

Approved 10/11/83 Date

MINUTES OF THE House COMMITTEE ON Transportation

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

1:35 ~~xxx~~ p.m. on March 14, 1983 in room 519-S of the Capitol.

All members were present except: Dean Shelor, excused.

Committee staff present:

Fred Carman, Revisor's Office  
Hank Avila, Legislative Research  
Pam Somerville, Committee Secretary

Conferees appearing before the committee:

Fred Carman, on behalf of the Kansas Turnpike Authority  
Capt. Don Pickert  
Fred Carman, on behalf of Sen. Chaney

Others Present:

Edward J. DeSoignie, Kansas Department of Transportation  
Tom Whitaker, Kansas Motor Carrier's Association  
Merle Hill, Kansas Good Roads Association

The first order of business was a hearing on HB 2546. A handout was distributed from Mr. Bob Storey, Kansas Turnpike Authority, who was unable to be present. Mr. Fred Carman was asked to explain HB 2546. Mr. Carman explained that HB 2546 will make it lawful for penalties to be applied for breaking laws on the turnpike. Presently, one district judge (Douglas County) has ruled KTA does not have sufficient authority to implement rules and regulations for traffic control on the turnpike because there is no penalty clause under chapter 68 of K.S.A. The bill will clearly authorize KTA to adopt rules and regulations for traffic control and provide that violations will be subject to penalties. (Attachment 1)

Chairman Crowell reviewed for the committee the testimony provided by Mr. Bob Storey. (See attachment 1). Chairman Crowell explained the two changes in the law. First, in lines 43 and 44 it gives the Authority the right to adopt rules and regulations for use on the turnpike. New language has been added which states, "and adopt rules and regulations for traffic control on such project." The second change is in lines 69, 70, and 71 which states "Violation of any of the rules and regulations adopted under this section shall be unlawful and subject to the penalties contained in K.S.A. 8-2116 and amendments thereto."

The Chairman asked Capt. Pickert to present the Highway Patrol's position. Capt. Pickert stated that the issue had been clearly stated by Mr. Carman and Mr. Storey's testimony and the Patrol was fully supportive of the bill.

The Chairman asked for any questions or discussion by the committee. None followed. Rep. Johnson moved for favorable passage of HB 2546; Rep. Dillon seconded. Motion passed.

The next order of business was SB 169. Senator Chaney, sponsor of the bill, was not present. Chairman Crowell asked Mr. Carman to brief the committee as to the content of the bill. Sen. Chaney has certain religious groups in his district who object to their pictures being taken because of religious beliefs.

Chairman Crowell asked if Sen. Chaney's failure to be present was an indication of his level of interest in the bill. Mr. Carman stated he did not think this was the case and said Sen. Chaney had appeared in the Senate and is sincere in his desire for passage. In addition, Mr. Carman stated a representative of the Amish community presented testimony in favor of the bill at the Senate hearing. Current statute provides for an exemption of the picture requirement for anyone who is outside the state and renews by mail.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,  
room 519-S, Statehouse, at 1:30 ~~xxx~~/p.m. on March 14, 1983

Several questions and discussion occurred regarding the constitutionality of the bill. No conclusive answer could be reached.

Rep. Justice brought up the question of whether the charge would be the same as licenses with a picture. Mr. Carman replied that in a conversation with Mr. Steve Montgomery he indicated the Department intended to continue the charge. Mr. Carman indicated that the language of the bill is not clear in this regard.

Chairman Crowell asked how much meaning religious organization has or would it simply be open to anyone agreeing to sign a statement. Mr. Carman, in his opinion, felt it was adequately restricted to indicate a religious organization having a basic objection. It has to be the organization that has the objection and not the person.

The meeting was adjourned at 2:04 p.m.

  
Rex Crowell, Chairman



TESTIMONY REGARDING HOUSE BILL 2546  
BEFORE HOUSE TRANSPORTATION COMMITTEE  
BY BOB W. STOREY  
GENERAL COUNSEL FOR KANSAS TURNPIKE AUTHORITY

MEMBERS OF THE COMMITTEE:

House Bill 2546 was introduced at the request of the Kansas Turnpike Authority.

House Bill 2546 is needed because of a recent court ruling in Douglas County.

Under K.S.A. 68-2004 the KTA is granted authority to adopt rules and regulations for use on a turnpike project. Using that particular statute as its authority, the KTA adopted rules and regulations, and published in the Kansas Administrative Regulations under Agency 39, certain rules for traffic control on the turnpike-- such as allowing no pedestrians, allowing no bicycles, regulating length, width, and height of vehicles, etc. Since the inception of the turnpike the Highway Patrol has made arrests in accordance with these traffic violations. However, recently in Douglas County a judge held that the implementation of these rules and regulations was unconstitutional, because there was no penalty clause under Chapter 68 of the Kansas Statutes Annotated, which by the way is correct. As a matter of fact, there are no statutory penalties for violation of traffic rules and regulations adopted by the turnpike, and there is no provision in our law for having penalties in administrative rules and regulations. Therefore, there has to be a statutory change

ATTACHMENT 1

so that the Patrol may enforce the traffic laws on the KTA roadway.

House Bill 2546 contains two changes in the law. In subparagraph 8 (which used to be h) the section gave the Authority the right to adopt rules and regulations for use on any turnpike project. New language has been added, which is underlined and which states, and I quote: "and adopt rules and regulations for traffic control on such project."

The second change is in new subsection (b) in subparagraph 14 (which used to be n) of this law, which is underlined and states, and I quote: "Violation of any of the rules and regulations adopted under this section shall be unlawful and subject to the penalties contained in K.S.A. 8-2116 and amendments thereto."

The penalties contained in K.S.A. 8-2116 are all misdemeanors and apply to penalties for violation of the Uniform Traffic Code which has been adopted by the State of Kansas. This is implemented by the Highway Patrol in its regulation of the interstate and other highway projects located in the state. The force and effect of this bill would allow the Highway Patrol to arrest for those violations which are committed against the rules and regulations of the Kansas Turnpike Authority found in K.A.R. 39-1-1. Having subsection (b) in the bill gives the full force and effect of law; and any violation of those laws will be the same on the turnpike as on any other highway and will be treated as such in the penalty provision.

I have been advised by Colonel Hornbaker, Superintendent of the Highway Patrol, that he has told the troopers on the Turnpike they could not arrest for any of these violations or they would subject themselves to a lawsuit for false arrest. Therefore, it is of immediate urgency that this bill be acted upon. You will note that the effective date will be from and after its publication in the Kansas Register.

The only other changes in the bill were done by the Revisor of Statutes. They merely change the letters of the various sections into numbers, and a couple of cleanup revisions strike or change certain wording in the statutes.

I will be available at a later date for any questions the committee may have. I am sorry not to appear in person on this bill. However, I will not be in the state of Kansas when you act upon the same, and it is of the utmost urgency that this legislation be enacted.

Respectfully submitted,

BOB W. STOREY