

MINUTES OF THE House COMMITTEE ON Transportation

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

1:30 ~~am~~/p.m. on March 2, 1983 in room 519-S of the Capitol.

All members were present except: Reps. Knopp and K. Ott (excused)

Committee staff present:

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

Conferees appearing before the committee:

Brian Whitehead, Brotherhood of Railway and Airline Clerks
Rep. Leary Johnson
Col. David Hornbaker, Kansas Highway Patrol
Ed DeSoignie, Kansas Department of Transportation
Sarah Woellhof, League of American Wheelmen
Spencer Seery, Kaw Valley Bicycle Club
Michael S. McLemore, Johnson County Bicycle Club
Rep. Guldner
Linda Parks, Kansas Department of Revenue

Others present: See attachment 1.

The meeting began with a hearing on HB 2358. Mr. Whitehead, who was ill during the hearing on 02/28/83, presented testimony to the committee supporting HB 2358. Mr. Whitehead explained to the committee there was a minor drafting error in lines 0021 and 0113. 1982 should be 1981. In addition, to conform with language in the current statutes, "station", in line 0088, should be deleted and the words "agency or agencies" inserted. Mr. Whitehead proposed two additional amendments, one in subsection (e) following the original amendment in line 0089 to read "During all service system test periods authorized under this section, the service of the agent at any agency or agencies involved in the test period shall not be modified or discontinued until authorized by the commission at the end of the test period." Mr. Whitehead said if the committee does not feel this amendment is satisfactory, then he would propose striking all of subsection (e) line 0067 through line 0105. (See attachment 2).

Mr. Pat Hubbell, Kansas Railroad Association, responded to Mr. Whitehead's remarks clarifying the railroad's position. Testimony concluded on HB 2358.

The next order of business was HB 2320. Rep. Johnson, sponsor of the bill, gave a brief statement (Attachments 3 and 4). The bill provides for an increase in speed limits should Congress permit higher limits, and imposes penalties for speeding violations.

Rep. Dean questioned Rep. Johnson in regard to placing federal monies in jeopardy. The Chairman explained the bill would probably not do this because it only increases the speed limits if Congress gives its consent.

Col. Hornbaker, Kansas Highway Patrol, presented testimony in opposition to HB 2320. (Attachment 5). Col. Hornbaker cited examples and statistics to support the Patrol's position and the fact that lives had been saved by maintaining the speed limit at 55 mph. The Chairman opened the meeting to committee questions. Rep. Johnson explained to Col. Hornbaker that his actual intent was to raise the limit on four lane divided roads. Col. Hornbaker expressed concern that out of state motorists would not know there were different speed limits posted on different highways.

The next conferee was Ed Desoignie, KDOT. Mr. DeSoignie expressed the Department's opposition to HB 2320 citing cost factors for replacing signs as well as the fact that present statute allows the Secretary of Transportation, following Congressional action, to adopt a speed limit change by resolution. (Attachment 6).

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
 room 519-S, Statehouse, at 1:30 ~~a.m.~~^{XX}/p.m. on March 2, 19 83

Chairman Crowell opened the meeting to committee questions. Rep. Johnson asked specifically what the cost for changing highway signs would be. Mr. DeSoignie replied for the signs alone the cost would be \$127,000. The hearing ended on HB 2320.

The next order of business was a hearing on HB 2525. Sarah Woellhof presented testimony supporting HB 2525. Ms. Woellhof explained to the committee it is the league's policy to support the bicycle as a vehicle, and actively promote the fact that the bicyclist should have the same rights and duties that pertain to all vehicle operators. (Attachment 7).

Chairman Crowell opened the meeting to committee questions. Rep. David Webb asked Ms. Woellhof if the bill was enacted, would her organization object to fees being initiated to be similar to automobiles. Ms. Woellhof said they would not.

The next conferee was Mr. Spencer Seery testifying before the committee in support of HB 2525. (Attachment 8).

Michael S. McLemore, President of the Johnson County Bicycle Club, presented testimony in support of HB 2525. Mr. McLemore reiterated the two previous conferees testimony (Attachment 9).

The Chairman opened the meeting to discussion and action on bills heard previously.

Rep. Guldner, sponsor of HB 2395, distributed a proposed amendment to HB 2395. HB 2395 would provide for suspension of registration of owners of vehicles for passing school buses, church, or day care program buses in violation of K.S.A. 8-1556 and K.S.A. 8-1556a. The amendment would allow the county attorney or district attorney upon request of any person to initiate legal action for suspension of registration. The amendment would further provide that it would not be necessary to prove who was driving the vehicle at the time of the violation. However, it would be a defense if the vehicle was stolen or driven contrary to the owner's specific instructions. Rep. David Webb made a motion to adopt the amendment. The motion was seconded by Rep. Johnson. Motion passed. Rep. Johnson moved HB 2395 be recommended favorably as amended. Rep. B. Fuller seconded the motion. Motion passed. (Attachment 10).

HB 2069 dealing with license plates for Prisoners of War was the next item for discussion. Rep. Guldner distributed a proposed amendment to the bill. (Attachment 11). On page 1, line 39 striking "without" and inserting "upon"; on page 2, line 59, striking ", without charge,"; following line 68, by adding a new section as follows: "Sec. 2. K.S.A. 8-177b is hereby repealed." Also on page 2, in line 69, by striking "2" and inserting "3"; in the title, in line 19, by striking "free"; in line 20, before the period by inserting "; repealing K.S.A. 8-177b".

Linda Parks, Department of Revenue, asked that an additional amendment be inserted, that being, making the effective date January 1 rather than July 1. It was moved by Rep. D. Webb to adopt the two suggested amendments. The motion was seconded by Rep. Erne. Motion passed. Rep. Fuller was recorded as voting no on the amendments. Rep. Johnson moved for favorable passage of HB 2069 as amended. Rep. Erne seconded the motion. Motion passed.

The next item for discussion was HB 2346 concerning discretionary additional drivers' license examinations for disabled persons. Rep. Knopp moved to table HB 2346. Rep. D. Webb seconded the motion. Motion failed 9-9. Rep. Justice expressed concern that additional language be added regarding "good cause" and moved to adopt an amendment relating to such. Rep. Sutter seconded the motion. Motion passed. Rep. Sutter moved to pass favorably, as amended, HB 2346. Rep. Adam seconded the motion. Motion passed.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~a~~m./p.m. on March 2, 1983

The final bill for discussion was HB 2291 concerning establishing a point system for traffic violations. Rep. Dillon moved to recommend the bill for an interim study. Rep. Fuller seconded the motion. Motion passed.

The meeting adjourned at 2:55 p.m.


Rex Crowell, Chairman

GUEST LIST

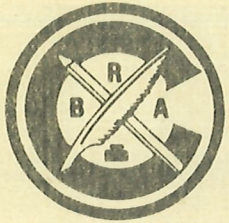
COMMITTEE: _____

DATE: 3/2/83

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
MERLE HILL	TOPEKA	KS. GOOD ROADS ASSN
LINDA PARKS	TOPEKA	DEPT OF REVENUE, major affairs
Bob Bradenbach	Wichita	Wichita Eagle-Beecher
Darrel Dougan	Stanley KS	Farmers Ins. Grp.
SPENCER SEERY	TOPEKA	KAW VALLEY BICYCLE CLUB
MICHAEL McLEMORE	KANSAS CITY, KS	JAYHAWK COUNTY BICYCLE CLUB
Sarah Woelfel	Topoka	League of Amer. Wheelmen
Richard Arnold	TOPEKA	KAW VALLEY BICYCLE CLUB
Cynthia Hollingworth	Topoka	Kaw Valley Bicycle Club
Jack M. Blatten	Pattsburg	UJL
Ron Calbert	NEWTON	U.I.U.
Leroy Jones	Overland Park	B.L.E.
Neil Rogers	Topoka	KVBTC
Mary Fishman	Topoka	
LARRY MORLAN	TOPEKA	KDOT
Edward J. Fugner	Topoka	Transportation

Attachment 1



**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

AFL-CIO — CLC

KENNETH O. RICHARDSON
Regional Legislative Director
1010 Lavaca Street, Suite 308
Austin, TX 78701
Office Phone: (512) 472-6719
Home Phone: (512) 441-7404

BRYAN K. WHITEHEAD
Assistant Regional Legislative Director
4917 Haskell
Kansas City, KS 66104
Phone: (913) 287-9062

Kansas City, Kansas, February 28, 1983

TESTIMONY OF

BRYAN K. WHITEHEAD

KANSAS LEGISLATIVE DIRECTOR

FOR THE

BROTHERHOOD OF RAILWAY AND AIRLINE CLERKS

IN SUPPORT OF

HOUSE BILL NO. 2358

AN ACT CONCERNING DISCONTINUANCE
OF AGENCY SERVICE

PRESENTED AT PROPONENT HEARING

BEFORE THE

HOUSE TRANSPORTATION COMMITTEE

STATEHOUSE

TOPEKA, KANSAS

MARCH 1, 1983

ATTACHMENT 2

Mr. Chairman, and members of the Committee, my name is Bryan Whitehead and I am the Kansas Legislative Director and a Regional Representative for the Brotherhood of Railway & Airline Clerks union representing over 8,000 working and retired employees of the transportation industry in Kansas.

As an elected officer of my union it is my responsibility to represent the legislative, regulatory, and political interests of our members.

Contractual agreements between Kansas railroads and their employees are fully covered by the Railway Labor Act which is not the concern of this Committee. In that connection, may I introduce Mr. Jack Holmberg who is Vice General Chairman of the Railway Clerk's Santa Fe System Board and is professionally qualified to respond to any question concerning the agreement between our union and the Santa Fe Railway Company.

We rise in support of House Bill No. 2358 which proposes an amendment to K. S. A. 1981 Supp. 66-112. Inclusion of the busiest months of the year will insure a fairer test of any service system and minimize discontinuance of agency service in Kansas.

There is a minor drafting error at line 0021 and 0113: 1982 should be 1981. And, as we discussed, Mr. Chairman, to conform the language of your amendment, at line 0088 the word "station" should be deleted and the words "agency or agencies" inserted.

You and other members of the Committee will recall, Mr. Chairman, that the subject statute of HB-2358 was enacted by the 1981 Session of the Legislature. You will also recall that there were no requests from railroad customers or employees, nor by the State Corporation Commission, to establish railway agency service system test periods. The Santa Fe Railway Company proposed the 1981 amendments to K. S. A. 66-112 and numerous parties participated in amendments to House Bill No. 2078 which was enacted and became law effective in July, 1981.

Railroad attorneys have argued that the commission should permit them to remove the agent and discontinue local agency service during the 180 day test period. The provision of subsection (d) seems clear:

"The commission shall issue a final order on all applications relating to the discontinuance of the services of a railway agent or the closing of a railroad station ..."

The provision of subsection (e) seems equally clear:

"...any rail carrier desiring to test a service system preliminary to modification or discontinuance of services of a railway agency or agencies ..."

Finally, in my view, the 4th paragraph of subsection (e) at line 0090 leaves no doubt that the agency remains in service during the test period:

"If within 60 days before the end of the service system test period ... the commission shall waive hearing as provided in this act and grant authority for the applicant to modify or discontinue their agency service as requested."

Concerning protests and complaints from railroad customers, the record indicates that applicant railroads are notifying their customers of the test period but not notifying them that they intend to remove the agent and close the station during the test period.

The railroad attorneys have raised the question of "legislative intent" but we've all heard this testimony many times:

"When the words of a statute are clear, the intent of the Legislature should not be examined."

In my judgement, the statute is clear that whatever service is in place when a rail carrier makes application to modify or discontinue such service it must remain in place for the full 180 day test period.

The right of Kansas railroads to assign or to remove work from their agency employes is not being questioned. If the applicant railroad chooses to transfer the agency work to another agency during the test period they are authorized to do so pro-

vided a sufficient number of their customers do not file protests with the commission.

But, if a railroad wants to close an agency, which is exactly what removing the agent accomplishes, they can only do so by complying with K. S. A. 66-112 1981 Supp. either subsection (a) (public hearings) or subsection (e) (180 day test period). To remove an agent and discontinue agency service without public hearing or prior to the end of the 180 day test period is de facto discontinuance of railway agency service and violates subsection (e) of the current law.

In order that the railroads, the commission, agency customers, and agency employes may clearly understand the intent and provisions of K. S. A. 1981 Supp. 66-112 I would like to offer an amendment to HB-2358 subsection (e) following the original amendment at line 0089:

"During all service system test periods authorized under this section, the service of the agent at any agency or agencies involved in the test period shall not be modified or discontinued until authorized by the commission at the end of the test period."

If the Kansas Association of Railroads will not agree to the amendments offered by H. B. No. 2358 nor to my amendment, then I suggest another amendment which will resolve the controversy for all concerned and repeal the authority for service system test periods:

"Amend House Bill No. 2358 by striking all of subsection (e) line 0067 thru line 0105"

I respectfully urge favorable consideration of the amendments I have submitted and a favorable recommendation of HB-2358 with or without my amendments.

I appreciate the special accomodation to present my testimony on this most important legislation. If I have failed to make my position clear, or raised any questions, I will certainly try to respond. Thank you.

BRYAN K. WHITEHEAD,
Kansas Legislative Director,
Bro. of Railway Clerks

STATE OF KANSAS

LEARY J. JOHNSON
REPRESENTATIVE, 118TH DISTRICT
LOGAN, GOVE, GRAHAM, TREGO
AND PARTS OF NESS AND ROOKS COUNTIES
1000 WARREN AVE.
WAKEENEY, KANSAS 67672



TOPEKA

COMMITTEE ASSIGNMENTS
MEMBER AGRICULTURE AND LIVESTOCK
INSURANCE
TRANSPORTATION

HOUSE OF
REPRESENTATIVES

Subject: HB 2320

By: Leary J. Johnson

Mr. Chairman, members of the Committee, many of you have seen this subject before. So rather than dazzle you with statistics and in the interest of time, I will simply get to the peanut of the bill.

Current law provides that should the Federal Government relinquish control of the maximum speed limit the Kansas Secretary of Transportation will have the authority to establish such speed. While unlikely, we could see the speed limits for our state return back to what they were before the 55 M.P.H. limit was established. I for one, and I am sure many of you, would not like to see vehicles traveling 75 M.P.H. on I-70. It is my belief that we as the governing body of this state, charged with the responsibility of establishing laws, should make this determination.

There was a mistake made when the bill was drafted and I would like to distribute a balloon of suggested amendments.

The bill as amended that is before you, would set 65 M.P.H. as the maximum speed on only four lane or more divided highways.

Our sincerety to establish a more realistic speed should eliminate any confusion and harassment factors. As a result,

Attachments 3+4

the bill will also repeal the 10 M.P.H. grace speed for citing moving violations.

The last change in current law would involve the penalty provisions. The amount of fines, based on the miles per hour over the posted speed limit would be substantially increased. These fines were recommended by the Highway Patrol when the bill was introduced last year.

In closing, let me state that it isn't my intent to get into a contest of debating statistics. I am suggesting however, that we as legislators assume our role as law makers and be responsive to public demand. The 65 M.P.H. speed limit in my opinion is more realistic of current trends and conducive to motoring public.

HOUSE BILL No. 2320

By Representative L. Johnson

2-9

0017 AN ACT concerning vehicles; maximum speed limits; penalties
0018 for violations; classification of violations; amending K.S.A.
0019 8-1336 and 8-1558 and repealing the existing sections; also
0020 repealing K.S.A. 8-1341.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 8-1336 is hereby amended to read as fol-
0023 lows: 8-1336. (a) Except when a special hazard exists that re-
0024 quires lower speed for compliance with K.S.A. 8-1335, the limits
0025 specified in this section or established as hereinafter authorized
0026 shall be maximum lawful speeds, and no person shall drive a
0027 vehicle at a speed in excess of such maximum limits:

0028 (1) ~~Twenty (20) miles per hour~~ In any business district, 20
0029 *miles per hour;*

0030 (2) ~~Thirty (30) miles per hour~~ in any ~~residencee residential~~
0031 *district, 30 miles per hour;* and

0032 (3) ~~Fifty five (55) miles per hour~~ in all other locations, 55
0033 *miles per hour.* In the event that the Congress of the United
0034 States shall establish a maximum speed limit greater ~~or~~ less than
0035 the limit *above* prescribed by this paragraph, the ~~secretary of~~
0036 ~~transportation may adopt a resolution, subject to the approval of~~
0037 ~~the governor, establishing such speed limit as the maximum~~
0038 ~~speed limit of this state. Upon the expiration of sixty (60) days~~
0039 ~~after the governor has approved any such resolution, the speed~~
0040 ~~limit stated therein shall be the maximum speed limit of this~~
0041 ~~state shall be 65 miles per hour or such lesser speed as is~~
0042 ~~established by the United States Congress on highways having~~
0043 ~~four or more lanes of traffic and on highways having two lanes,~~
0044 ~~if so designated by the secretary of transportation,~~ in all loca-
0045 tions other than business and ~~residencee residential~~ districts. The

divided

Atch. 4

SUMMARY OF TESTIMONY
BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION

House Bill 2320

Presented by the Kansas Highway Patrol
(Colonel David Hornbaker)

March 2, 1983

Appeared in Opposition to House Bill 2320

The Patrol opposes this bill.

Our opposition is centered on the statewide experience related to fatal highway accidents both before and after enactment of the mandatory 55 mile per hour speed limit.

FATALITY RATE IN KANSAS

Year	<u>67</u>	<u>68</u>	<u>69</u>	<u>70</u>	<u>71</u>	<u>72</u>	<u>73</u>	<u>*74</u>	<u>75</u>	<u>76</u>	<u>77</u>	<u>78</u>	<u>79</u>	<u>80</u>	<u>81</u>	<u>82</u>
Fatalities	664	649	780	657	678	666	623	519	517	563	562	572	520	595	571	498

*National Maximum Speed Limit in effect.

Motor vehicle accident injuries have decreased correspondingly.

One has only to study these statistics to realize Kansas was experiencing well over 600 traffic fatalities annually prior to 1974 and this figure has not been reached since.

Another very real consideration in increasing the speed limit is the present and future downsizing of passenger vehicles.

It is well established that the probability of death or injury increases as the size of the vehicle decreases.

The smaller units with a lower profile affect the driver's line of sight and, consequently, reaction time. Reaction time is further diminished by a power reduction inherent in the smaller vehicle.

Based upon experience with the lower speed limit and the state of the art, we are compelled to oppose this bill.

ATTACHMENT 5

KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

February 21, 1983

MEMORANDUM TO: House Transportation Committee

REGARDING: House Bill 2320

House Bill 2320 would mandate a change from the 55 m.p.h. speed limit in the event the Congress of the United States changed the national speed limit. This bill is similar to House Bill 2854 which the Department opposed during the 1982 session. The Department of Transportation feels this situation is adequately covered by the present statute which allows for the Secretary of Transportation, following Congressional action, to adopt a speed limit change by resolution. This type of resolution (speed limit) would be determined upon the basis of an engineering and traffic investigation of what speed is reasonable and safe under the conditions found to exist. This would seem to be a reasonable and prudent approach to assessing the varying conditions of road factors, vehicle travel, etc.

A change in the maximum speed limit in Kansas would require the Kansas Department of Transportation to change an estimated 2,631 speed limit signs. Two alternate methods of changing the signs are available:

- 1) Complete replacement costing approximately \$127,000, and
- 2) Overlay existing signs at approximately \$30,000.

These costs are based on our latest cost figures for each sign, labor for processing and fabrication, shipping costs and the labor costs.

ATTACHMENT 6



TESTIMONY OF SARAH WOELLHOF
ON HOUSE BILL No. 2525

GOOD AFTERNOON MR. CHAIRMAN AND COMMITTEE MEMBERS. MY NAME IS SARAH WOELLHOF, AND I LIVE AT 1428 COLLINS AVENUE, IN TOPEKA. I REPRESENT THE KAW VALLEY BICYCLE TOURING CLUB OF TOPEKA, AND SERVE AS KANSAS LEGISLATIVE REPRESENTATIVE FOR LEAGUE OF AMERICAN WHEELMEN, INC. THE LEAGUE IS THE ONLY NATIONAL ORGANIZATION FOR BICYCLISTS AND REPRESENTS APPROXIMATELY 500 CLUBS THROUGHOUT THE STATES. FIVE OF THE LEAGUE'S TEN PURPOSES AND OBJECTIVES ARE AS FOLLOWS: ---"TO PROMOTE, DEFEND AND PROTECT THE RIGHTS OF BICYCLISTS; ---TO SECURE A BETTER UNDERSTANDING AND RECOGNITION OF THE NEED FOR A SAFER ENVIRONMENT FOR BICYCLING; ---TO ENCOURAGE AND SECURE THE PROVISION OF SAFE AND DESIRABLE FACILITIES FOR BICYCLING; ---TO COOPERATE WITH PUBLIC AUTHORITIES IN THE OBSERVANCE OF ALL TRAFFIC REGULATIONS; ---TO PRESENT WRITTEN COMMENTS AND TESTIMONY OF THE VIEWS OF THE MEMBERS OF THE LEAGUE IN CONNECTION WITH LEGISLATIVE AND ADMINISTRATIVE PROPOSALS RELATING TO EQUIPMENT REQUIREMENTS FOR BICYCLES, THE ESTABLISHMENT AND MAINTENANCE OF BICYCLING FACILITIES, TRAFFIC REGULATIONS OR OTHERWISE AFFECTING BICYCLING ACTIVITIES;"

AND THE LEAGUE'S POLICY IS TO SUPPORT THE BICYCLE AS A VEHICLE, AND ACTIVELY PROMOTE THE FACT THAT THE BICYCLIST SHOULD HAVE THE SAME RIGHTS AND DUTIES THAT PERTAIN TO ALL VEHICLE OPERATORS.

I HAVE BEEN IN TOUCH WITH NINE KANSAS LEAGUE AFFILIATED BICYCLE CLUBS. THEY SUPPORT THE POSITION I REPRESENT. THOSE CLUBS CONTACTED ARE:

BICYCLING ACROSS KANSAS, WICHITA
HUTCHISON HEAD WINDS, HUTCHISON

LEAGUE OF AMERICAN WHEELMEN

The national organization of bicyclists ❁ P.O. Box 988, Baltimore, MD 21203 ❁ 301/727-2022 ❁ Founded 1880

ATTACHMENT 7



- 2 -

JOHNSON COUNTY BICYCLE TOURING CLUB, INC., SHAWNEE MISSION
KAW VALLEY BICYCLE TOURING CLUB, TOPEKA
MT. OREAD BICYCLE CLUB, LAWRENCE
OZ BICYCLE CLUB OF WICHITA, WICHITA
SALINA WHEELMEN, INC., SALINA
WALNUT VALLEY BICYCLE CLUB, WINFIELD
WICHITA WHEELMEN, WICHITA

THE ABOVE CLUBS REPRESENT APPROXIMATELY 4000 BICYCLE ENTHUSIASTS.

YOU SHOULD HAVE BEFORE YOU:

1. MR. BOB ALDERSON'S LETTER TO MR. FRED CARMAN. (PAGE TWO, PARAGRAPH ONE, LINE TWO SHOULD END IN RIGHT, NOT LEFT.)
2. MR. EDWARD F. KEARNEY'S ARTICLE IN THE FEBRUARY 1982 AMERICAN WHEELMEN.

ALSO, LETTERS OF SUPPORT FROM BRUCE EPPERSON OF THE MT. OREAD BICYCLE CLUB AND NORMAN HACKLER OF THE SALINA WHEELMEN, INC.

THANK YOU FOR YOUR TIME AND INTEREST.

LEAGUE OF AMERICAN WHEELMEN

The national organization of bicyclists 🚲 P.O. Box 988, Baltimore, MD 21203 🚲 301/727-2022 🚲 Founded 1880



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

February 8, 1983

Fred Carman
First Assistant Revisor of Statutes
Third Floor, Statehouse
Topeka, Kansas 66612

Dear Fred:

Several weeks ago we visited regarding a draft bill I had prepared for the Kansas chapter of the League of American Wheelmen. I am enclosing a copy of that bill for your review, and by this letter, I will provide you with a brief explanation of each section in the bill.

Initially, I should note that all of the sections in the bill are amendatory of existing sections of the Uniform Act Regulating Traffic on Highways. As you will recall, this act was reenacted in 1974 and was patterned substantially after provisions of the Uniform Vehicle Code. Most of the amendments proposed in the bill represent changes made in the UVC subsequent to 1974, although the proponents of the bill have asked that a few additional amendments be included, and in one instance desire to eliminate from our statutes a provision which remains in the UVC. In discussing the bill's sections, I will identify the sources of the various proposed amendments.

Section 1 amends K.S.A. 8-1485 by eliminating devices "moved by human power" from the definition of "vehicle." This is consistent with a change made in UVC §1-184 in 1975.

Section 2 amends K.S.A. 8-1545, which corresponds to UVC §11-801. The amendment proposed in subsection (a)(2) does not appear in the UVC, but I understand that a comparable provision has been included in several other states' traffic laws. The purpose of the amendment is to prevent other motorists from crowding a bicyclist out of a lawful left turn lane.

Section 3 amends K.S.A. 8-1550, which corresponds to UVC §11-606. However, the proposed amendment, permitting a different left turn signal by bicyclists than is required of other operators of vehicles, does not appear in the UVC. I am advised that a similar provision has been adopted in several states, in recognition that a bicyclist's horizontal extension of the hand and arm is safer than a vertical extension.

The amendments made to K.S.A. 8-1577 by section 4 reflect changes made in UVC §11-1105 in 1975. The purpose is to prevent a motorist from leaving open any door on a motor vehicle and thereby interfering with the movement of other traffic. It has particular relevance to bicycle traffic.

Subsection (c) of UVC §11-1201 was deleted in 1975, and K.S.A. 8-1586 would be similarly amended by section 5. Apparently, the necessity of the deleted provision is obviated, in part, by the change proposed in the definition of "vehicle" in K.S.A. 8-1485 (section 1). By defining "vehicle" to include bicycles, bicyclists will be subject to K.S.A. 8-1501 which, inter alia, makes the statutory rules of the road applicable to the operation of vehicles on all highways. Also, bicyclists, are subject to K.S.A. 8-1587, which would be amended by section 6.

The amendments to K.S.A. 8-1587 in section 6 incorporate the comparable changes made in the corresponding section of the UVC (§11-1202) in 1975. There are two substantive changes: (1) including vehicles propelled by human power and (2) removing the section's restricted application to the operation of these vehicles and bicycles on roadways. It now applies (by virtue of K.S.A. 8-1501) to their operation on highways.

Section 7 amends K.S.A. 8-1588 to incorporate the 1975 changes made in the corresponding section of the UVC (§11-1203).

Similarly, K.S.A. 8-1589 corresponds to UVC §11-1204, and section 8 amends this statute to add the new subsection included in the UVC section in 1975.

Section 9 amends K.S.A. 8-1590. Subsection (a) currently corresponds to subsection (a) of UVC §11-1205, and subsections (b) and (c) of K.S.A. 8-1590 currently correspond to UVC §11-1205.1. The proposed amendments would incorporate the 1975 and 1979 changes made in these UVC sections, with one exception. Existing subsection (c) of 8-1590, which corresponds to UVC §11-1205.1(b), would be deleted and replaced by a provision corresponding to UVC §11-1205(b).

The retention of UVC §11-1205.1(b) has been a matter of substantial debate in the National Committee on Uniform Traffic

Fred Carman
Page Three
February 8, 1983

Laws and Ordinances. Organized bicycle groups have provided some well-documented evidence as to the safety hazards resulting from adherence to this provision. However, it has remained in the UVC. Nevertheless, the proponents of the enclosed bill requested that it be deleted from the Kansas traffic laws.

Section 10 amends K.S.A. 8-1591, which corresponds to UVC §11-1206. The amendments incorporate changes made in the UVC section in 1975.

Section 11 amends K.S.A. 8-1592 which, at the time of its enactment, corresponded to UVC §11-1207. The provisions of that section of the UVC were revised and repositioned in Article VII of Chapter 12 of the UVC in 1975. By the amendments in section 11, subsections (a), (b), (c), (d), (e), (f), (g), (i) and (j) of K.S.A. 8-1592 will correspond to UVC §§12-702, 12-703, 12-704, 12-705, 12-706, 12-707, 12-708, 12-709 and 12-701, respectively. There is no provision in the UVC corresponding to existing subsection (c) of K.S.A. 8-1592, which has been relettered as subsection (h).

Also, two other items should be noted in connection with section 11. First, subsection (f) of the amended section does not incorporate the prohibition contained in UVC §12-707 regarding the use of a whistle. The proponents of the bill requested that it not be included. Second, in the UVC sections which correspond to subsections (a) and (c) of section 11, there are internal references to UVC §12-201. The latter UVC section was identical to K.S.A. 8-1703 before the Kansas statute was amended in 1982. In order to maintain the correlation between UVC §12-201 and K.S.A. 8-1703, I have amended the latter in section 12 of the bill, so that subsection (a) of K.S.A. 8-1703 will correspond substantially to this UVC section.

The intent of my amendments to K.S.A. 8-1703 in section 12 is to accommodate internal references to this statute in section 11, as noted above, yet I have attempted to retain the substance of the statute, as amended in 1982. Please review this section carefully to determine whether I have achieved this result. Even though I have proposed deleting a substantial portion of the language added by the 1982 amendment, I think I have preserved the substance of this amendment by a few significantly more succinct statements. However, I welcome your suggestions in this regard.

Finally, please note that our statutes do not include provisions directly corresponding to UVC §§11-1207 to 11-1213, inclusive, but the enclosed bill does not propose to incorporate these UVC sections. I am uncertain as to the utility of these sections as far as Kansas traffic laws are concerned,


Fred Carman
Page Four
February 8, 1983

and I have not had the opportunity to discuss this matter with the bill's proponents. Perhaps they will want to add some of these provisions. I am enclosing copies of all of the UVC sections referenced in this letter for your assistance.

I trust that this letter will be of some benefit to you in the event you are called upon by legislative committees to comment upon this draft. If I can be of any further help, please let me know.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN



W. Robert Alderson
First Deputy Attorney General

WRA:hle

cc: Sarah Woellhof
State Legislative Representative
Kansas Chapter of League of
American Wheelmen
1428 Collins Avenue
Topeka, Kansas 66604

Edward F. Kearney
P. O. Box 1457
Falls Church, Virginia 22041

Ralph Hirsch
League of American Wheelmen
112 South Sixteenth Street
Philadelphia, Pennsylvania 19102

Statement by Spencer Seery before the House Transportation Committee

Thank you, Mr. Chairman, and members of the Committee. I appreciate the opportunity to speak before you. My name is Spencer Seery, and I am a member of the board of the Kaw Valley Bicycle Touring Club of Topeka, the Topeka Bicycle Advisory Board, the League of American Wheelmen, and a bicycle commuter and tourist.

Bicycle use, especially bicycling for transportation has increased significantly in the last few years. In this light, I would like to recommend supporting HB 2525, which, if enacted, will bring our state statutes very close to being in full compliance with the bicycle safety guidelines formed by the National Committee on Uniform Traffic Laws and Ordinances (NCUTLO), by incorporating their recommendations from the Uniform Vehicle Code (Revised, 1979).

In an article published in the March 13, 1982 edition of the Topeka Capital-Journal entitled "Kansas at top in traffic safety", it is pointed out that we are the best in the country, and by quite a large margin. We are justifiably proud of this accomplishment, but at the same time note that this is not true in the realm of bicycle laws. Quoting Mr. Arlan Hicks of KDOT, "This is an area in which we have been silent too long. It may not have been practical to deal with bicycle laws 20 years ago, but it is today." I believe that this bill will not only contribute to safer state roads, but also increase our lead as "best in the country".

I believe you have been provided with a copy of a letter from Mr. W. Robert Alderson, First Deputy Attorney General to Mr. Fred Carman, First Assistant Revisor of Statutes dated February 8, 1983 in which Mr. Alderson describes the various amendments. In the interest of brevity, I will not re-iterate what he has stated, but will comment on a few which perhaps need

some further clarification.

The request for an alternative right-turn hand signal in K.S.A. 8-1550 provides for a method of signaling which is easier and safer for a bicyclist to use, and easier for a motorist to comprehend when viewed from the rear. The extending and raising of the left arm exposes it to another vehicle which may be passing the bicycle legally, and the raised left hand is further from the handlebar than an extended right hand signal, in case quick action is needed to avoid a hazard. Since the extended right arm signal is physically easier to make, it is likely that more right turns would be signalled than by the existing method.

Concerning the position on the roadway as proposed in the amendment to K.S.A. 8-1590, the term "motorized bicycle" applies to the machine commonly known as a "moped" and appears to be included for the purpose of being in agreement with the UVC. In regards to paragraph (c), concerning removal of the requirement to use a bicycle path, if available, bicyclists feel that this requirement is definitely not conducive to the safety of the bicyclist, and should be removed for several reasons. These paths are often inadequately maintained, whereby broken bottles and other debris are allowed to accumulate, causing flat tires and erratic riding to avoid the obstacles and holes. They are also treated as sidewalks by pedestrians and joggers, thus inviting bicycle-pedestrian accidents. Furthermore, vehicles on roadways also treat these paths as sidewalks, especially at intersections, very often failing to yield the right-of-way when in fact the right-of-way legally belongs to the path. These same vehicles will normally yield to a bicycle legally occupying a roadway. The addition to paragraph (c) will allow proper turns into the left lane of one-way streets from the correct lane without having to cross over multiple lanes

to get to the right-hand curb. It will also allow travel in the left lane for a subsequent left turn without crossing multiple lanes to get to the right and crossing back to the left a short distance later to make a legal left turn.

In summation, I feel the enactment of HB 2525 will have a positive benefit for all vehicular traffic in Kansas, and appreciate your efforts for this improvement.

Kansas at top in traffic safety

By FLORENBERGER
United Press International

A Washington-based safety group claims traffic laws in Kansas are among the safest, most up-to-date in the country. But an engineer for the Kansas Department of Transportation insists there's plenty of room for improvement.

Of the 50 states, Puerto Rico and the District of Columbia, Kansas is ranked No. 1 in its compliance with safety guidelines formed by the National Committee on Uniform Traffic Laws and Ordinances. Trailing near the bottom of the group's list is neighboring Missouri, second only to Massachusetts for harboring the most outmoded laws.

"The traffic laws in Missouri are so bad they're just unfair to everybody," said Edward Kearney, executive director of the committee.

Kearney's committee, a non-profit, private organization that advocates a Uniform Vehicle Code for governing the nation's roadways, compared road laws to its code and awarded the Missouri Vehicle Code only 279 points out of a possible 1,065.

Particularly ranking to some Missourians is the No. 1 rating given neighboring Kansas. The Sunflower state pulled in 932 points, easily outdistancing No. 2-ranked South Carolina.

The Uniform Vehicle Code has been rewritten several times since it was adopted in a 1926 meeting led by committee founder President Herbert Hoover, then U.S. Secretary of Commerce. The committee recommends its code because there are no federal standards.

"The federal government doesn't have police officers to enforce its laws," said Kearney. "And the federal court system couldn't handle all the violators."

Although Kansas has held the top spot for the past seven or eight years, it

still falls short of making all the improvements suggested in the committee's 1979 Uniform Vehicle Code, most notably in the area of drunken driving and bicycle laws, said Arlan Hicks, a policy development engineer for KDOT.

"There has been a considerable effort made to have our laws comply with the code," Hicks said in explaining why the state ranks so high on the list. "I must say, however, that the Legislature does not follow it widely. We should comply with all the standards; we have a way to go."

Hicks conducted a study on the state's compliance with the code and discovered only a few areas either not covered adequately or not covered at all.

But Kansas differs sharply from the Code on what constitutes intoxications. And further, Kansas does not address the crime of driving while under the

influence of a combination of alcohol and drugs. The code does. Of five possible points on that issue, Kansas got zero, Hicks said.

The state took only three of five points for its laws governing vehicular homicide, often defined as the killing of a person with a vehicle while in the process of committing another crime. The maximum prison penalty is one year under Kansas laws; five years under the code.

Kansas also is lax in dealing with the safety of its bicyclists, he said. It has no laws governing signals and procedures for left turns, stops, bicycle parking and bicycle racing.

"This is an area in which we have been silent too long," he said. "It may not have been practical to deal with bicycle laws 20 years ago, but it is today."

Despite any shortcomings it might have, Kansas still impressed the com-

Kansas first, Missouri near last

The National Committee on Uniform Traffic Laws and Ordinances, a non-profit association that advocates uniform motoring laws in the United States, claims Missouri's traffic laws are among the most obsolete in the country while Kansas is the best.

The rankings are based on the comparison of state traffic laws to 213 rules of the road in its Uniform Vehicle Code. Points are given on a sliding scale from five to zero. Negative points are assessed when state laws oppose the Code's rules.

Here are the rankings, with rank, state, and points:

1. Kansas 932
2. South Carolina 867
3. Utah 852
4. Idaho 836
5. North Dakota 833
6. Georgia 827
7. Washington 812
8. Pennsylvania 787
9. Illinois 775
10. Colorado 747
11. Delaware 720
12. Maryland 718
13. Nebraska 713

14. Florida 711
15. Hawaii 683
16. Texas 649
17. New York 648
18. Vermont 630
19. New Hampshire 627
20. Alaska 620
21. Wyoming 620
22. Oklahoma 615
23. Indiana 598
24. New Mexico 596
25. Montana 586
26. Arizona 582
27. Minnesota 578
28. Ohio 565
29. Rhode Island 560
30. Tennessee 560
31. Louisiana 548
32. Oregon 529
33. West Virginia 528
34. Nevada 509
35. South Dakota 461
36. California 454
37. Washington D.C. 452
38. Kentucky 448
39. Arkansas 434
40. Iowa 419
41. Connecticut 415
42. Michigan 407
43. Wisconsin 404
44. Maine 396
45. Puerto Rico 391
46. Alabama 350
47. North Carolina 339
48. Mississippi 318
49. Virginia 316
50. New Jersey 314
51. Missouri 279
52. Massachusetts 254

mittee. In reaching the rating, the committee compared 213 rules of the road in its Uniform Vehicle Code and points were given on a sliding scale from five to zero. Negative points were assessed when state laws opposed the Code's rules.

Of the 1,065 possible points, Kansas earned 932, South Carolina, No. 2 in the rankings, gained 867. Missouri fell woefully short of passing the committee's standards, winning only 279 points next to Massachusetts' 254.

"Missouri is a state of individualists," Hicks said of the Show-Me state. "As such, they like to have their own laws and live by them."

Of Kansas' other neighbors, Colorado ranked 10th with 747 points, Nebraska rated 12th with 713 and Oklahoma 22nd with 615 points. Hicks said some of the country's most industrial states — such as New Jersey and Massachusetts — pulled in some of the lowest scores:

The committee updates its list periodically, last performing the task in 1981, said Bob Alderson, vice chairman of the executive committee. Alderson, a former revisor of statutes for Kansas, currently is counsel to the Kansas attorney general. He has been a member of the national safety group since 1968.

Alderson said Kansas' efforts to follow the code are exemplary. He admonishes states like Missouri that have yet to comply with the group's standards, saying they are potential safety hazards for the rest of the country.

"The overriding purpose is to develop a model code of sensible traffic laws that can be understood easily by all motorists," Alderson said. "The efforts of the committee are to obtain compliance with this nationally because of our highly mobile society.

"It really creates a traffic hazard if people move from one state to another and are not educated about particular traffic laws in a state. A higher degree of uniformity makes it easier for motorists to travel."

Michael S. McLemore
301 N. 70th Terrace, 418
Kansas City, Kansas 66112

Statement by Michael S. McLemore, President of the Johnson County Bicycle Club.

Thank you Mr. Crowell and members of the Committee for this opportunity.

I am very pleased to see that Bob Alderson has proposed a bill to update the Kansas statutes in respect to the revisions in the Uniform Vehicle Code. As a recreational and commuting bicyclist I frequently see the need for an update in our Kansas driving statutes. The guiding premise in these statutes must be safe and efficient coexistence between the bicyclist and other vehicles. The important points in the proposed bill as I see it, are as follows:

Section I

The bicycle's definition as a vehicle is essential to proper use of the highways. This would include all the rights and privileges as well as all the responsibilities and duties presently associated with all other vehicles.

Section II

The bicyclist must turn left from the proper lane as do other vehicles. This, of course, cannot safely be done from the right lane.

Section III

Turn signals. Historically, the arm signals that we now use with the left hand were developed for signaling outside the window of a motor car. While riding a bicycle it is sometimes safer to extend the right arm when leaning into a right turn. This signal is unobstructed and easily visible.

Section IX

Regarding the position on the roadway, at less than normal speed the best rule is to keep right as close as possible to the right edge. However, there are some exceptions:

A. The bicycle should always pass on the left as do motor cars.

ATTACHMENT 9

- B. In the case of surface hazards these must be avoided and include but are not limited to: pot holes, sand and gravel, storm drains and glass and litter which collect on the sides of the road.
- C. In the case of a lane that is too narrow for another vehicle to pass without endangering his safety, the bicyclist should move to the left so that the driver of the motor car will not attempt to pass without moving out of that lane of traffic.

Americans today are becoming increasingly aware of energy consumption and also the need for improved physical fitness. The bicycle provides an excellent way of getting good exercise and also contributing to the conservation of energy. It does not pollute the environment and is a very enjoyable activity. I really do appreciate your consideration of this bill.

March 2, 1983

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

Your committee on Transportation

Recommends that House Bill No. 2395

"AN ACT relating to certain traffic offenses; providing for the suspension of the registration of motor vehicles operated in violation of certain laws."

Be amended:

On page 1, in line 21, after "person", by inserting ", or the county or district attorney upon request of any person,"; in line 27, following the period, by inserting a new sentence as follows: "To obtain a judgment for suspension of registration as provided in this section, it shall not be necessary to prove the name of the person who operated the vehicle in violation of such statutes, however it shall be a defense to such action for the owner to prove that the vehicle had been stolen or driven contrary to the owner's specific instructions at the time of the violation";

And the bill be passed as amended.

Chairperson

Attachment 10

Suggested Amendment to HB 2069

On page 1, in line 39, by striking "without" and inserting "upon";

On page 2, in line 59, by striking ", without charge,"; following line 68, by adding a new section as follows:

"Sec. 2. K.S.A. 8-177b is hereby repealed.";

Also on page 2, in line 69, by striking "2" and inserting "3";

In the title, in line 19, by striking "free"; in line 20, before the period, by inserting "; repealing K.S.A. 8-177b"