

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Representative Rex Crowell at  
Chairperson

1:30 ~~xxx~~/p.m. on February 29, 1984 in room 519-S of the Capitol.

All members were present except: Representative Betty Jo Charlton, Excused

Committee staff present:

Fred Carman, Office of the Revisor of Statutes  
Raney Gilliland, Legislative Research Department  
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Mr. Ed DeSoignie, Kansas Department of Transportation  
Mr. Bill Edds, Department of Revenue  
Mr. Terry Ruse, Kansas Ethanol Association  
Mr. Ken Johnson, Kansas LP Gas  
Ms. Nancy Kantola, Kansas Cooperative Council  
Col. Mahlon G. Weed, Kansas Div. of Emergency Preparedness  
Mr. William Bryson, Kansas Department of Health & Welfare  
Mr. Tom Whitaker, Kansas Motor Carriers  
Mr. Ross Martin, Kansas Petroleum Council  
Mr. Charles Nicolay, Kansas Oil Marketers Association  
Ms. Kathleen Sebelius, Kansas Trial Lawyers Association  
Mr. Randy Forbes, Attorney, Topeka, Kansas  
Representative Leroy Fry

Chairman Crowell called the meeting to order and the first order of business was a hearing on HB-3053. Mr. Ed DeSoignie of the Kansas Department of Transportation told the committee HB-3053 amends the definition of a city connecting link found at K.S.A. 1983 Supp. 68-406 (b), to include interstate routes which begin and end within a city's limits. (See Attachment 1) Mr. DeSoignie stated the Department of Transportation requests HB-3053 be reported favorable for passage.

The next order of business was a hearing on HB-3052. Mr. Bill Edds of the Kansas Department of Revenue told the committee HB-3052 requires the percentage of ethyl alcohol in gasohol be measured by volume instead of weight.

Mr. Terry Ruse of Kansas Ethanol Association gave testimony in favor of HB-3052. He indicated his association supports HB-3052 because it simplifies the measurement.

Chairman Crowell asked Mr. Ruse about the difference in measurement between weight and volume. Mr. Ruse replied that by weight it is required to have 10½ per cent ethyl alcohol to meet the eligibility requirements.

This ended the hearing on HB-3052.

The next order of business taken up was a hearing on HB-2855 which provides civil immunity to persons who assist in hazardous waste accidents. Representative Fry, sponsor of the bill, was introduced and testified before the committee. (See Attachment 2)

Representative Fry referred to Line 16 and asked that the word "waste" be replaced with the word "materials". Representative Fry went on to say governments at all levels have recently acted to strengthen programs to regulate the handling, storage and transportation of hazardous materials in order to minimize the risk and danger of

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,  
room 519-S, Statehouse, at 1:30 ~~XXX~~ p.m. on February 29, 19 84

accidents involving these materials. He added when accidents do occur, the public is concerned about getting qualified persons to the scene due to the grave danger in many cases of fire, explosions, serious contamination of air or groundwater, or other environmental damage.

Mr. Ken Johnson of Kansas LP Gas gave favorable testimony on HB-2855. (See Attachment 3) Mr. Johnson urged passage of HB-2855 so that liability concerns will be alleviated for volunteers, thereby increasing the willingness of all companies to respond and reducing response time.

Representative Knopp asked Mr. Johnson if he was concerned about the possibility of an average citizen without proper training becoming involved at the scene of an accident and doing more harm than good. Mr. Johnson replied that he was only speaking of trained persons, and he feels if a person was not trained they would not become involved in a propane accident.

Ms. Nancy Kantola of the Kansas Cooperative Council presented testimony in favor of HB-2855. (See Attachment 4) She stated if HB-2855 is passed it would provide knowledgeable people peace of mind when they respond to a call for help. She added that rural areas where co-op employees live and work are not staffed with hazardous materials teams and instead utilize volunteer firemen.

Col. Mahlon G. Weed of the Kansas Division of Emergency Preparedness testified in favor of HB-2855. (See Attachment 5) He reported that his office has the responsibility of coordinating and supervising the response and recovery in accidents involving transported hazardous material, and he feels that HB-2855 would assist their efforts.

Mr. William Bryson of the Kansas Department of Health & Environment testified in favor of HB-2855. (See Attachment 6) He stated that the Department supports the concept of "Good Samaritanship" which is expressed in HB-2855.

Mr. Tom Whitaker of the Kansas Motor Carriers Association gave testimony in favor of HB-2855. (See Attachment 7) Mr. Whitaker advised that his association supports the passage of HB-2855 which encourages prompt and effective clean-up of hazardous materials which would result in the greatest possible safety to the public.

Mr. Ross Martin of the Kansas Petroleum Council was introduced and testified favorably on HB-2855. He said the passage of HB-2855 will free people with necessary skills to help local and state officials tackle dangerous spills and clear the way for experts to give technical advice and, if needed, to use their specialized equipment. (See Attach. 8)

Mr. Charles Nicolay of Kansas Oil Marketers Association gave favorable testimony on HB-2855.

Ms. Kathleen Sebelius of the Kansas Trial Lawyers Association testified in opposition to HB-2855 and introduced Mr. Randy Forbes to the committee.

Mr. Randy Forbes, Topeka attorney and board member of the Kansas Trial Lawyers Association, testified in opposition to HB-2855. Mr. Forbes reported he can see no reason to have a special immunity for the petroleum and chemical industry, and indicated the bill does not mention "emergencies". He stressed the large companies should purchase liability insurance to cover themselves in the event of injuries to innocent third parties.

This ended the hearing on HB-2855.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,  
room 519-S, Statehouse, at 1:30 ~~a.m.~~/p.m. on February 29, 1984

Chairman Crowell appointed a sub-committee consisting of Representatives Knopp, Ott and Adam to work on HB-2855.

Chairman Crowell appointed a sub-committee consisting of Representatives Moomaw, Webb and Schmidt to work on HB-3070 and HB-3052.

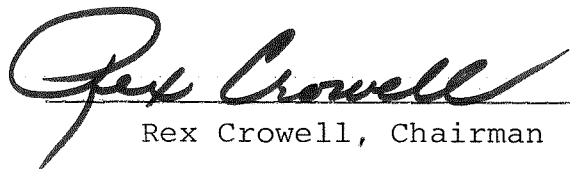
Chairman Crowell appointed a sub-committee consisting of Representatives Cloud, Dillon and Johnson to study HB-2663.

The next order of business was committee discussion and action on HB-3053 concerning city connecting links.

It was moved by Representative Campbell that HB-3053 be passed favorably and placed on the Consent Calendar. The motion was seconded by Representative Adam. Motion passed.

The next order of business was committee discussion and action on HB-3054 concerning establishing time frames on the receipt of qualification statements and performance data. Representative Fuller made the motion to recommend HB-3054 favorably for passage. The motion was seconded by Representative Wilbert. Motion passed.

The meeting was adjourned at 3:05 p.m.

  
Rex Crowell, Chairman

GUEST LIST

Pg 1

COMMITTEE: TRANSPORTATION

DATE: 2-29-84

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
Maureen G. Ruchberg	Lawrence, Ks	
James Hamm	Topeka	KPC
Lyle E. Galt	Topeka	KCC
Charles H. Nicolay	Topeka	Ks Oil Marketers Assn
Ron Hill	Spring Hill, Mo.	
Melton G. Weed	Topeka	Ks Div of Emergency Preparedness
Harvey Kantola	"	Kansas Co-op Council
Ken Johnson	"	Kans LP Gas Assn
Ken Rissler	"	" " " "
ROSS MARTIN	"	KPC
Bill Rinehart	Tulsa	Gulf Oil Corp
Wayne Elmore	Topeka	REVENUE
Joy D. Cole	Topeka	The Adjutant General's Dept.
Charles V. Hamm	Topeka - Forbes Field	Kan. Dept of H+E
Bill Bryson	Topeka - Forbes Field	K D H+E
Rep. LeRoy F. Fay	Topeka	Legislature
Randy Forbes	Topeka	KTLA
William Sebetin	"	"
Chip Wheelen	Topeka	Pester Ref.
Ed DeSoranie	"	KDOT
Michael C. Germann	"	Ks Railroad Association
Tom Whitaker	"	Ks Motor Carriers Assn
Bill Berner	Concordia	





# KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

MEMORANDUM TO: House Transportation Committee  
FROM: Kansas Department of Transportation  
DATE: February 29, 1984  
REGARDING: House Bill 3053

House Bill 3053 amends the definition of a city connecting link found at K.S.A. 1983 Supp. 68-406 (b) to include interstate routes which begin and end within a city's limits.

The statute defines a city connecting link as "a routing inside the city limits of a city which: (1) connects a state highway through a city, (2) connects a state highway to a city connecting link of another state highway, (3) is a state highway which terminates within such city, or (4) connects a state highway with a road or highway under the jurisdiction of the Kansas Turnpike Authority." Under these provisions an Interstate route which begins and ends within a city's limits may not be designated as a city connecting link.

These situations will arise as cities expand, annexing land in the process.

The amendment was requested by the Department to clarify the maintenance responsibilities for Interstate routes which will be totally within a city's limits.

The Department requests that the Committee report House Bill 3053 favorable for passage.

AH 1

TESTIMONY OF LeROY FRY BEFORE THE  
HOUSE TRANSPORTATION COMMITTEE ON HOUSE BILL 2855

MR. CHAIRMAN, MEMBERS OF THE TRANSPORTATION COMMITTEE, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU AND EXPLAIN HB 2855. HOWEVER, BEFORE I DISCUSS THE BILL, I WOULD POINT OUT AN ERROR IN THE TITLE. IT READS: AN ACT PROVIDING CIVIL IMMUNITY TO PERSONS WHO ASSIST IN HAZARDOUS WASTE ACCIDENTS. IT SHOULD READ: AN ACT PROVIDING CIVIL IMMUNITY TO PERSONS WHO ASSIST IN HAZARDOUS MATERIALS ACCIDENTS.

GOVERNMENTS AT ALL LEVELS--FEDERAL, STATE AND LOCAL--HAVE RECENTLY ACTED TO STRENGTHEN PROGRAMS TO REGULATE THE HANDLING, STORAGE AND TRANSPORTATION OF HAZARDOUS MATERIALS, IN ORDER TO MINIMIZE THE RISK AND DANGER OF ACCIDENTS INVOLVING THESE MATERIALS. EVEN THOUGH THESE EFFORTS SHOULD HAVE A SIGNIFICANT IMPACT, SOME ACCIDENTS WILL NEVERTHELESS OCCUR. WHEN THEY DO, THE OVERRIDING PUBLIC CONCERN IS TO GET QUALIFIED PERSONS QUICKLY TO THE SCENE BECAUSE OF THE GRAVE DANGER IN MANY INSTANCES OF FIRE, EXPLOSIONS, SERIOUS CONTAMINATION OF AIR OR GROUNDWATER, OR OTHER ENVIRONMENTAL DAMAGE.

SUCH ACCIDENTS, PARTICULARLY THOSE INVOLVED WITH TRANSPORTATION, OFTEN OCCUR AT REMOTE LOCATIONS. IT TAKES TIME FOR THE PARTY ULTIMATELY RESPONSIBLE FOR HANDLING THE SITUATION TO ARRIVE ON THE SCENE. LOCAL GOVERNMENTAL AGENCIES, SUCH AS FIRE AND POLICE DEPARTMENTS, OFTEN HAVE LIMITED MEANS OR KNOWLEDGE AS TO HOW TO HANDLE THE PARTICULAR MATERIAL INVOLVED. THE BEST SOLUTION WOULD BE TO SEEK THE IMMEDIATE ASSISTANCE OF THOSE EXPERTS NEARBY TO MITIGATE THE THREAT TO THE PUBLIC AS SOON AS POSSIBLE.

THE STUMBLING BLOCK IS THAT THESE EXPERTS, IF THEY RESPOND TO SUCH CALLS FOR ASSISTANCE AS GOOD SAMARITANS, EXPOSE THEMSELVES TO THREATS OF ENDLESS LITIGATION BY THIRD PARTIES. IRONICALLY, BY NOT DOING ANYTHING, THEY CAN AVOID SUCH EXPOSURE. THERE THUS EXISTS IN MANY STATES A LEGAL DISINCENTIVE FOR EXPERT

VOLUNTEERS TO ASSIST IN HAZARDOUS MATERIALS EMERGENCIES. THE REAL LOSER HAS BEEN THE PUBLIC.

AN ANALOGOUS SITUATION ONCE EXISTED FOR MEDICAL EMERGENCIES. TO CORRECT IT, MANY STATES ADOPTED LEGISLATION EXEMPTING PHYSICIANS AND OTHER PERSONS FROM THE NORMAL CIVIL LIABILITY TO WHICH THEY WOULD OTHERWISE BE EXPOSED BY VOLUNTARILY ASSISTING IN MEDICAL EMERGENCIES. THROUGH SUCH LEGISLATION, GOOD SAMARITAN ACTIONS IN SUCH INSTANCES ARE ENCOURAGED IN 48 STATES AND THE DISTRICT OF COLUMBIA.

IN ORDER TO ENCOURAGE SIMILAR ACTS IN RESPONSE TO HAZARDOUS MATERIALS EMERGENCIES, SIMILAR PROTECTIONS SHOULD BE EXTENDED TO INDIVIDUALS AND ORGANIZATIONS THAT VOLUNTARILY PROVIDE UNCOMPENSATED ASSISTANCE. HB 2855 THAT WE OFFER TODAY, WOULD MEET THIS AIM.

THE BILL WOULD NOT EXTEND LIABILITY PROTECTION TO THOSE PARTIES:

- WHOSE ACTS OR OMISSIONS CAUSED THE EMERGENCY;
- WHO RECEIVE COMPENSATION (OTHER THAN REIMBURSEMENT FOR OUT-OF-POCKET EXPENSES) FOR THEIR SERVICES IN RENDERING ASSISTANCE;
- WHOSE ACTIONS CONSTITUTE GROSS NEGLIGENCE OR RECKLESS, WANTON OR INTENTIONAL MISCONDUCT.

I WISH FURTHER TO STATE THAT HB 2855 HAS BEEN REVIEWED BY AND HAS THE TOTAL SUPPORT OF THE: AMERICAN PETROLEUM INSTITUTE, AMERICAN TRUCKING ASSOCIATIONS, ASSOCIATION OF AMERICAN RAILROADS, CHEMICAL MANUFACTURERS ASSOCIATION, COMPRESSED GAS ASSOCIATION, HAZARDOUS MATERIALS ADVISORY COUNCIL, NATIONAL LP-GAS ASSOCIATION, AND NATIONAL TANK TRUCK CARRIERS, AND THEIR CORRESPONDING STATE OF KANSAS ASSOCIATIONS.

IN CLOSING, I WOULD LIKE TO STATE THAT GOOD SAMARITAN LEGISLATION ON HAZARDOUS MATERIALS HAS NOW BEEN PASSED INTO LAW IN 24 STATES, PLUS THE BILL HAS PASSED IN NEBRASKA AND AWAITS THE GOVERNORS SIGNATURE. ELEVEN STATES HAVE TAKEN



THIS MEASURE UP THIS YEAR.

OF THE THREE ORGANIZATIONS THAT DEAL WITH STATE GOVERNMENT, THE COUNCIL OF STATE GOVERNMENTS AND THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL IN THEIR PUBLICATION "SUGGESTED STATES LEGISLATION" HAVE LISTED A MODEL GOOD SAMARITAN BILL AND URGED ITS PASSAGE.

AS YOU ALL KNOW, THE NATIONAL CONFERENCE OF STATE LEGISLATORS DOES NOT ENDORSE ANY PARTICULAR LEGISLATION, BUT THEY HAVE PRINTED THE BILL AND URGED ALL LEGISLATORS TO GIVE IT A GOOD LOOK.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM KEN JOHNSON, EXECUTIVE VICE PRESIDENT, OF THE KANSAS LP GAS ASSOCIATION.

THE KANSAS LP GAS ASSOCIATION IS AN ORGANIZATION OF LP GAS DISTRIBUTORS, PRODUCERS, SUPPLIERS AND WHOLESALERS WITHIN THE STATE OF KANSAS. SOME 86% OF THE LP-GAS DEALERS, REPRESENTING 95% OF THE RETAIL VOLUME ARE MEMBERS OF THE KLPGA.

OUR INDUSTRY IS JUSTLY PROUD OF THOSE WHO VOLUNTARILY COME FORWARD AND RENDER AID AT THE SCENE OF AN EMERGENCY. BUT THERE ARE EQUALLY QUALIFIED AND CONSCIENTIOUS COMPANIES WHICH HAVE HAD TO PAY LARGE DAMAGE SETTLEMENTS AND WHICH, AS A RESULT, NOW REFUSE TO VOLUNTEER. GOOD SAMARITAN LEGISLATION WILL ALLEVIATE THESE LIABILITY CONCERNS AND INCREASE THE WILLINGNESS OF ALL COMPANIES TO RESPOND AND THEREBY REDUCE RESPONSE TIME.

GOOD SAMARITAN PROTECTION ALSO FURTHERS THE FORMATION OF INDUSTRY MUTUAL ASSISTANCE GROUPS. MEMBERS OF SUCH GROUPS, FORMED AT THE STATE, REGIONAL OR LOCAL LEVEL, AGREE TO RESPOND TO INCIDENTS WHETHER OR NOT THEY SHIPPED, TRANSPORTED, OR WERE AT ALL CONNECTED WITH THE PRODUCT INVOLVED. EXAMPLES ARE: THE TEXAS MUTUAL ASSISTANCE IN TRANSPORTATION EMERGENCIES GROUP, A NETWORK OF CHEMICAL COMPANIES IN THAT STATE; THE HOUSTON AREA TRANSPORTATION SAFETY ASSOCIATION, CONSISTING OF TANK TRUCK CARRIERS; AND THE NATIONAL LP-GAS ASSOCIATION MUTUAL ASSISTANCE PROGRAM.

WITH THE PASSAGE OF GOOD SAMARITAN LAWS, IT IS HOPED THAT THERE WILL NEVER AGAIN BE A TRAGEDY OF THE MAGNITUDE THAT OCCURRED IN WAVERLY, TENNESSEE, ON FEBRUARY 24, 1978. IN THAT INCIDENT, A TRAIN DERAILMENT AND SUBSEQUENT TANK CAR EXPLOSION KILLED 16 PEOPLE, INJURED 45 OTHERS, AND CAUSED \$1.8 MILLION IN PROPERTY DAMAGE. IT HAS BEEN REPORTED THAT ONE OR MORE COMPANIES REFUSED TO RENDER ASSISTANCE AFTER THE DERAILMENT, BUT PRIOR TO THE EXPLOSION, BECAUSE OF FEARS OF POTENTIAL LIABILITY. WHEN A COMPANY DID AGREE TO ASSIST, TWO DAYS HAD ELAPSED, THE AMBIENT AIR TEMPERATURE

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HAD INCREASED BY ABOUT 30 DEGREES, AND A TANK CAR WHICH HAD BEEN WEAKENED IN THE ORIGINAL ACCIDENT WAS READY TO RUPTURE. THESE FACTS PROMPTED THE TENNESSEE LEGISLATURE TO BE ONE OF THE FIRST TO ENACT GOOD SAMARITAN LEGISLATION.

WE URGE THIS COMMITTEE TO FAVORABLY CONSIDER HB 2855. WE WOULD HOPE THAT PASSAGE OF THIS BILL WOULD PREVENT A TRAGEDY SIMILAR TO THE ONE IN TENNESSEE FROM EVER HAPPENING IN KANSAS.

I WOULD POINT OUT THAT KANSAS IS THE SECOND LARGEST STORER OF PROPANE IN THE UNITED STATES, THIS MEANS THAT THE TRANSPORTATION OF LP-GASES BY RAILCAR, TRANSPORT, AND PIPELINE WOULD BE ONE OF THE HIGHEST GALLONAGE IN THE UNITED STATES.

Transportation Committee  
February 29, 1984  
Nancy E. Kantola, Exec. V.P.  
Kansas Cooperative Council

Mr. Chairman, members of the Committee, thank you for this opportunity to speak in support of HB 2855.

The Kansas Co-op Council has as members the supply and marketing co-ops in Kansas which handle such products used by farmers as LP gas, petroleum and anhydrous ammonia.

The "handlers" of these products are trained in safety procedures as well as emergency procedures. Both Farmland Industries and their insurance companies provide training to local co-op employees so they will know how to respond in emergency situations.

That brings me to the point of HB 2855. I would support the testimony provided by Ken Johnson, and add that the same situation applies to anhydrous. I made some calls and found we enjoy a very low accident rate, and indeed have not had third party lawsuits in the last six years.

However, this bill if passed would certainly provide the knowledgeable people peace of mind when they respond to a call for help. The rural areas where these co-op employees live and work are not staffed with hazardous materials teams and utilize volunteer firemen, so they may be the only people competent to respond if an accident involving anhydrous ammonia should occur.

On behalf of the members of the Kansas Co-op Council, I urge your support for HB 2855.

A++ 4

TESTIMONY ON HOUSE BILL 2855  
BEFORE THE HOUSE TRANSPORTATION COMMITTEE

BY

MAHLON G. WEED

Under the provisions of Kansas Statutes Annotated 48-928, the Division of Emergency Preparedness is charged with the responsibility of coordinating and supervising the response and recovery of transported hazardous material accidents. We feel that House Bill 2855 would assist our efforts.

The initial response to most accidents comes from County Emergency Preparedness personnel, fire service personnel, Sheriff's personnel, commercial transporters, and commercial manufacturers. By far the majority of fire departments in Kansas are volunteer and many elements of responding County emergency preparedness personnel are volunteers. This bill would aid their response by allowing immunity when trying to assist in an accident.

Our office is on call 24 hours a day so that accidents can be reported at all times. In addition to coordinating response to hazardous material accidents, we recommend actions to be taken in such accidents depending on the chemical properties involved. We also are involved in training personnel in response to hazardous material spills. We instruct in the law enforcement schools and weekend gatherings of volunteer fire personnel.

Although immunity to civil liabilities is present when a State Disaster Emergency is declared, most hazardous material spills are not of



Testimony on House Bill 2855  
Page Two

the magnitude that would require such a declaration. This, however, must not prevent a coordinated response. There has been some hesitancy by responding personnel in taking action when property ownership is in doubt and when assisting across county lines. We believe this bill would aid us in securing timely and adequate response.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY

on  
House Bill 2855  
before

HOUSE TRANSPORTATION COMMITTEE

INTRODUCTION

The Department of Health and Environment has the statutory responsibility to protect the surface and subsurface environment, including fresh and usable water resources, from contamination by the uncontrolled discharge of hazardous substances. While some uncontrolled discharges are intentional and are dealt with by state laws on hazardous waste management and disposal, others occur unintentionally and unexpectedly in the form of spills resulting from pipeline leaks, highway and railway accidents and occasionally, vandalism. These accidents or "events" often occur at night, in bad weather, and in the vicinity of flowing water ways that are used, particularly in Eastern Kansas, for public drinking water supplies. Spillage of hazardous materials requires immediate notification to KDHE by the first observing party.

DISCUSSION

The Department supports the concept of "Good Samaritanship" which is expressed in House Bill 2855, with some restriction on the role of the person providing assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened discharge of a hazardous material. During the course of a year's time, the Department investigates between ten and twenty accidental spills where the substance involved requires special knowledge of the physical and chemical properties before the proper precautions for public safety and spill containment can be safely started. There are several instances where Section 2(a) (lines 28-33) could be helpful in controlling spillage. Two of these are described below:

- (1) Where an instate company which manufactures a hazardous material requiring special handling can advise the Department officials, the Kansas Highway Patrol or local Emergency Preparedness representatives when that same material has been accidentally spilled by an out-of-state manufacturer. In many cases, the out-of-state manufacturer cannot be contacted in the necessary time frame.
- (2) Where companies have specialized containment equipment that can be used and are willing to lend this equipment free gratis as a part of clean-up, containment or hazardous material transfer. In many cases, the original container is damaged in the accident and provisions for equipment by local companies is desirable to effect early containment without threat to public health or safety.

AH 6

## RECOMMENDATIONS

1. Lines 15-16 - The Act should be limited to hazardous material accidents rather than those involving hazardous waste. Hazardous wastes have to be handled and disposed of in accordance with rules and regulations administered by the Department.
2. Line 22 - (b) "Hazardous material" should be defined as follows:  
"A substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety and property when transported in commerce and which has been so designated." This is the commonly used Federal Department of Transportation definition.
3. Conflicts would arise with the Kansas hazardous waste regulations if an assisting or advising person would enter into activities relating to disposal of hazardous materials. These materials become hazardous waste upon unreclaimed discharge and their disposal is subject to state hazardous waste disposal requirements. We suggest deletion of the word "dispose of" in line 31 and "or dispose" in line 32.
4. KDHE is supportive of H.B. 2855 providing the three indicated changes become amendments to the bill.

STATEMENT

By

KANSAS MOTOR CARRIERS ASSOCIATION

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Concerning House Bill 2855 which would provide civil immunity to persons who voluntarily assist with a hazardous materials accident.

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Presented to the House Transportation Committee, Rep. Rex Crowell, Chairman; Statehouse, Topeka, Wednesday, February 29, 1984.

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MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Tom Whitaker, Governmental Relations Director of the Kansas Motor Carriers Association with offices in Topeka. I appear here this afternoon representing the 1,560 member-firms of the Association and the highway transportation industry.

Because of the potential dangers (i.e., explosions, fire, contamination, etc.) in the handling, storing and transporting of many chemical and petroleum products that are of a hazardous nature, emergency situations can arise where truck drivers, train crews, firemen, and other local emergency personnel at the scene of the accident are not qualified or equipped to act quickly and thus avoid very dangerous situations.

Our industry knows from experience, immediate assistance in an accident/spill situation often reduces the subsequent damages to property, the environment, the clean-up cost, and lowers the actual expense of the accident. We have been told of situations where experts, that easily could have helped out at an accident site, refused to respond because of fear of being involved in legal action.

AH 7

It should be clear that the purpose of House Bill 2855 is to encourage knowledgeable individuals and organizations voluntarily to lend expert advice and assistance in the event of accidental or threatened discharge of hazardous materials. House Bill 2855 also makes it clear that there is no change in the liability of those persons responsible for the accident involving the hazardous materials. To the extent that such parties are liable under current law, they would remain liable.

The Kansas Motor Carriers Association supports the passage of House Bill 2855. The bill would encourage prompt and effective clean-up of hazardous materials and thus ensure the greatest possible safety to the public.

We thank you for the opportunity to offer this testimony to the Committee today. I will be pleased to respond to any questions you may have.

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TESTIMONY ON HB 2855  
for House Transportation Committee  
by the Kansas Petroleum Council  
2/29/84

Mr. Chairman and Members of the Committee, I am Ross Martin and I represent the Kansas Petroleum Council. Our members are companies engaged in the oil and gas business in Kansas. They are involved in the production, marketing and transportation of petroleum products.

We appreciate the attention you are giving to HB 2855 in these last days before bills must be moved from the house of origin.

Representative Fry's bill is important legislation for the people of Kansas and it won't cost the taxpayers one thin dime. What this bill does, is untie the hands of people throughout this state who can help prevent accidents from turning into disasters.

The bill addresses the problem of accidental discharges of hazardous materials such as anhydrous ammonia, propane and numerous chemicals. It concerns accidents that can and do occur along our highways, along pipelines, and the railways. These are accidents that result in product spills which are potentially harmful to human beings, to the environment and to property.

ATTACH 8

This bill is intended to encourage help from people who, because of their employment, have specialized knowledge and/or experience in dealing with hazardous materials. These are people who know how to handle accidental spills and who -if they are given the opportunity, can help prevent disasters such as explosions, fires and air or water contamination.

HB 2855 will free people with these skills to help local and state officials, many of whom lack the expertise and equipment to tackle dangerous spills. It will clear the way for experts to give technical advice and, if needed, to use their specialized equipment.

Without the limited protection this bill affords, those people whose help may be badly needed can be placed in a position of having to refuse to help. The reason is that simply by participating in an accident-emergency, they -and their companies, could be sued for negligence as a matter of course. This threat is very real and is enough, in most cases, to make it the wiser choice not to help.

The bill allows a person who wants to help to do so without fear of being routinely sued for his involvement UNLESS that person in some way contributed to the accident OR is being paid for his services.

Of course, if any harm results because such a person was grossly negligent or conducted himself in a reckless manner, he would be liable for his acts.

Good Samaritan legislation of this type has been passed by other states and more states are considering it right now.

Almost 20 years ago, this Legislature passed a similar law allowing medical personnel to give emergency assistance. We note also that K.S.A. 65-2891 extends that immunity to mining enforcement and safety personnel. The times are changing and the problem of hazardous materials accidents is something that deserves your positive action as soon as possible.

The Kansas Petroleum Council believes Rep. Fry's bill is a proper and timely response to this growing threat and we do urge you to pass it.

Thank you. I will be happy to try answering any questions.