

Approved

Date

Stephen R. Cloud 7-5

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Rep. Stephen R. Cloud at  
Chairperson

9:11 ~~p.m.~~ a.m. on March 28, 1983 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

Avis Swartzman - Revisor  
Carolyn Rampey - Research Dept.  
Russ Mills - Research Dept.  
Julian Efird - Research Dept.  
Jackie Breymeyer - Secretary

Conferees appearing before the committee:

Jim Sullens - Kansas Motor Car Dealers Association  
Jim Clark - Jim Clark Motors  
Jack Quinlan - Kansas Motor Car Dealers Association

The meeting was called to order at 9:11 a.m. by Chairman Cloud. The minutes of March 24 were approved.

HB 2555 - vehicle sales and manufacture; abolishing the vehicle dealer review board

Jim Sullens, Kansas Motor Car Dealers Association, appeared in opposition to the bill. The dealer or manufacturer needs this Board to appeal a decision of the director that they think is unfair. The general public also needs to have their voice heard in the renewal making procedures. Many times a case is resolved in the outer office of the Board to avoid having a case reviewed.

Jim Clark, Jim Clark Motors, gave several examples involving applying for dealerships in which the people involved needed recourse from the Board to resolve their problems. He opposed any attempt to have the Board dissolved. As long as there is a Board, these people will have to justify their actions. He would hate to see this step taken away from the dealers.

Mr. Jack Quinlan, Kansas Motor Car Dealers Association, spoke in opposition to the bill and clarified several points contained in SB 309 that are in relation to HB 2555.

Avis Swartzman, Revisor, added further clarification of SB 309 and HB 2555. Copies of the amendments were handed out to Committee members. An explanation of what the amendments would do was given.

Rep. Sughrue moved to report HB 2555 adversely. Rep. Ramirez gave a second to the motion. A voice vote being unconvincing, a show of hands was called for. The motion carried on an 8-5 vote and HB 2555 was reported out of Committee adversely.

The Committee turned to the three liquor resolutions, HCR 5031, 5032 and 5035.

Avis Swartzman, Revisor explained HCR 5031.

Rep. Fuller moved that HCR 5031 be reported favorable for adoption. Rep. Hassler gave a second to the motion. The motion carried.

HCR 5032 was explained by the Revisor. Committee discussion ensued as to a proper time frame to accomplish delivery of liquor so as to help with law enforcement. Rep. Walker made a motion so as to conceptually amend the resolution to the effect that delivery would be made by the close of business the following day. Rep. Louis gave a second to the motion. The motion carried.

Rep. Ediger moved to report HCR 5032 out of Committee favorable for adoption as amended. Rep. Hassler gave a second to the motion. The motion carried.

HCR 5035 was explained by the Revisor.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION,  
room 522-S, Statehouse, at 9:11 a.m. ~~xxx~~ on March 28, 19 83

Rep. Ediger moved to report HCR 5035 favorable for adoption. Rep. Hassler gave a second to the motion. The motion carried.

Rep. Hassler made the motion to bring SB 44 back into Committee for reconsideration. Rep. Ramirez gave a second to the motion. The motion carried.

Discussion as to correct parliamentary procedure was debated and the following motion was made.

Rep. Hassler moved to reconsider the vote on SB 44 as reported favorable for passage as amended bringing the Board of Nursing back into sunset and extending the Board for one year. Rep. Ramirez gave a second to the motion.

Extensive discussion among the Committee followed with those members being for and against the Board being sunsetted expressing their opinions. The Chairman restated the motion and asked for a vote. A voice vote was inconclusive and a division was called for. A show of hands signified that the motion was defeated 7 to 5.

Rep. Smith moved to amend SB 44 to bring the Board back under sunset and extend it for four years. Rep. Walker gave a second to the motion. The motion carried.

Rep. Walker moved to pass SB 44 out of Committee favorably as amended. Rep. Barr gave a second to the motion. The motion carried.

Rep. Ediger moved to have a letter from the Chairman drafted with the request to have the Board report back to the Committee by next January on the peer assistance program. Rep. Sughrue gave a second to the motion. The motion carried.

The Chairman thanked the Committee for their hard work and patience.

The meeting was adjourned at 11:00.





Statement by the  
KANSAS MOTOR CAR DEALERS ASSOCIATION  
before the  
HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION  
Monday, March 28, 1983  
House Bill 2555

Mr. Chairman and member of the Committee. I am Jim Sullins, Assistant to the Executive Vice President of the 415 member Kansas Motor Car Dealers Association. I come before you today on behalf of the franchised new car and truck dealers in opposition to the elimination of the Kansas Dealer Review Board operated by the Dealer Licensing Bureau, Division of Vehicles, Department of Revenue.

The Dealer Review Board was established with the enactment of the Kansas dealer-manufacturer-salesman licensing act during the 1974 legislative session, and subsequently amended during the 1980 legislative session. The Board serves as an appeals board to which a party aggrieved by a decision of the director of vehicles may appeal the decision of the director.

The Kansas Motor Car Dealers Association strongly supports the continuation of this board for many reasons.

The dealer-manufacturer-salesman licensing act was deemed necessary by the legislature due to the unilateral nature of the franchise agreements which the manufacturers offer dealers. These contracts did, and still do, strongly benefit the manufacturer, and the only option the dealer has to avoid the provisions and requirements of the contract is to not sign. Of course, by doing this, the dealer does not receive the franchise. These contracts are uniform nationwide,

and are not a negotiable item. Either you sign or you don't. Seeing the power that the manufacturer has over the dealers, the legislature passed the D-M-S act to give the dealer a stronger position with the manufacturer, and a place to go, i.e., the dealer review board, when the dealer felt that the manufacturer was treating him unfairly.

Since the board is the second step in the appeals process, it keeps the director of vehicles from having the final say in a case. Also, any decision rendered by the director or the dealer review board may be appealed to the district court.

Although decisions can be appealed to the district court, we see this appeals process as being a cost saving measure as it allows the aggrieved party to appeal a director's decision without having to go through the legal expenses of filing a court case.

Last session, KMCDA supported a bill which changed the meeting requirements for the dealer review board from a monthly meeting to meetings on call of the chairman. We supported this measure as we realized that there are expenses incurred when the board meets and that the statutory monthly meeting was requiring meetings which were unnecessary.

We know that the review board has not had as many cases referred to it as one would expect, and this gives the impression that it is not necessary. We feel that the mere fact that the board is in place has been a deterrent to possible violations of the D-M-S act as well as a deterrent to manufacturers putting undue pressures on dealers. We know of many cases which have been settled long before they even came before the director simply because the manufacturers did not want to have to justify their action to the director and the dealer review board. If you eliminate the dealer review board, the

manufacturers will be relieved of one possible time they would have to justify an action. This may give the manufacturers, or anyone, the thought that they may be able to exert a little more pressure as part of the appeals process is no longer in place.

Also, we would like to point out that the dealer review board gives not only the franchised dealers, but used car dealers, salvage dealers, manufacturers and the general public a voice by which proposed rules and regulations can be formulated, discussed, finalized, and then presented to the director for his consideration. It also gives these groups input on rules and regulations which are proposed by the director initially as the board is usually asked for input on such proposals.

Considering these points, and the fact that the operating cost of the dealer review board is minimal, we do not feel that it is necessary for the board to be eliminated strictly for fiscal reasons. The license fees paid by dealers, manufacturers, salesmen, and the other groups licensed by this act and served by this board, exceed the cost of operating the bureau and the board, so we do not feel that the board is placing an unnecessary burden on the economic well-being of Kansas.

We strongly urge you to continue the Kansas Dealer Review Board by reporting HB 2555 adversely.

Thank you for your time, and if there are any questions, I would be happy to attempt to answer them.