

ROADS AND HIGHWAYS COMMITTEE MEETING - MARCH 1, 1972

The Roads and Highways Committee met in room 510 S at 2:45 P. M. on March 1, 1972. Chairman Dierdorff called the meeting to order and all members were present except Ossmann and Steffes. Merritt Buffon and Richard Long represented Legislative Research.

Conferees were: On SB 460 - Joseph Poizner and Richard Peyton of the Highway Department, Harley Phillips, Hutchinson, American Motorcycle Association; on SB 462 - Senator Bob Storey and James Waugh, Kansas Outdoor Advertising Association.

A roster of others who registered their attendance is attached.

SENATE BILL 460 - AN ACT relating to motor vehicles; requiring certain equipment for an operator of or passenger on a motorcycle; requiring certain equipment on motorcycles and motor-driven cycles; amending KSA 1971 Supp. 8-577j and 8-577k, and repealing the existing section.

Mr. Phillips said the Secretary of Transportation in Washington is authorized to work with the states - authorized to waive standards for temporary purposes. It would appear that would be the opening necessary to delay legislation of this kind - to let Kansas lead the way and draw up a program of education and present to them. He feels it has been proven that helmets do not decrease the number of accidents. He asked Mr. Poizner what manner of approach they might use to go to the secretary and present their problem.

Mr. Poizner said the question of safety is one where we would be penalized. The secretary has said that is an area where we must come into compliance.

Mr. Phillips referred the committee to a telegram to the state of Oklahoma after they repealed their inspection law and the threat

was made to cut their funds. That was in 1969 and they still have not been cut.

Mr. Poizner said they are in constant touch with the Secretary, and when he tells them he is going to cut off funds, they believe him.

Mr. Peyton said that he is not an advocate of federal control, but as a matter of record, when the Safety Act was passed in 1965, the states were told there would be an interim period for development of 16 safety standards. The Act is not administered by the State Highway Department - it is the victim. He said he could assure us that the state is in a strong threat to be penalized because we retrogressed. This has added to the pressure.

Within the next year or two we will be given the same pressure on motor vehicle inspection. The primary interest is to protect the highway aid funds.

Mr. Ratner pointed out that the bill had been amended on the Senate floor to include the lights. He asked Mr. Peyton if that is part of the safety standards, and Mr. Peyton said it is not.

Mr. Hayes asked Mr. Poizner what would happen in case of an appeal.

Mr. Poizner said the money would be tied up - not just one year but every year until compliance. Once an appeal is filed, it stops the Secretary from reapportioning funds until final determination.

Mr. Davis made a motion, second by Mr. Gray, that SB 460 be amended on page 2, in line 4, by inserting before the period the following: "or to any person operating or riding any industrial or cargo-type vehicle having three (3) wheels and commonly known as a truckster". The motion carried.

Mr. Davis made a motion, second by Mr. Wilson, that SB 460 be amended by striking all of Section 3 and renumbering the other sections. The motion carried.

Mr. Hayes made a motion SB 460 be reported adversely.

Mr. Davis said it is our fault that we are in this position in the first place. He is not willing for us to lose federal funds. Lady and Jacobs supported Mr. Davis' position. Mr. Lady said he does not want to be recorded as causing Kansas to lose funds and he cannot go along with the motion.

Mr. Hayes renewed his motion, second by Mr. Rosenau, that SB 460 be reported adversely. Motion lost - 8 to 3.

Mr. Hayes made a motion, second by Mr. Dugan, that SB 460 be amended on page 2, line 18, by striking "1972" and inserting in lieu thereof "1973". The vote was 8 yes and 7 no, and the chairman cast a no vote to make it a tie. The motion failed.

Mr. Davis made a motion, second by Mr. Lady, that Senate Bill 460 be reported favorably, as amended. The motion carried. (9-5)

SENATE BILL 462 - AN ACT enacting the highway advertising control act of 1972;.....

Senator Storey explained the bill. He explained they had had numerous visits with Washington regarding this, and a copy of a letter from them saying the bill will put Kansas in compliance is attached.

James D. Waugh spoke in opposition to the legislation and a copy of his remarks, with suggested amendments, is attached.

Mr. Ratner suggested the committee look into adding the amendments.

Mr. Jacobs said he knows how hard Storey worked on this for the


last year and he does not feel we should jeopardize our funds by tampering with the approved bill.

Mr. Jacobs made a motion, second by Mr. Nowlin, that SB 462 be reported favorably. The the motion carried. (8-6)

The meeting was adjourned.

Fran Stafford, Recording Secretary

APPROVED:



ARDEN DIERDORFF, CHAIRMAN
March 2, 1972

Except as otherwise noted, the individual remarks recorded herein have not been transcribed verbatim and this record has not been approved by the committee or by the individuals making such remarks

ROADS AND HIGHWAYS COMMITTEE

GUESTS

NAME	ADDRESS	FIRM OR CORPORATION REPRESENTED
Evelyn Grant	Topeka	KACI
W. S. Sackell	Wichita	KMIC
Ronald E. Lomen	Topeka	DSC
Steve Banning	Topeka	Pavis Sport Cycle
August R. Magnuson	Hutchinson	Sweedes H-D
Gloria Gutzg	Hutchinson	Cycle enthusiast
W. Magnuson (Sue)	S. Hutchinson	Mc. Donald Swales)
Mrs. S. Magnuson	" "	Sweedes H-D sales
Harley K. Phillips	Hutchinson	PME
W. Stud	Hutchinson	Al's Honda
Wayne Jank	Junction City	City Cycle Sales
James W. Deugh	TOPEKA	KAD, OUTDOOR ADV. ASSN
Stanley K. Schultze	SARINA	Whitaker Rad Co. Inc.
Merrill F. Seiers	Hutchinson	Luminous Neon, Inc.
R. E. Seles	Hutchinson	Luminous Neon, Inc.
B. E. Porter	Topeka	
Fanny Suggen	Topeka	
Noyah M. Vetch	Topeka	Topeka Motorcycle Assn.
Sharon Keurth	Wichita	PME
David Keurth	Wichita	PME
Floyd Renken	Lawrence	Farm Bureau
Ray W. Rindbergh	Topeka	KMEH
Frank R. Dawn	LAWRENCE	WHEELSPORT Motorcycle Club Inc

ROADS AND HIGHWAYS COMMITTEE

GUESTS

NAME

ADDRESS

FIRM OR CORPORATION REPRESENTED

L W Rice
J S Shuff

6043 SE 45TH TECUMSEH
1211 western

TOPPER CYCLE CLUB TOPPER
Harley Davidson Sales, Topper

*Rev'd Com.
3-1-72*



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20591

FEB 23 1972

IN REPLY REFER TO:

CC-40

Honorable Bob W. Storey
Kansas State Senate
Topeka, Kansas 66612

Dear Mr. Storey:

This is in response to your letter of February 11, 1972, to Mr. G. F. McInturff, which forwarded a copy of Senate Bill No. 462, as amended.

Our review of the bill indicates that, if enacted in its present form, it would comply with Title I of the Highway Beautification Act of 1965.

We appreciate your cooperation in this matter. If we may be of further assistance, please advise.

Sincerely yours,

A handwritten signature in cursive script that reads 'Edwin J. Reis'.

Edwin J. Reis
Assistant Chief Counsel
for Right-of-Way and
Environmental Law

COSGROVE, WEBB & OMAN

LAWYERS

ROBERT L. WEBB
RALPH W. OMAN
WILLIAM B. MCELHENNY
JAMES D. WAUGH
JAMES L. GRIMES, JR.
DONALD J. HORTTOR
TERRY L. BULLOCK
EDWARD L. BAILEY
GEORGE E. ERICKSON, JR.

FIRST NATIONAL BANK BUILDING
ONE TOWNSITE PLAZA
TOPEKA, KANSAS 66603

AREA CODE 913-235-9511

M. F. COSGROVE (1961)

PHILIP E. BUZICK (1970)

JAMES E. SMITH
OF COUNSEL

STEWART L. ENTZ
H. RANDOLPH WILLIAMS
MICHAEL J. GRADY

March 1, 1972

Representative Arden Dierdorf
House Committee on Roads and Highways
State Capitol Building
Topeka, Kansas

Dear Representative Dierdorf:

With respect to Senate Bill 462, on behalf of the Kansas Outdoor Advertising Association, we respectfully urge that the following changes be made:

1. Subsection (d) of Section 1 should be stricken inasmuch as that subsection no longer speaks the truth. The standards of spacing, which is Section 4(c) of the Bill, is not consistent with customary use in Kansas. It is customary use that signs have been erected within the limits of an incorporated city less than 100 feet apart and outside the limits of an incorporated city, on all highways, less than 300 feet apart. The Bill, if enacted into a statute, should not contain a factual inaccuracy.

2. We urge that the licenses provided for in Section 6(a) of the Bill be of a longer duration than one year. We believe that a license which would have a term of ten years would be just as effective to control outdoor advertising. After all, all signs will be controlled by a permit. It is only the owner of the sign who needs a license. There is no reason to renew these licenses from year to year, so long as the State has control over the individual signs which, after all, are the items sought to be controlled by the proposed legislation. Therefore, the words "one (1)" on line 26 of page 9 of the Bill should be changed to "ten (10)".

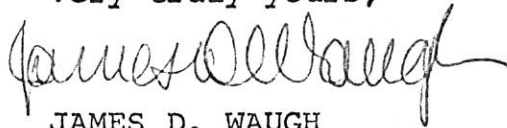
3. We urge that subsection (b) of Section 8, commencing on line 15 of page 11, be changed as follows:

Representative Arden Dierdorf
March 1, 1972
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(b) Just compensation shall be paid for the taking:
(1) From the owner of such sign, all right, title and interest in and to such sign, and his leasehold related thereto; and (2) from the owner of the real property on which such sign is located immediately prior to its removal, the right to erect and maintain signs thereon, other than those signs described in subsections (a), (b) and (c) of section 3; and full compensation therefor shall be included in the amounts paid to the respective owners. Whenever any sign structure or structures are required to be removed under the provisions of this act and the owner thereof suffers a loss of any other sign structure or structures as a direct result of such removal, said owner may be compensated for such loss upon proper claim to the commission demonstrating proof of such loss. *Just compensation shall include all damages to the respective owners naturally flowing from the taking.*

The reason for this is, I am sure, obvious to you. Our Constitution provides that private property may not be taken for public use except upon the payment of just compensation. It is the fear of many of the members of the industry which I represent that the Bill in question will result in the destruction of the legitimate business of outdoor advertising. If this is incorrect -- and I am sure we all earnestly hope that it is -- then the additional language would not appear to have any effect. If, however, loss by a member of the outdoor advertising business of a substantial amount of signs and sign locations would result in a total loss of his business, it would be logical, equitable and in keeping with the Constitution, that the affected business should be entitled to recover. We would like to make sure that such right of recovery is recognized by the State of Kansas.

Very truly yours,



JAMES D. WAUGH

JDW/mh

5-15-160
JOYLAND

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TO MEMBERS OF THE KANSAS LEGISLATURE

Purpose; to amend Senate Bill #460 to exclude industrial, cargo-type, 3-wheel trucksters, and to conform to Federal procedure in classifying them as trucksters, and not subject to any helmet and goggle law. Therefore, this amendment would in no way endanger receiving federal highway funds.

1. It is not the Federal government intentions to include cargo-type 3-wheelers as a regular motorcycle. The Federal government themselves have used over 500,000 with and without cabs for 15 years, since 1957, and does not wear helmets.
2. Three-wheelers are mainly industrial, cargo-type vehicles for on and off street use.
3. The cycle tags on these 3-wheelers are for the ease and convenience of licensing in our state, caught between a two wheeled motorcycle and a four wheeled vehicle. The Federal government considers them to be trucks and requires the manufacturers to pay a federal tax as such, rated as $\frac{1}{2}$ ton.
4. To name a few businesses in the Topeka area who use the 3-wheelers: The Goodyear plant, Dupont, Santa Fe Shops, Armco Steel, Country Clubs, Fairgrounds, Gage Park, Western Plumbing and Boyles, Inc. Just these businesses use over 150 3-wheelers. These are used not only in this area but in all cities and in addition to urban and farm use.
5. Our Ice Cream wagons have steel tops under the yellow canvas and over the drivers. Local authorities have enabled us to operate without helmets because of the "enclosed cab" clause. However, every year or two the same question comes up from somewhere because they appear to be on the border-line.
6. We would like to have 3-wheeled, cargo-type, trucksters excluded from this Senate Bill #460. It would eliminate any questionable definitions.
7. Manditory helmets would end our ice cream wagon business and jobs for 35 teenagers. It would be humanly impossible to wear a helmet at 95 degrees at 3 miles an hour for an 8 hour working day.

Thank you.

*Thank You
Jerry Boyles*

JERRY BOYLES, Secretary-Treasurer
BOYLES, INC.

Urg. Beautification
To be heard.

14 January 1972

Dear Sir,

Many people who are in a position to serve the public fail to realize that our modern society and whole social structure is interdependent; therefore, all actions and regulations that benefit one segment or group will generally have an adverse effect on another group.

I refer to the consideration to arbitrarily remove all billboards and road-signs from public highways.

There are some specialized businesses and attractions that depend solely on the traveling public for revenue, and have no other practical way to attract these customers.

I own and operate a family business that has been in this community for three generations. We are a producer of specialty meat products, sausage, ham, bacon etc. The population migration from Marshall County does not leave enough people to support our type business, so we have developed a good response from travelers. Approximately 90% of our business now comes from the traveling public. We generate about $\frac{1}{2}$ million dollars in new business for our rural area and furnish 10 to 12 permanent jobs.

If we are required to remove our signs, we will not be able to continue to operate. We are isolated in a rural area with few other attractions and no other settlement or business within three miles.

The only opportunity for many communities to generate new money is from trade with people from metropolitan areas.

We agree that realistic control or licensing of signs would be practical, but an arbitrary restriction on all signs is certainly not constitutional or fair to free enterprise.

I served 15 years in the military, both active duty and reserve and I do not believe that any governmental agency can force me to lose my means of livelihood.

Fair compensation should be made to all land owners to pay for the easement taken as well as payment to businesses for loss of revenue and infringement on free commerce.

A realistic and practical limit could be placed on sign advertising such as licensing to require upkeep and limiting number of square feet of sign surface per mile or limiting advertising to firms directly involved with tourist business.

Rural communities in the state of Kansas need the business brought in by the people passing through.

Please consider the fact that some firms should not be discriminated against and should be licensed to continue to advertise as needed.

Local and state governments are obligated to be responsive to local conditions, as they should know special situations.

Average visual requirements are one foot letter height for each 100 feet distance. A 600 foot limit to roads means sign letters 6 feet tall and monster signs which could not be maintained in Kansas winds.

I would like to appear before your committee when this issue is discussed, so please inform me when public hearings will be held.

Respectfully,



James.L. Swin
Box 246
Marysville, Kans. 66508