

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rep. Rex Crowell at
Chairperson

1:37 ~~am~~/p.m. on February 10, 1983 in room 519-S of the Capitol.

All members were present ~~except~~:

Committee staff present:

Fred Carman, Revisor of Statutes
Hank Avila, Legislative Research
Pam Somerville, Committee Secretary

Conferees appearing before the committee:

Rep. "Sandy" Duncan
Ed DeSoignie, Kansas Department of Transportation
John Sherman, Kansas Department of Transportation
Bob Haley, Kansas Department of Transportation
Capt. Don Pickert, Kansas Highway Patrol

Others Present:

Charles R. Krape, Kansas Highway Patrol Intern
John D. McNeal
Bill Green, Kansas Corporation Commission

The meeting was called to order by the Chairman. The order of business for the day was HB 2164 and HCR 5013. The floor was given to Rep. Duncan who briefed the committee on the content of the bill and resolution. Rep. Duncan explained HB 2164 was designed to provide specific statutory authority for situations concerning use of controlled access highways currently covered only by regulations. HCR 5013 repeals the existing regulations.

The Chairman opened the floor to committee questions. Rep. Erne asked Rep. Duncan why the word "roadway" was stricken in line 48 and "highway" inserted. Rep. Duncan explained that the regulation refers to controlled access highways rather than roadways and it was merely making the language conform. Rep. Erne then asked whether policing bodies could direct themselves to stop on these highways. Rep. Duncan stated they could.

Mr. Ed DeSoignie, KDOT, presented testimony in support of HB 2164 which would amend K.S.A. 1982 Supp. 68-1906 by adding paragraphs (g) and (h), lines 50 through 57, which is language currently in the Department's regulations, specifically K.A.R. 36-12-1 and 36-12-3. (Attachment /)

Chairman Crowell asked Mr. Carman whether the provisions of HB 2164 could be amended into HB 2194. Mr. Carman stated this could be done. Mr. Carman expressed concern that the portion dealing with stacking of construction materials on highway rights-of-way might need clarification. John Sherman, Attorney for KDOT, explained right-of-way meant anything from fence to fence. Mr. Sherman explained to the committee as K.S.A. 68-1906 now exists, the language makes it unlawful for a person to perform certain acts and does not contain adequate exemption provisions for emergency vehicles, KDOT employees or their contractors.

Mr. Bob Haley, KDOT, presented testimony in support of the bill reiterating Mr. DeSoignie's and Mr. Sherman's remarks. Committee questions again revolved around construction materials. Rep. Shelor asked Mr. Haley if K.A.R. penalties were the same as they are in line 58 through 63. Mr. Haley replied that lines 58-63 is the current statute.

Rep. Erne asked what the term "standing" a vehicle meant. Mr. John Sherman replied the term meant "temporarily stopping the vehicle, pausing, (motor running)". Capt. Pickert stated the three terms are defined in K.S.A. 8-1469.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~xx~~ a.m./p.m. on February 10, 1983.

The next item for discussion was a request from Representative Erne to have a bill drafted prohibiting the use of a "quota" system by the Kansas Highway Patrol. The Chairman stated while this item had been discussed without action being taken in past years, he felt Rep. Erne had adequate information to merit having a bill drafted. The Chairman instructed staff to draft such a bill and bring it to the committee for review.

Committee discussion and action on bills heard previously was the next order of business.

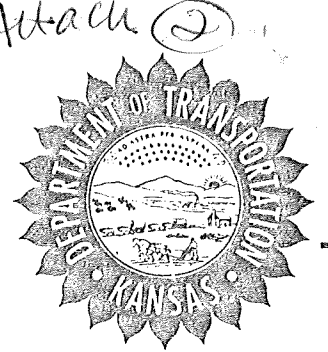
Rep. Webb moved that HB 2110 be approved for passage with line 51 amended to read January 1, 1984. Rep. Wilbert seconded. Committee discussion ensued with several questions being unanswered. The committee requested Mr. Steve Montgomery to provide additional information and to clarify the questions regarding the different charges for registering an antique vehicle. Rep. Knopp made a substitute motion for an amendment in lines 38 and 47, increasing the cost of registration. Both motions were withdrawn awaiting further information.

The meeting was adjourned at 2:25 p.m.


Rex Crowell, Chairman

KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

February 10, 1983

MEMORANDUM TO: House Transportation Committee

REGARDING: House Bill No. 2164

I Summary

House Bill 2164 would amend K.S.A. 1982 Supp. 68-1906 by adding paragraph (g) and (h) which is language currently in the Department's regulations, specifically K.A.R. 36-12-1 and 36-12-3. Paragraph (g) prohibits stopping, standing and parking on the right-of-way of controlled-access highways except: 1) by disabled vehicles; 2) to give aid in an emergency; 3) in compliance with the directions of a police officer or 4) parking in designated parking or rest areas. Paragraph (h) prohibits using controlled-access highway right-of-way for parking vehicles or mobile equipment or stacking materials or equipment for the purpose of servicing adjacent property.

II Comments

The Kansas Department of Transportation has supported the relocation of the provisions contained in K.S.A. 1982 Supp. 68-1906 to K.S.A. 8-1524. One of the arguments advanced in support of this action was the desirability of locating rules to motorists in Chapter 8 of the Kansas Statutes - Automobiles and Other Vehicles, where other such rules are also located. The amendments to 68-1906 which are proposed in H.B. 2164 could also be relocated in K.S.A. 8-1524 for this and legal reasons.

This bill on its face should not have a significant impact upon Kansas Department of Transportation. However, due to certain problems presently existing in the statutes, the enactment of this bill without addressing those problems could result in some negative impact. Presumably the legislature does not intend for the provisions of HB 2194, or the existing provisions of K.S.A. 68-1906, to apply to Kansas Department of Transportation employees or contractors involved in work on the highways. However, the statute which would extend that immunity, K.S.A. 8-1505, is limited in scope to statutes contained in article 15 of chapter 8. This is a loophole in Kansas Department of Transportation's immunity to traffic regulations which needs to be corrected regardless of whether this bill is enacted, or else a serious impact on Kansas Department of Transportation could result--an inability to carry out our normal highway maintenance operations without violating the statute.

III Fiscal Impact

There would be no fiscal impact on the Kansas Department of Transportation over and above the Governor's budget recommendation.

IV Agency Position

The Kansas Department of Transportation is neutral on House Bill 2164.

Attachment 1

Research and Practice Aids:

Uniform Vehicle Code, § 11-104.
Highways 165.
C.J.S. Highways § 232.

8-1505. Application of traffic laws to highway construction or maintenance operations. Unless specifically made applicable, the provisions of this article except those contained in K.S.A. 8-1566 to 8-1568, inclusive, shall not apply to persons, motor vehicles and equipment while actually engaged in work upon a highway, but shall apply to such persons and vehicles when traveling to or from such work.

History: L. 1974, ch. 33, § 8-1505; July 1.

Source or prior law:
8-505 (f).

Research and Practice Aids:

Uniform Vehicle Code, § 11-105.
Automobiles 11.
C.J.S. Motor Vehicles § 20 et seq.

8-1506. Authorized emergency vehicles; rights, duties and liability of drivers thereof. (a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this article;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the maximum speed limits so long as such driver does not endanger life or property;

(4) Disregard regulations governing direction of movement or turning in specified directions; and

(5) Proceed through toll booths on roads or bridges without stopping for payment of tolls, but only after slowing down as may be necessary for safe operation and the picking up or returning of toll cards.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of an audible signal meeting the requirements of K.S.A. 8-1738 and visual signals meeting the

requirements of K.S.A. 8-1720, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of reckless disregard for the safety of others.

History: L. 1974, ch. 33, § 8-1506; L. 1977, ch. 43, § 1; July 1.

Source or prior law:
8-505 (b), (c), (d), (e); 8-536.

Revisor's Note:

"Authorized emergency vehicle" defined, see 8-1404.

Cross References to Related Sections:

Duties of drivers upon approach of authorized emergency vehicle, see 8-1530.

Designation of authorized emergency vehicles, see 8-2010.

Research and Practice Aids:

Uniform Vehicle Code, § 11-106.
Automobiles 175.
C.J.S. Motor Vehicles § 371 et seq.

Law Review and Bar Journal References:

Application of prior law (8-505) to drivers of federally-owned vehicles discussed, opinion of attorney general, 7 K.L.R. 104 (1958).

Changes in amount of care required of emergency vehicle drivers under prior law (8-505) discussed, Robert F. Bennett, 39 J.B.A.K. 107, 108 (1970).

CASE ANNOTATIONS

1. Damage action from collision of fire truck and automobile; error in instructions and failure of instructions; judgment reversed. Shawnee Township Fire District v. Morgan, 221 K. 271, 276, 559 P.2d 1141.

2. Damage action from collision of motorcycle escort vehicle and automobile; no error in instruction; motorcycle not being operated as emergency vehicle. Littell v. Maloney, 3 K.A.2d 240, 243, 593 P.2d 11.

TRAFFIC-CONTROL DEVICES

8-1507. Official traffic-control devices; required obedience; placement; presumptions. (a) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto, placed in accordance with the provisions of this act, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this act.

(b) No provision of this act for which official traffic-control devices are required shall be enforced against an alleged violator