

MINUTES OF THE House COMMITTEE ON Transportation

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

1:30 ~~am~~/p.m. on March 1, 1984 in room 519-S of the Capitol.

All members were present except: Representatives Sutter and Charlton - Both 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:

None

Chairman Rex Crowell called the meeting to order and the first order of business was committee discussion and action on HB-2587. Mr. Fred Carman explained the bill briefly to the committee.

The motion was made by Representative Erne to insert "speeding records in any instance where it was 10 mph or more over the speed limit couldn't be used by an insurance company." The motion was seconded by Representative Webb.

Representative Johnson expressed his dissatisfaction with the amendment. Representative Erne told the committee when a person speeds he is violating the law in spite of how many miles per hour over the speed limit he is going so the treatment for insurance purposes should be the same regardless of how much over the speed limit one is going.

The motion failed.

Representative Justice made the motion to table HB-2587. The motion was seconded by Representative Erne.

Representative Knopp made a substitute motion to strike Section 1 and repeal 8-1341A. The motion was seconded by Representative Campbell. Motion passed.

It was moved by Representative Campbell that we recommend HB-2587 favorable for passage. The motion was seconded by Representative Guldner.

Representative Fuller made a substitute motion that HB-2587 be tabled. The motion was seconded by Representative Erne. The motion failed.

The original motion to pass HB-2587 favorable as amended passed.

The next order of business was committee discussion and action on HB-2815 concerning lights on emergency vehicles. Representative Guldner briefed the committee on an amendment to the bill. (See Attachment 1)

Representative Guldner made the motion to adopt the amendment to HB-2815. The motion was seconded by Representative Fuller.

Discussion took place.

A vote was taken to adopt the amendment. The chair ruled the motion failed.

CONTINUATION SHEET

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

A division on the motion to adopt the amendment was requested. Motion passed, 10 voting yes and 8 voting no.

It was moved by Representative Dillon to table HB-2815. The motion was seconded by Representative Erne. Motion failed with 9 voting yes and 10 voting no.

It was moved by Representative Guldner to recommend HB-2815 as amended favorable for passage. The motion was seconded by Representative Harper.

Representative Erne reported to the committee that incorrect information was presented at the hearing on HB-2815. He stated the Kansas Peace Officers Association has not taken a position on this matter and it had originally been reported they were in favor of it.

On the motion to recommend HB-2815 favorably as amended, a vote was taken. The motion failed with seven voting yes and 11 voting no.

The next order of businss was committee discussion and action on HB-2663. Representative Cloud briefed the committee on the bill and presented an amendment. A motion to adopt the amendment was made by Representative Webb. The motion was seconded by Representative Dillon. Motion passed. (See Attachment 2)

It was moved by Representative Webb that HB-2663 be passed favorably as amended. The motion was seconded by Representative Fuller. Motion passed

The next order of business was committee discussion and action on HB-3070 concerning tax imposed on alcohol additives in motor vehicle fuel. Representative Moomaw presented an amendment to HB-3070. (See Attachment 3)

Representative Webb made a motion to adopt the amendments to HB-3070, suggested by Representative Moomaw. The motion was seconded by Representative Moomaw. Motion passed.

It was moved by Representative Webb that we recommend HB-3070 as amended favorably for passage. The motion was seconded by Representative Moomaw. Motion passed.

The next order of business was committee discussion and action on HB-3052 concerning changing from a weight to a volume basis for determining the ethyl alcohol content in motor fuels. It was moved by Representative Adam that we recommend HB-3052 favorable for passage. The motion was seconded by Representative Shelor. Motion passed.

The next order of business was committee discussion and action on HB-2855. Representative Knopp presented a "balloon" on HB-2855. (See Attachment 4) Chairman Crowell distributed information on "Good Samaritan Statutes" in other states. (See Attachment 5)

It was moved by Representative Knopp that we add the language shown in the first two lines of the balloon handout of the bill regarding a request from State agency or law enforcement officer. The motion was seconded by Representative Adam.

Representative Johnson stated he opposed the amendment. Discussion among committee members ensued.

The motion to amend by Representative Knopp failed.

CONTINUATION SHEET

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

It was moved by Representative Knopp to amend HB-2855 to adopt the portion of the language in the balloon dealing with the length of time an emergency could exist. Motion was seconded by Representative Johnson. Motion passed.

Representative Knopp moved to adopt the third portion of the balloon language and insert it in the bill to replace Section 2(a). Motion was seconded by Representative Sutter. Motion passed.

It was moved by Representative Ott to amend HB-2855 as requested by Health & Environment in Item 2 of their recommendations. (See Attachment 6) The motion was seconded by Representative Knopp. Motion passed.

It was moved by Representative Erne to amend HB-2855, line 17, by striking "waste" and inserting in lieu thereof "materials". Motion was seconded by Representative Fuller. Motion passed.

It was moved by Representative Webb to recommend HB-2855 as amended favorable for passage. The motion was seconded by Representative Erne. Motion passed.

The next order of business was committee discussion and action on HB-2963 concerning the height of headlamps on motor vehicles. Representative Guldner presented an amendment to HB-2963. (See Attachment 7) The motion was made by Representative Guldner to adopt the amendment. The motion was seconded by Representative Fuller.

Discussion on HB-2963 ensued, and it was suggested by Fred Carman to add the word "only" between the words "apply" and "to" in the amendment in the sentence "The provisions of this act shall apply to passenger cars and trucks registered for a gross weight of 12,000 pounds or less."

Representative Guldner agreed to include the suggestion in his amendment, as did the second, Representative Fuller. Motion passed.

The motion was made by Representative Dillon to recommend HB-2963 favorable for passage as amended. The motion was seconded by Representative Harper. The motion passed.

The meeting was adjourned at 3:30 p.m.

  
Rex Crowell, Chairman

GUEST LIST

COMMITTEE: TRANSPORTATION

DATE: 3-1-84

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
<i>[Signature]</i>	Topoka	Kans LP Gas Assn
<i>[Signature]</i>	Topoka	KPC
Bill Wussert	Butterville OK	Phillips Petroleum Co
Rita Kelly	Linn	-
Tom Regan	Topoka	KATC
Glenn D. Casswell	Topoka	Smoot Grain Co
K.R. Rissler	✓	K.L.P. Ass'n
Joyce D. Cole	Topoka	The Legist & General Ass'n
<i>[Signature]</i>	Berryton	Highrollers
Rick Buckler	Topoka	Highrollers
John Landon	Topoka	Highrollers
Charles Nicolay	Topoka	Ks Oil Marketers Assn.
Tom Whitaker	Topoka	Ks Motor Carriers Ass'n
LARRY WASSMER	OLATHE	FRANKLIN SAVINGS
Joyce WASSMER	olathe	" "
Deek Holdren	Syracuse	
Beverly Holdren	Syracuse, Ks.	
Becky Muldner	Syracuse	
David Palmer	olathe	Chamber of Commerce
TED RICE	OLATHE	Lloyd Sleezer + Assoc
Sharon Purison	olathe	Chamber of Commerce
ED DE SOIGNE	TOPEKA	KDOT
<i>[Signature]</i>	Topoka	Legislators

## Proposed Amendment to House Bill No. 2815

On page 1, in line 34, by striking "blue or red, blue"; in line 35, following the period, by inserting the following: "During the year commencing May 1, 1984, and ending April 30, 1985, in lieu of the foregoing, any such authorized emergency vehicle may utilize equipment as described above, but which emits red and blue light where red light would otherwise be required. During such year the department of transportation shall study whether red flashing light or red and blue flashing light is the more suitable for the purposes of this subsection (a) and shall make report thereon to the governor and the legislature not later than February 1, 1986."; by striking lines 38 to 44, inclusive and inserting the following:

"(b) A police vehicle when used as an authorized emergency vehicle may, but need not, be equipped with flashing red lights specified herein, but any flashing lights, including rotating or oscillating lights, used on a police vehicle, other than the flashing lights specified in K.S.A. 8-1722 and amendments thereto, shall be red in color."

A++ /

## Proposed Amendment to House Bill No. 2663

(As Amended by House Committee of the Whole)

On page 5, in line 160, following the period, by inserting "No all-terrain vehicle shall be operated on any public highway, street or road between the hours of 1/2 hour after sunset until 1/2 hour before sunrise, unless equipped with lights as is required by law for motorcycles."

Att 2

PROPOSED AMENDMENTS TO HOUSE BILL No.3070

On page 4, in line 121, by striking "ethynol" and inserting "ethyl"; in line 126, by striking all after "from" and inserting "grain"; in line 145, by striking "ethynol" and inserting "ethyl";

On page 5, in line 158, by striking "ethynol" and inserting "ethyl"; in line 160, following the period by inserting a new sentence as follows: "Every retail pump for motor-vehicle fuels shall be plainly labeled to show the content of any ethyl alcohol or other alcohol and the amount of each in accordance with rules and regulations adopted by the secretary of revenue."

# HOUSE BILL No. 2855

By Representative L. Fry

2-6

0015 AN ACT providing civil immunity to persons who assist in  
0016 hazardous waste accidents.

0017 *Be it enacted by the Legislature of the State of Kansas:*

0018 Section 1. When used in this act, the following words and  
0019 phrases shall have the following meanings:

0020 (a) "Discharge" means and includes leakage, seepage or  
0021 other release.

0022 (b) "Hazardous materials" means and includes all materials  
0023 and substances which are now or hereafter designated or defined  
0024 as hazardous by any state or federal law or by the regulations of  
0025 any state or federal government agency.

0026 (c) "Person" means and includes any individual, partnership,  
0027 corporation, association or other entity.

0028 ~~Sec. 2. (a) No person who provides assistance or advice in  
0029 mitigating or attempting to mitigate the effects of an actual or  
0030 threatened discharge of hazardous materials, or in preventing,  
0031 cleaning up or disposing of or in attempting to prevent, clean up  
0032 or dispose of any such discharge, shall be subject to civil liabili-  
0033 ties or penalties of any type.~~

0034 (b) The immunity provided in subsection (a) shall not apply  
0035 to any person (1) whose act or omission caused in whole or in  
0036 part such actual or threatening discharge and who would other-  
0037 wise be liable therefore; or (2) who receives compensation other  
0038 than reimbursement for out-of-pocket expenses for its services in  
0039 rendering such assistance or advice.

0040 (c) Nothing in this section shall be construed to limit or  
0041 otherwise affect the liability of any person for damages resulting  
0042 from such person's gross negligence or from such person's reck-  
0043 less, wanton or intentional misconduct.

(c) Requested to provide assistance by any state agency or law enforcement officer.

(d) "Emergency" shall not exceed 18 hours from the initial discovery of an actual threatened discharge of hazardous wastes.

Sec. 2. (a) Any person who renders emergency assistance or advice at the scene of an emergency or accident involving the threatened discharge of hazardous materials shall not be liable for any civil damages for any acts or omissions in mitigating or attempting to mitigate the actual or threatened discharge of hazardous materials.

P.H.

Atch. 4



GOOD SAMARITAN STATUTES

STATE	A	B	C	D	E	F	G	H	I	J	K	L	M
Ala.													
Alaska													
Ariz.													
Ark.	1985	X-1		X		X		X	X				X-20
Calif.													
Colo.	1983	X		X		X		X	X	X-23	X	X	X-20
Conn.	1983	X-27		X		X		X	X	X-28			X-20
Del.	1983	X			X	X		X					X
Fla.	1983	X		X		X		X	X	X-23			X-20
Ga.	1982		X		X		X-2	X	X	X-4	X-3	X-3	
Haw.													
Idaho													
Ill.	1983	X		X		X		X	X	X-23	X		X-20
Ind.	1983	X-22		X		X	X-21	X	X	X-23			X-24
Iowa													
Kans.													
Kent.													
La.	1983	X			X-30	X-32	X-29	X	X	X-31	X	X	
Maine	1985	X		X		X		X	X				X-20
Md.													
Mass.	1983	X			X	X-7		X	X				X
Mich.													
Minn.													
Miss.													
Mo.													
Mont.													
Neb.													
Nev.													
N.H.	1981	X			X	X-7		X	X				X
N.J.	1983		X		X		X-5	X		X-6	X	X	
N.M.													
N.Y.	1983	X-34	X-34	X		X-7	X-34	X	X	X-35	X	X	
N.C.	1981		X		X	X-7		X		X-4	X-3	X-3	
N.D.	1983	X		X		X-7		X	X	X-8			X-20
Ohio													
Okl.	1983	X-26		X		X-7		X	X	X-25	X	X	
Oreg.													
Penn.	1982	X			X-17	X	X-18	X	X	X-19	X		
R.I.	1980		X		X	X-7		X		X-8	X	X	
S.C.													
S.D.	1980	X			X	X		X-9		X-9	X	X	
Tenn.	1981/82	X-16			X-11	X-10	X-13	X-13	X-12	X-15	X	X	
Tex.	1981	X		X		X		X	X		X	X	
Utah													
Ver.													
Va.	1979		X		X	X-7					X	X	
Wash.	1982	X			X-14	X		X	X	X-8	X	X	
W.V.													
Wis.													
Wy.													

- A. Date Enacted.
- B. Covers hazardous materials generally.
- C. Covers only compressed gases (or LP-gas/LNG specifically).
- D. Does not require request for assistance.
- E. Police, fire department, or other public agency must request assistance.
- F. Covers any individual, partnership, corporation or association.
- G. Requires special training or expertise.
- H. Excludes gross negligence or willful misconduct.
- I. Covers only gratuitous services.
- J. Other exclusions.
- K. Covers transportation, including loading and unloading.
- L. Covers storage.
- M. Covers emergencies generally.

Att. 5

8629360

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.

## 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.

Proposed Amendment to House Bill No. 2963

On page 1, by striking lines 20 to 30, inclusive, and inserting a new section as follows:

"Section 1. No motor vehicle shall have a distance greater than \_\_\_\_\_ from the surface of the highway to the lowest part of the manufactured body of such motor vehicle. For the purpose of this section, the manufactured body of a motor vehicle shall not include bumpers. The provisions of this act shall <sup>only</sup> apply to passenger cars and trucks registered for a gross weight of 12,000 pounds or less.";

By renumbering section 3 as section 2;

In the title, in line 17, by striking all after the semicolon where it first appears, and inserting "elevated vehicles;"