

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 2nd Meeting of the 2019 Interim

September 9, 2019

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Transportation was held on Monday, September 9, 2019, at 3:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll. The minutes from the Committee's July 19, 2019 meeting were approved.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Ralph Alvarado, Perry B. Clark, C.B. Embry Jr., Jimmy Higdon, Paul Hornback, Stephen Meredith, Gerald A. Neal, Albert Robinson, Brandon Smith, Johnny Ray Turner, and Mike Wilson; Representatives Terri Branham Clark, Randy Bridges, Chris Fugate, Al Gentry, Robert Goforth, David Hale, Kathy Hinkle, Regina Huff, Thomas Huff, Derek Lewis, Savannah Maddox, Russ A. Meyer, Charles Miller, Sal Santoro, Maria Sorolis, Cherlynn Stevenson, Jim Stewart III, Ashley Tackett Laferty, Walker Thomas, and Tommy Turner.

Guests: Robin Brewer, Executive Director, Office of Budget and Fiscal Management, Kentucky Transportation Cabinet (KYTC); Matt Henderson, Commissioner, Department of Vehicle Regulation, KYTC; Brian Beaven, Director, Division of Motor Carriers, KYTC

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

Road Fund Update

Robin Brewer, Executive Director, Office of Budget and Fiscal Management, Kentucky Transportation Cabinet (KYTC), gave a presentation on the fiscal year 2019 closeout of the road fund. Ms. Brewer stated that the official revenue estimate for motor fuels tax in FY 2019 was \$759.2 million. The actual revenue was \$773.2 million, an increase of \$14.0 million. She added that the official revenue estimate of the motor vehicle usage tax was \$494 million. The actual revenue received from the motor vehicle usage tax was \$514.5 million, an increase of \$20.5 million. Other revenues had an increase of \$24.9 million. Total official revenue estimates combined amounted to \$1,506.6 million. The actual revenues received were \$1,566.1 million, leaving a total increase of \$59.5 million.

Ms. Brewer provided a chart that showcased the difference of FY 2019 actual revenues and FY 2018 actual revenues. In FY 2019, \$773.2 million was collected in motor fuels tax, and \$764.9 million was collected in FY 2018, therefore an increase of \$8.3 million was realized in FY 2019. In FY 2019, \$514.5 million was collected in motor vehicle usage tax compared to \$493.1 million that was collected in FY 2018, resulting in a \$21.4 million increase. In other revenues, \$278.3 million was collected in FY 2019, and \$252.9 million was collected in FY 2018, resulting in an increase of \$25.4 million. Total surplus between FY 2019 and FY 2018 was \$55.1 million, a 3.6% increase.

Ms. Brewer stated the motor fuels tax is estimated to be \$761.2 million in FY 2020, motor vehicle usage tax is expected to be \$492.6 million, and the motor vehicle license fee is approximately \$116.3 million. Also estimated in FY 2020, the weight distance tax will be approximately \$83.2 million, other road fund revenues will be approximately \$36.4 million, the motor vehicle operators fee will be approximately \$16.8 million, and total investment would be approximately \$3.3 million, resulting in a total road fund estimate of \$1,509.8 million for FY 2020.

Ms. Brewer provided a chart that showed that even though the motor fuels tax rate has remained at 26 cents per gallon since FY 2016, the motor fuels tax revenue has steadily increased from \$750 million in FY 2016 to \$773.2 million in FY 2019. Ms. Brewer then shared a graph showing historical motor vehicle usage tax revenues from FY 2000 to FY 2019. After a precipitous drop in revenue during the recession years of 2009 and 2010, revenues have spiked in recent years, hovering around \$500 million per year since 2016. Ms. Brewer cautioned that the revenue may not stay at the \$500 million level in the future. One last chart that was provided was a total road fund revenues by fiscal year chart which showed that in FY 2019 the total road fund revenues were \$1,566.1 million; however, it was expected to drop to \$1,509.8 million in FY 2020.

Chairman Ernie Harris reiterated that every penny that is collected in motor fuels tax is the equivalent of approximately \$30 million received which is split 50% with cities and counties and the other 50% goes to the construction account.

Chairman Harris also reminded the Committee of the loss of toll credits beginning in 2020. Ms. Brewer stated toll credits are estimated to be gone by the end of either the state or federal fiscal year. She stated toll credits are what is used to match funds for federal programs and they will no longer be available. She added having toll credits gives flexibility for the use of state funds in other areas, but that going forward means those dollars and that flexibility will no longer be available.

Regulations of Transportation Network Companies (TNC)

Matt Henderson, Commissioner, Department of Vehicle Regulation, KYTC, and Brian Beaven, Director, Division of Motor Carriers, KYTC gave a brief presentation on the regulatory compliance and monitoring of TNC companies authorized by the Kentucky

Transportation Cabinet. TNC pays an initial application and yearly renewal fee of \$250 per company. They must also pay a vehicle fee (initially and yearly) of \$30 per vehicle up to a maximum of a \$22,500 bulk fee. The TNC must be registered with the Kentucky Secretary of State and demonstrate proof of financial responsibility and insurance. Vehicles must also have annual inspections by an automotive service technician certified by the National Institute for Automotive Service Excellence (ASE). Each TNC is required to perform a national criminal background check for each individual operating a TNC vehicle. Records are to be retained for a minimum of three years and are to be made available for audit purposes. Also for application and renewals, one unexecuted copy of the current contractual agreement between the business and the drivers must be enclosed. This copy must include any policies, procedures, and terms of service with which they intend a driver to comply. Lastly, a current driving history record for all drivers must be provided and updated annually.

Commissioner Henderson stated that quarterly and annual audits are conducted on TNCs to ensure compliance with Kentucky statutes and regulations. The Division of Motor Carriers randomly selects vehicles and driver records to inspect. If the TNC is not found to be in full compliance; penalties shall be assessed, per KRS 281.990. He added in 2019, five fines were issued totaling \$1,000. The violations were for not providing proof of completing an approved driver safety training course.

Information that is required from TNCs through the monitoring and auditing process includes proof that a driver has completed an annual driver safety training course, a current five year driving history record, the current address of the driver, a copy of a valid state-issued driver's license, proof of current personal vehicle insurance coverage, proof of vehicle registration, written or electronic affirmation that a TNC driver is fit and able, verification of a nationwide criminal background check, records indicating if a driver has refused to accept a prearranged ride and the reason for doing so, records of complaints against a driver, and a copy of the current vehicle inspection.

Mr. Henderson provided a list of current TNC providers in Kentucky. Caliber is a company with 3 vehicles. MOOVMO LLC is a TNC that has one vehicle. LYFT has 4,094 vehicles, and Uber has 5,628 vehicles in Kentucky.

In response to a question asked by Senator Gerald Neal concerning vehicle fees, Commissioner Henderson stated Kentucky based their fees on models from other states. He will email the exact data that was used to base those fees.

In response to a question asked by Representative Santoro concerning the mandatory criminal background check for TNC drivers, Commissioner Henderson stated that is only mandated to occur one time per driver. Representative Santoro cautioned that could become an issue. Commissioner Henderson stated that could be changed in regulation.

In response to a question asked by Chairman Harris, Commissioner Henderson stated that taxi cab drivers are required to have the same mandatory criminal background check, and that is also only required one time.

Representative Santoro suggested putting into regulation that a TNC driver must turn on the dome light in the vehicle so that a rider is able to see his or her face.

An unrelated matter was discussed as Representative Goforth approached the issue of “Red Titles” which are titles that are issued that allows operation of vehicles in the state of Kentucky, which other states have deemed “junked” or not rebuildable. He stated there is still a timing issue on receiving those titles. He also stated he has been made aware of people bringing those titles from out of state and them being “washed” in Kentucky. Representative Goforth asked what can be done to insure those vehicles that are being restored and have a “Red Title” stay in Kentucky. Commissioner Henderson stated there are two states that allow for vehicles to be rebuilt and titles be issued for vehicles that may be deemed not rebuildable in other states, Kentucky and Alaska. He stated there is an influx of rebuilt vehicles coming into Kentucky from other states that are being processed through Kentucky. Brian Engle, Department of Vehicle Regulation, stated the time it is taking currently to be able to receive an not rebuildable title is just short of two months. He added on rebuildable titles, the turnaround time to receive a title is within five days if it is emailed, or processed on the same day if one is dropped off or mailed. For clarification, Commissioner Henderson stated it is not and should not be allowed for people to use Kentucky to obtain “red titles” and then continue use of the vehicle in other states.

Godwin Onodu, Assistant Director, Division of Motor Vehicle Licensing stated there are examiners that extensively review the documents to find out if the owner of the vehicle is using a Kentucky driver’s license, unfortunately it is not a 100% fool proof method to catching people who are washing these titles. This is partially due to people using UPS addresses or other addresses in Kentucky. He stated the applications that use P.O. Box addresses are suspended and investigated. Mr. Onodu stated KYTC is trying to bring in more people to review the documents so that fraudulent activity is ceased. Commissioner Henderson stated Kentucky does not have a fraud investigation unit embedded in the DMV or Department of Vehicle Regulation. He added they are currently in the process of setting an investigative unit.

In response to a question asked by Senator Gerald Neal, Commissioner Henderson stated there is a local economic incentive to continue to allow red titles to be issued within the state of Kentucky.

The committee considered administrative regulations 603 KAR 5:5150 and 601 KAR 9:130. Upon discussion, 603 KAR 5:5150 had no issues raised. Don Blevins, Fayette County Clerk spoke in opposition of 601 KAR 9:130. Mr. Blevins raised concerns with

new language in the regulation, which prohibited issuance of a Kentucky title to someone who was not a Kentucky resident. He cited examples of retirees who live in more than one state and individuals in other states who purchase vehicles for use of family members in Kentucky. After some discussion, KYTC requested to defer consideration of the regulation until the Committee's next meeting so that the Cabinet staff could confer with interested parties and draft an amendment that would address their concerns.

With no further business to come before the Committee, Chairman Harris adjourned the meeting at 3:54 P.M.