and their license obtained.

Captain Johnson stated there is still a significant need to administer knowledge and skills testing in some areas. In those areas, such as Jefferson County, it is being discussed to add additional personnel in the Circuit Court Clerks offices. Weekend testing is also being discussed as a possibility to address backlog issues in some areas. CDL testing has been running efficiently in most aspects, adding that there have been almost 1,000 CDL applications processed since June.

Captain Johnson stated that most of the frustration from the public has stemmed from the inability to contact posts for testing. Since hearing those concerns, the implementation of online scheduling has occurred. Captain Johnson stated in moving forward, the goal is to utilize the online scheduling tool to efficiently manage the backlog in each county. Resources will also be rotated to counties that are have greater testing needs.

In response to a question asked by Chairman Higdon, Captain Johnson stated if a driver testing appointment is made, the average wait time is approximately one month from that date before the testing can be administered.

In response to a question asked by Chairman Higdon, Captain Johnson stated there is the ability to test out of a person's home county, but it would require the approval of the Circuit Court Clerks and the agreement of KSP to test. However, that is discouraged so that the number of examiners in other counties are not overwhelmed, as each county is assigned a certain number of examiners based on their expected needs.

In response to a question asked by Chairman Higdon, Captain Johnson stated there are ten CDL testing locations across the state that are open and up and running.

Motor Vehicle Commission Fees

Doug Dotson, Chairman, Kentucky Motor Vehicle Commission introduced himself and thanked members for allowing the Motor Vehicle Commission to come before the Committee to request a fee increase.

Carlos Cassady, Executive Director Kentucky Motor Vehicle Commission gave a brief presentation on the Kentucky Motor Vehicle Commission. Mr. Cassady stated the Motor Vehicle Commission licenses and regulates motor vehicle dealers, salespersons, manufacturers, distributors, factory branches, and component manufacturers and representatives. The Commission operates exclusively from the license fees it receives from these licensees. The Commission handles consumer complaints relating to the sale of motor vehicles and provides a forum for disputes between franchised motor vehicle dealers and the manufacturers from whom the dealers hold a franchise agreement. Through its direct oversight and inspection of dealerships, and often in conjunction with consumer or other business complaints, the Commission assists KYTC and County Clerks in enforcing compliance with Kentucky's vehicle registration and tax laws, thus contributing to the revenue collected in association with vehicle transfer and registration. Through its oversight of licensees, and review of vehicle sales activities in the Commonwealth, the Commission often assists local law enforcement, KSP, Federal Bureau of Investigations, Internal Revenue Service, and Homeland Security with regard to criminal investigations involving motor vehicle transactions such as vehicle and parts thefts, tax evasion, and the elimination of activities which allow individuals to drive vehicles without necessary license and insurance. Through participating local law enforcement and the judicial system, the Commission enforces the dealer license requirement on those attempting to sell motor vehicles without a dealer's license.

Mr. Cassady stated the Kentucky Motor Vehicle Commission desires to stabilize its budget for a long-term basis. The Commission exists entirely on the license fees collected and no tax dollars. The current annual license fee of \$100 for dealers has had no changes since 1982. The Motor Vehicle Commission would like the General Assembly to change the funding mechanism for their agency from a flat fee on licensees spelled out in statute to a fee set by regulation that is capped by the statute. The cap, which the Commission suggested could be set as high as \$500, would allow the Commission to immediately adjust fees to some point below that maximum cap in order to raise the funds outlined in this presentation that are necessary to carry out the Commission's duties. It would also allow the Commission to adjust fees gradually up or down to provide appropriate funding in the future without having to petition the General Assembly to change the fee structure.

Mr. Cassady stated that since 1982, there has been a significant advancement and use of technology in the workplace. Transportation costs of motor vehicles and fuel costs

have risen dramatically. He also stated that the buying power of \$100.00 in 1982 would be \$268.00 today.

Mr. Cassady stated that currently, the Commission is staying within budget because of two vacancies for two Motor Vehicle Dealer District Administrators for Western Kentucky, representing 570 dealerships which are visited on an annual basis. Secondly, Louisville and surrounding counties do not have a dealer representative which represents 608 dealerships of which 332 of those are in Jefferson County alone.

Referencing meeting materials titled "Kentucky Motor Vehicle Commission Continuing Costs for Future Budgets-Attachment B", Mr. Cassady stated personnel costs with recent legislation involving the Commonwealth's Pension Plan, established additional cost to the Commission of \$176,000 annually. The Commission has used carry forward funds and the two vacancies to stay within budget. The need for a full-time position is justified in Louisville because of illegal activities such as motor vehicle sales without a license impacting the dealers who are legal. This also impacts consumers who are not protected, and who will often times purchase a vehicle unknowingly that has been rebuilt or worse has no title. It is estimated that the Commonwealth loses between \$1.5 to \$2 million annually due to sales taxes not being collected on illegal sales activities. Sixty thousand dollars annually would fund this position.

Mr. Cassady stated the Motor Vehicle Commission is unique as a commission in that they are self-regulated. The dealers regulate themselves, and the fees provided by the dealer's licenses are used to protect consumers from false or misleading advertising, false warranties, and fraudulent activities. The Commission receives approximately 40 calls per day from consumers seeking advice and resolutions to their complaints.

Mr. Cassady stated the Commission's current workplace utilizes computers, cell phones, tablets, and air cards (wireless modems). The Commission's operating program fixed cost are \$15,000 annually. The fleet vehicles fixed costs for five representatives is approximately \$60,000 annually. The Commission has legal costs of \$25,000 to maintain franchise protection statutes. The Commission would like to have approximately \$100,000 in escrow to help with legal costs.

In conclusion, Mr. Cassady thanked members for allowing him to present to the Committee and that favorable approval of the legislature for a license fee increase would sustain and stabilize the programs operations that would cover these costs, as well as allow a full-time Motor Vehicle District Administrator for Louisville.

Chairman Higdon praised the Kentucky Motor Vehicle Commission for being self-sustaining.

In response to a question asked by Chairman Higdon, Mr. Cassady said \$442,000 would cover the cost of what the Commission is facing today.

In response to a question asked by Chairman Higdon, Mr. Cassady stated it would take a fee increase of approximately \$200 (to \$300) to be able to provide a full-time inspector for Louisville.

In response to a question asked by Chairman Higdon concerning revenue, Mr. Cassady stated that doubling the fee from \$100 to \$200 would not raise the Commission's revenue from \$1 million to \$2 million because some of the Commission's revenues come from fines. He stated that the revenue increase would be approximately \$600,000.

Mr. Ray Cottrell, Member Kentucky Motor Vehicle Commission stated the Kentucky Auto Dealers Association fully supports the fee increase.

Mr. Dotson also clarified that there is no intention to raise dealer's license fees to \$500. He stated the goal is to try to eliminate the need for returning to the General Assembly to request more money in the near future. They feel this cap for the fee increase could help sustain the Kentucky Motor Vehicle Commission for up to 30 or 40 more years.

With no other business to come before the Committee, Chairman Higdon adjourned the meeting at 1:55 P.M.