

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Vidricksen at _____
Chairperson

1:40 ~~xam~~/p.m. on January 17, 1984 in room 531N of the Capitol.

All members were present except:

Senator Gaar

Committee staff present:

Bruce Kensie - Revisor
Norm Furse - Revisor
Julian Efird - Research

Conferees appearing before the committee:

Harley Duncan - Department of Revenue

Senator Vidricksen called the Committee to order in a special meeting to consider, discuss and take final action on New Section 11, Open Records Bill - HB 2668.

The Revisor explained the amendment in question (Exhibit A) stating that it had been properly printed by the Printer but was somehow dropped in the final version that went to the Governor.

Senator Meyers requested that the bill be passed as signed and not as it came out of the Legislature last year. If this was not done, a "full blown" hearing was requested.

The Committee then requested to hear from the Department of Revenue concerning this issue. Mr. Harley Duncan presented a brief explanation of the Attorney General's opinion regard Public Inspection of Division Records. (Exhibit B)

After considerable discussion a motion was made by Senator Johnston to move the bill out of committee without recommendation to the floor of the Senate. This was seconded by Senator Gaines and carried with one dissenting vote. Senator Meyers requested to go on record as voting "No".

The meeting was adjourned at 2:10 p.m. by the Chairman.

EXHIBIT A

02/09/83 House—Introduced—HJ 202
 02/10/83 House—Referred to Education—HJ 215
 02/25/83 House—CR: Be passed by Education—HJ 290
 03/09/83 House—Withdrawn from calendar, referred to Ways & Means—HJ 422
 04/20/83 House—CR: Be passed by Ways & Means—HJ 812
 04/24/83 House—Withdrawn from calendar, rereferred to Education—HJ 986

H 2326 Bill by Apt, Brady, Crumbaker, Erne, Fox, Frey, R., Friedeman, Green, Hamm, Harder, Harper, Heinemann, Myers, Patterson, Reinhardt, Shriver, Sughrue, Wunsch
Counties; restrictions on home rule powers with regard to out-district tuition.
 Effective date: KS Register.

02/09/83 House—Introduced—HJ 202
 02/10/83 House—Referred to Education—HJ 215
 02/25/83 House—CR: Be passed by Education—HJ 290
 03/09/83 House—Withdrawn from calendar, referred to Ways & Means—HJ 422
 04/20/83 House—CR: Be passed by Ways & Means—HJ 812
 04/24/83 House—Withdrawn from calendar, rereferred to Education—HJ 986

H 2327 Bill by Whitaker, Louis

Open public records. Effective date: 01/01/84.
 02/09/83 House—Introduced—HJ 202
 02/10/83 House—Referred to Fed. & State Affairs—HJ 216
 03/07/83 House—CR: Be passed as am. by Fed. & State Affairs—HJ 371
 03/15/83 House—COW: CR be adptd; be further am.; be passed as am.—HJ 441
 03/16/83 House—FA: Passed as am.; Yeas 117 Nays 4—HJ 449
 03/16/83 Senate—Received and introduced—SJ 323
 03/17/83 Senate—Referred to Gov'tl Org.—SJ 337
 04/09/83 Senate—CR: Be passed as am. by Gov'tl Org.—SJ 616
 04/20/83 Senate—EFA, amt. & debate: CR adptd; further am.; passed as am.; Yeas 30 Nays 8—SJ 650
 04/21/83 House—Nonconcurrent; CC requested; apptd Whitaker, Louis, Peterson—HJ 845
 04/22/83 Senate—Acceded; apptd Vidricksen, Pomeroy, Francisco—SJ 701
 04/23/83 House—Concurred; Yeas 122 Nays 2—HJ 934
 04/27/83 House—Enrolled and presented to gov.
 05/06/83 —Approved by gov.

H 2328 Bill by Fed. & State Affairs

Alcoholic content, age of consumption and days of sale for cereal malt beverage.
 Effective date: 01/01/84.
 02/09/83 House—Introduced—HJ 202
 02/10/83 House—Referred to Fed. & State Affairs—HJ 216
 03/01/83 House—CR: Be not passed by Fed. & State Affairs—HJ 311; Dead, committee report

H 2329 Bill by Duncan, Aylward, Barkis, Blumenthal, Branson, Cloud, Crowell, Dean, Douville, Dyck, Friedeman, Fuller, W., Hassler, Heigerson, Knopp, Laird, Long, Lowther, Miller, D., Miller, V., Ott, B., Poison, Runnels, Sand, Sughrue, Webb (Darrel)
Income tax credit, contributions to community facilities for the mentally retarded and united cerebral palsy research foundation. Effective date: 07/01/83.

02/09/83 House—Introduced—HJ 202
 02/10/83 House—Referred to Ass. & Tax.—HJ 215

H 2330 Bill by Duncan

Classes of persons not eligible to receive license under Kansas liquor control act.
 Effective date: 07/01/83.
 02/09/83 House—Introduced—HJ 202
 02/10/83 House—Referred to Fed. & State Affairs—HJ 216
 03/17/83 House—CR: Be passed by Fed. & State Affairs—HJ 457
 03/24/83 House—COW: Be passed—HJ 510
 03/25/83 House—FA: Passed; Yeas 110 Nays 9—HJ 528
 03/25/83 Senate—Received and introduced—SJ 410
 03/28/83 Senate—Referred to Fed. & State Affairs—SJ 417

H 2331 Bill by Roenbaugh, Farrar, Friedeman, Guldner, Moomaw, Shelor, Sughrue
Requiring natural gas to be supplied to irrigators upon land where wells and gathering systems are located. Effective date: 07/01/83.

Ex. A

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H:

H 2334 Bill

H 2335 Bill

H 2336 Bill

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0520 ~~dence and other papers shall become public records.~~
 0530 (g) The provisions of this section, as amended on January 1,
 0531 ~~1982~~ 1984, shall apply only to persons elected or succeeding to
 0532 the office of governor on or after that date. Any person elected
 0533 or succeeding to the office of governor prior to January 1, ~~1982~~
 0534 1984, shall be governed by the provisions of this section prior to
 0535 its amendment on that date.
 0536 New Sec. ~~10~~ 11. (a) Except to the extent otherwise autho-
 0537 rized by law, no person shall knowingly sell, give or receive, for
 0538 the purpose of selling or offering for sale any property or service
 0539 to persons listed therein, any list of names and addresses con-
 0540 tained in or derived from public records of the division of motor
 0541 vehicles of the department of revenue. ←
 0542 (b) Violation of this section is a class C misdemeanor.
 0543 New Sec. ~~11~~ 12. (a) All records provided to be maintained
 0544 under K.S.A. 44-550 and amendments thereto shall be open to
 0545 public inspection.
 0546 (b) This section shall be part of and supplemental to the
 0547 workmen's compensation act.
 0548 New Sec. ~~12~~ 13. If any provisions of this act or the applica-
 0549 tion thereof to any person or circumstances is held invalid, the
 0550 invalidity shall not affect other provisions or applications of the
 0551 act which can be given effect without the invalid provisions or
 0552 application and, to this end, the provisions of this act are sever-
 0553 able.
 0554 New Sec. 14. Records of the office of the ombudsman of
 0555 corrections or of the corrections ombudsman board which relate
 0556 to complaints by correctional inmates or employees shall not be
 0557 disclosed directly or indirectly to any person except as autho-
 0558 rized by the ombudsman of corrections or by a majority vote of
 0559 the corrections ombudsman board.
 0560 New Sec. 15. (a) The state corporation commission shall not
 0561 disclose to [or allow inspection by] anyone[, including but not
 0562 limited to parties to a regulatory proceeding before the commis-
 0563 sion,] any trade secret or confidential commercial information of
 0564 a corporation, partnership or individual proprietorship regulated
 0565 by the commission unless the commission finds that disclosure is

0568 (g) The provisions of this section, as amended on January 1,
 0569 ~~1982~~ 1984, shall apply only to persons elected or succeeding to
 0570 the office of governor on or after that date. Any person elected
 0571 or succeeding to the office of governor prior to January 1, ~~1982~~
 0572 1984, shall be governed by the provisions of this section prior to
 0573 its amendment on that date.

0574 (h) As used in this section, "institution of post-secondary
 0575 education" means state educational institutions under the con-
 0576 trol and supervision of the state board of regents, community
 0577 colleges organized and operated under laws of this state, any
 0578 municipal university established under article 13a of chapter 13
 0579 of the Kansas Statutes Annotated and any private institution of
 0580 post-secondary education which is approved by the state board
 0581 of regents to award academic degrees.

0582 New Sec. ~~10~~ 11. (a) Except to the extent otherwise autho-
 0583 rized by law, no person shall knowingly sell, give or receive, for
 0584 the purpose of selling or offering for sale any property or service
 0585 to persons listed therein, any list of names and addresses con-
 0586 tained in or derived from public records of the division of motor
 0587 vehicles of the department of revenue other than from public
 0588 records of the division of vehicles obtained under K.S.A. 74-2012
 0589 and amendments thereto.

0590 (b) Violation of this section is a class C misdemeanor.

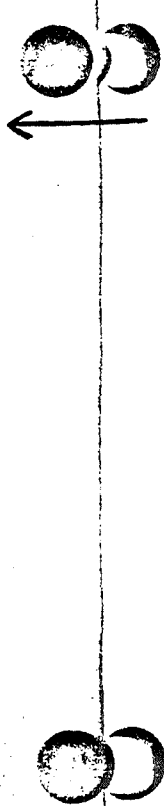
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 0593 public inspection.

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 0595 workmen's compensation act.

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 0597 tion thereof to any person or circumstances is held invalid, the
 0598 invalidity shall not affect other provisions or applications of the
 0599 act which can be given effect without the invalid provisions or
 0600 application and, to this end, the provisions of this act are sever-
 0601 able.

0602 New Sec. 14. Records of the office of the ombudsman of
 0603 corrections or of the corrections ombudsman board which relate
 0604 to complaints by correctional inmates or employees shall not be

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Approved April 22, 1983
Date

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Vidricksen at
Chairperson

1:27 a.m./p.m. on April 8, 1983 in room 531N of the Capitol.

All members were present except:

Senator Gaines

Committee staff present:

Norm Furse - Revisor
Julian Efird - Legislative Research

Conferees appearing before the committee:

Barbara Reinert - Women's Political Caucus

Barbara Reinert addressed the committee on behalf of House Bill 2327 and requested that (31) on page 11 be put back in the bill to protect the privacy of the individual. After some discussion it was the consensus of the committee that (31) on page 11 be re-inserted into the bill.

Senator Hein made a motion to add to Sec. 11, page 15, after the words recorded in line 540, the words "other than from public records of the division of vehicles under 74-2012)." This was seconded by Senator Roitz and after some discussion on this matter the motion carried.

It was the consensus of the committee to make Sec. 16, page 16 a part of Sec. 2 on page 1.

At this point Senator Francisco made the motion to pass House Bill ²³²⁷ ~~2370~~ favorably out of committee. Senator Mulich seconded this and motion carried.

The committee was adjourned by the Chairman at 1:53 p.m.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Governmental Organization

Recommends that House Bill No. 2327 (As Amended by House Committee of the Whole)

"AN ACT concerning public records; amending K.S.A. 1982 Supp. 75-104 and repealing the existing section; also repealing K.S.A. 45-202, 45-203 and 45-204 and K.S.A. 1982 Supp. 45-201."

Be amended:

On page 1, in line 28, by inserting before "It" the following: "(a)"; following line 31, by inserting the following:

"(b) Nothing in this act shall be construed to require the retention of a public record nor to authorize the discard of a public record.";

On page 3, in line 101, by striking "second" and inserting in lieu thereof "third"; in line 103, by striking all before "immediately" and inserting in lieu thereof "access to the public record is not granted"; in line 104, by striking all after "give"; by striking all of lines 105 and 106; in line 107, by striking "gives"; in line 113, by striking "first" and inserting in lieu thereof "third"; in line 115, by striking "If" and inserting in lieu thereof "The custodian may refuse to provide access to a public record, or to permit inspection, if"; in line 118, by striking all after "agency"; in line 119, by striking all before the period;

On page 4, in line 123, by striking "inspection" and inserting in lieu thereof "providing access to or furnishing copies"; in line 128, by inserting after the period the following: "A public agency shall not be required to provide copies of radio or recording tapes or discs, video tapes or films, pictures, slides, graphics, illustrations or similar audio or visual items or devices, unless such items or devices were shown or played to a public meeting of the governing body thereof, but the public agency shall not be required to provide

such items or devices which are copyrighted by a person other than the public agency."; in line 149, by inserting before the period the following: "to make the information available"; in line 154, by striking ", in excess of \$20";

On page 5, in line 178, by striking "section" and inserting in lieu thereof "act";

On page 6, in line 207, by striking "weeks" and inserting in lieu thereof "business days"; in line 229, by inserting before "copies" the following: "access to or";

On page 7, in line 251, by inserting before "applicants" the following: "employees or"; in line 256, by inserting before the period the following: "or any informant reporting a specific violation of law";

On page 8, in line 296, by striking "real estate"; in line 306, by striking "the individuals to whom distributed" and inserting in lieu thereof "such a private individual";

On page 9, in lines 334 and 335, by striking ": (A) Publicly" and inserting in lieu thereof "publicly"; in line 336, by striking all after "meeting"; by striking all of lines 337 to 341, inclusive; in line 342, by striking all before the period;

On page 10, in line 370, by inserting before "pertaining" the following: "or other public service"; in line 371, by inserting before the comma the following: "or service"; in line 375, by striking "sealed";

On page 11, following line 388, by inserting the following:

"(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of person privacy.

(31) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.";

line 422, by striking all before the period; in lines 426 and 427, by striking "court costs and"; in line 428, by inserting before "such" the following: "the agency's denial of"; in lines 428 and 429, by striking "denied in violation of this act" and inserting in lieu thereof "not in good faith and without a reasonable basis in fact or law"; in lines 433 and 434, by striking "court costs and"; in line 438, by striking all after "section";

On page 14, in line 506, by inserting before "shall" the following: "shall be transferred to the custody of an institution of post-secondary education designated by the former governor or, if the former governor does not designate an institution of post-secondary education as the depository, such records, correspondence and other papers"; in line 526, by inserting before "shall" the following: "shall be transferred to the custody of an institution of post-secondary education designated by such governor or, if such governor did not designate an institution of post-secondary education as the depository, such records, correspondence and other papers";

On page 15, following line 535, by inserting the following:

"(h) As used in this section, "institution of post-secondary education" means state educational institutions under the control and supervision of the state board of regents, community colleges organized and operated under laws of this state, any municipal university established under article 13a of chapter 13 of the Kansas Statutes Annotated and any private institution of post-secondary education which is approved by the state board of regents to award academic degrees.";

Also on page 15, in line 540, by striking all after "records"; in line 541, by striking all before the period and inserting in lieu thereof the following: "other than from public records of the division of vehicles obtained under K.S.A. 74-2012 and amendments thereto";

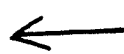
And the bill be passed as amended.

Chairperson

Records of the Governor not required to be kept by statute would be exempt from examination by the Legislative Post Auditor. New Language provides that records which relate to a former Governor's duties will be transferred to the State Historical Society, although the former Governor would be the official custodian of the records for purposes of the act and the exemptions of Section 7. These new provisions would apply only to governors elected after the effective date of the act.

Section 11 - Division of Vehicles Records

No person may sell, give or receive any list of names and addresses contained in the public records of the Division of Vehicles for the purpose of selling or offering for sale any property or service.



Section 12 - Workers' Compensation Record

This section provides that medical records maintained under the Workers' Compensation Act will continue to be open for public inspection.

Section 13 - Severability Clause

Section 14 - Ombudsman of Corrections

Records of the Corrections Ombudsman or the Corrections Ombudsman Board which relate to complaints shall not be disclosed except as authorized by the Ombudsman or the Board.

Section 15 - State Corporation Commission

The State Corporation Commission shall not disclose any trade secret or confidential commercial

Records of the Governor not required to be kept by statute would be exempt from examination by the Legislative Post Auditor. Records which relate to a former Governor's duties shall be transferred to either an accredited four-year institution of higher education or to the State Historical Society, although the former Governor would be the official custodian of the records for purposes of the act and the exemptions of Section 7. These new provisions would apply only to governors elected after the effective date of the act.

Section 11 - Division of Vehicles Records

No person may sell, give or receive any list of names and addresses contained in the public records for the purpose of selling or offering for sale any property or service other than from public records of the Division of Vehicles.



Section 12 - Workers' Compensation Record

This section provides that medical records maintained under the Workers' Compensation Act will continue to be open for public inspection.

Section 13 - Severability Clause

Section 14 - Ombudsman of Corrections

Records of the Corrections Ombudsman or the Corrections Ombudsman Board which relate to complaints shall not be disclosed except as authorized by the Ombudsman or the Board.

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shall be governed by the provisions of this section prior to its amendment on that date.

(h) As used in this section, "institution of post-secondary education" means state educational institutions under the control and supervision of the state board of regents, community colleges organized and operated under laws of this state, any municipal university established under article 13a of chapter 13 of the Kansas Statutes Annotated and any private institution of post-secondary education which is approved by the state board of regents to award academic degrees.

New Sec. 11. (a) Except to the extent otherwise authorized by law, no person shall knowingly sell, give or receive, for the purpose of selling or offering for sale any property or service to persons listed therein, any list of names and addresses contained in or derived from public records.

(b) Violation of this section is a class C misdemeanor.

New Sec. 12. (a) All records provided to be maintained under K.S.A. 44-550 and amendments thereto shall be open to public inspection.

(b) This section shall be part of and supplemental to the workmen's compensation act.

New Sec. 13. If any provisions of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.

New Sec. 14. Records of the office of the ombudsman of corrections or of the corrections ombudsman board which relate to complaints by correctional inmates or employees shall not be disclosed directly or indirectly to any person except as authorized by the ombudsman of corrections or by a majority vote of the corrections ombudsman board.

New Sec. 15. (a) The state corporation commission shall not disclose to or allow inspection by anyone, including but not limited to parties to a regulatory proceeding before the commission, any trade secret or confidential commercial information of a corporation, partnership or individual proprietorship regulated by the commission unless the commission finds that disclosure is warranted after consideration of the following factors:

- (1) Whether disclosure will significantly aid the commission in fulfilling its functions;
- (2) the harm or benefit which disclosure will cause to the public interest;



HB 2327

HB 2244, An act concerning the retirement of Kansas public employees under certain retirement systems of the Kansas public employees retirement system; providing a plan of death benefits and a minimum retirement annuity for judges; concerning mandatory retirement and participation in the system; relating to certain persons excluded from membership by reason of age; providing for credit of certain prior service; concerning employer contribution rates; concerning reemployment; providing for retirant death benefits; providing for crediting of prior and participating service and benefits under certain circumstances; amending K.S.A. 74-4911, 74-4913, 74-4919i, 74-4935, 74-4936 and 74-4939 and K.S.A. 1982 Supp. 20-2610, 20-2610a, 74-4914, 74-4917, 74-4919, 74-4920, 74-4927a, 74-4927b, 74-4937, 74-4963 and 74-4989 and repealing the existing sections; and also repealing K.S.A. 1982 Supp. 74-49a162, was considered for final action.

The bill was amended by adoption of the committee amendments; was further amended by motion of Senator Talkington on page 1, in line 45, by striking "(b)" and inserting "(c)"; in line 48, by striking "(b)" and inserting "(c)"; in line 50, by striking "(b)" and inserting "(c)";

On page 2, in line 54, by striking "(b)" and inserting "(c)"; following line 60, by inserting the following:

"(b) A judge who retires under subsection (a) of K.S.A. 20-2608, and amends thereto, after 10 years of continuous service at the attainment of normal retirement age of 65 shall be entitled to receive an annuity, each monthly payment of which shall be in an amount which is at least 50% of the final average salary of such judge, determined as provided in subsection (c)."

Also on page 2, in line 61, by striking "(b)" and inserting "(c)".

On roll call, the vote was: Yeas 35, nays 3; present and passing 0; absent or not voting 2.

Yeas: Allen, Angell, Arasmith, Bogina, Burke, Daniels, Doyen, Ehrlich, Feliciano, Gaar, Gaines, Gannon, Gordon, Harder, Hayden, Hein, Hess, Johnston, Karr, Kerr, McCray, Meyers, Montgomery, Morris, Mulich, Norvell, Parrish, Pomeroy, Steineger, Talkington, Thiessen, Vidricksen, Warren, Werts, Winter.

Nays: Chaney, Francisco, Roitz.

Absent or not voting: Rehorn, Reilly.

The bill passed, as amended.

HB 2327, An act concerning public records; amending K.S.A. 1982 Supp. 75-104 and repealing the existing section; also repealing K.S.A. 45-202, 45-203 and 45-204 and K.S.A. 1982 Supp. 45-201, was considered for final action.

The bill was amended by adoption of the committee amendments; was further amended by motion of Senator Pomeroy on page 2, in line 76, by striking "any" and inserting ": (A) Any"; in line 78, after "entity", by inserting "; (B) any municipal judge, judge of the district court, judge of the court of appeals or justice of the supreme court; or (C) any officer or employee of the state or a political or taxing subdivision of the state if the state or political or taxing subdivision does not provide the officer or employee with an office which is open to the public at least 35 hours a week"; on page 2, in line 79, after "(f)", by inserting "(1)"; in line 81, by striking ", but", and inserting a period and beginning a new paragraph as follows:

"(2) 'Public record'";

Also on page 2, in line 84, after "funds", by inserting "or records which are made, maintained or kept by an individual who is a member of the legislature or of the governing body of any political or taxing subdivision of the state"; on page 9, in line 315, by striking "real"; on page 14, line 524, by striking out "of a" and inserting "as"; in line 526 by inserting "of the former governor" after "papers".

No floor amendment to p. 16.

Was amended by motion of Senator Hein on page 11, in line 401, after "to", by inserting "disclosure to"; in line 409, by striking "person" and inserting "personal".

Was amended by motion of Senator Talkington on page 11, following line 417, by inserting the following:

"(32) The bidder's list of contractors who have requested bid proposals for construction projects from any public agency, until a bid is accepted or all bids rejected.

(33) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(34) Financial information submitted by contractors in qualification statements to any public agency."

On roll call, the vote was: Yeas 30, nays 8; present and passing 0; absent or not voting 2.

Yeas: Allen, Bogina, Chaney, Daniels, Ehrlich, Feleciano, Francisco, Gaar, Gaines, Gannon, Gordon, Hayden, Hein, Hess, Johnston, Karr, Kerr, McCray, Meyers, Montgomery, Morris, Mulich, Norvell, Parrish, Pomeroy, Roitz, Talkington, Vidricksen, Warren, Winter.

Nays: Angell, Arasmith, Burke, Doyen, Harder, Steineger, Thiessen, Werts. Absent or not voting: Rehorn, Reilly.

The bill passed, as amended.

On emergency motion of Senator Talkington the Senate adjourned until 10:00 a.m., Thursday, April 21, 1983.

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0570 upon consent of the former governor, and the former governor
0571 shall be considered the official custodian of such records, cor-
0572 respondence and other papers which are not required to be
0573 disclosed.

0574 (f) Upon the death of a governor while in office, all records,
0575 correspondence and other papers of such deceased governor not
0576 required to be kept and maintained under subsections (a) or (b)
0577 which relate to such governor's duties while governor shall be
0578 transferred to the custody of the institution of higher education
0579 in Kansas designated by such governor or, if such governor did
0580 not designate an institution of higher education in Kansas as the
0581 depository, such records, correspondence and other papers shall
0582 be transferred to the custody of an institution of post-secondary
0583 education designated by such governor or, if such governor did
0584 not designate an institution of post-secondary education as the
0585 depository, such records, correspondence and other papers shall
0586 be transferred to the custody of the state historical society. Two
0587 years after the death of such governor, such records, correspon-
0588 dence and other papers shall become public records.

0589 (g) The provisions of this section, as amended on January 1,
0590 ~~1982~~ 1984, shall apply only to persons elected or succeeding to
0591 the office of governor on or after that date. Any person elected
0592 or succeeding to the office of governor prior to January 1, ~~1982~~
0593 1984, shall be governed by the provisions of this section prior to
0594 its amendment on that date.

0595 (h) As used in this section, "institution of post-secondary
0596 education" means state educational institutions under the con-
0597 trol and supervision of the state board of regents, community
0598 colleges organized and operated under laws of this state, any
0599 municipal university established under article 13a of chapter 13
0600 of the Kansas Statutes Annotated and any private institution of
0601 post-secondary education which is approved by the state board
0602 of regents to award academic degrees.

0603 New Sec. 10 11. (a) Except to the extent otherwise autho-
0604 rized by law, no person shall knowingly sell, give or receive, for
0605 the purpose of selling or offering for sale any property or service
0606 to persons listed therein. any list of names and addresses con-

0607 tained in or derived from public records of the division of motor
0608 vehicles of the department of revenue other than from public
0609 records of the division of vehicles obtained under K.S.A. 74-2012
0610 and amendments thereto.

0611 (b) Violation of this section is a class C misdemeanor.

0612 New Sec. ~~11~~ 12. (a) All records provided to be maintained
0613 under K.S.A. 44-550 and amendments thereto shall be open to
0614 public inspection.

0615 (b) This section shall be part of and supplemental to the
0616 workmen's compensation act.

0617 New Sec. ~~12~~ 13. If any provisions of this act or the applica-
0618 tion thereof to any person or circumstances is held invalid, the
0619 invalidity shall not affect other provisions or applications of the
0620 act which can be given effect without the invalid provisions or
0621 application and, to this end, the provisions of this act are sever-
0622 able.

0623 New Sec. 14. Records of the office of the ombudsman of
0624 corrections or of the corrections ombudsman board which relate
0625 to complaints by correctional inmates or employees shall not be
0626 disclosed directly or indirectly to any person except as autho-
0627 rized by the ombudsman of corrections or by a majority vote of
0628 the corrections ombudsman board.

0629 New Sec. 15. (a) The state corporation commission shall not
0630 disclose to [or allow inspection by] anyone[, including but not
0631 limited to parties to a regulatory proceeding before the commis-
0632 sion,] any trade secret or confidential commercial information of
0633 a corporation, partnership or individual proprietorship regulated
0634 by the commission unless the commission finds that disclosure is
0635 warranted after consideration of the following factors:

0636 (1) Whether disclosure will significantly aid the commission
0637 in fulfilling its functions;

0638 (2) the harm or benefit which disclosure will cause to the
0639 public interest;

0640 (3) the harm which disclosure will cause to the corporation,
0641 partnership or sole proprietorship; and

0642 (4) alternatives to disclosure that will serve the public inter-

37, § 1; L. 1909, 701; L. 1973, ch. § 1; L. 1978, ch. § 15; L. 1981, ch. 54; L. 1982, ch.

quorum. The meeting each held at a time by the board. constitute a quorum. 7, § 3; R.S. 1923, § 2; L. 1981, ch.

F BARBER S

ber examiners; oath; term; ad- person and treat- ion and treat- ion. (a) There is ber examiners to be appointed er of the board one member of eyman barber. shall represent member of the s who are ap- general public, as a practical rs immediately member of the the member's ovided by law member of the ch year for the all hold office and qualified. designate one administrative ereof and the tion during the thereafter, the administrative arm of appoint- cer shall also and shall keep s and perform rd shall direct. resignation or y appointment ular appoint- hall serve only heir predeces-

sors. The board of barber examiners shall, with the approval of the secretary of health and environment, adopt such sanitary rules and regulations as it may deem necessary to prevent spreading of infectious or contagious diseases. A copy of such rules and regulations shall be furnished each person to whom a certificate of registration is granted, and a copy shall be posted in a conspicuous place in each barber shop, barber school or barber college by the manager thereof.

History: L. 1939, ch. 241, § 16; L. 1961, ch. 379, § 1; L. 1967, ch. 434, § 30; L. 1975, ch. 462, § 110; L. 1978, ch. 308, § 59; L. 1981, ch. 248, § 8; July 1.

Article 20.—STATE HIGHWAY COMMISSION

74-2012. Division of vehicles records open for public inspection; confidentiality of certain records; furnishing requested information to certain parties; fees, approval; rules and regulations. All records of the division of vehicles pertaining to title, registration, licenses, dealers, drivers' licenses and accident reports shall be public records and open to inspection by the public. Other records relating to the physical or mental condition of any person shall be confidential. Copies of information contained in public records relating to any person shall be provided by the division to such person upon request. Copies of such information shall be provided to any person, firm, corporation, partnership or association either upon the written authorization of the person to whom such information relates or upon the requesting party's written certification that:

(a) The requesting party has a security interest in a motor vehicle owned by such person, or such person has offered to pledge such motor vehicle to the requesting party as security for a loan; or

(b) the requesting party is an employer or prospective employer of such person who, as a condition of such employment, will be engaged in the operation of motor vehicles owned by the requesting party; or

(c) the information relates to an application for or renewal or cancellation of a casualty insurance policy issued by the requesting party or through its authorized agent, and that the requesting party and any

such agent is fully licensed by the Kansas insurance department.

In addition, the director of vehicles may furnish information in any of its public records to a requesting party who submits proof satisfactory to the director that the information requested is to be used by the requesting party for the purpose of providing information to a manufacturer of motor vehicles registered in this state. A fee in an amount fixed by the secretary of revenue and approved by the director of accounts and reports under K.S.A. 45-204, for each request for information in the public records of the division concerning any vehicle or licensed driver shall be charged by the division, except that the director may charge a lesser fee pursuant to a contract between the secretary of revenue and any person to whom the director is authorized or required to furnish information under this section and such fee shall not be less than the cost of production or reproduction of any information requested.

The secretary of revenue may adopt such rules and regulations as are necessary to implement the provisions of this section.

History: L. 1929, ch. 81, § 4; L. 1945, ch. 88, § 2; L. 1957, ch. 425, § 1; L. 1961, ch. 381, § 1; L. 1972, ch. 286, § 1; L. 1975, ch. 400, § 1; L. 1978, ch. 347, § 16; L. 1981, ch. 301, § 1; July 1.

Article 21.—KANSAS HIGHWAY PATROL 74-2108.

CASE ANNOTATIONS

1. A warrantless search for the purpose of inspecting any records or documents required to be maintained and kept in a truck cab, and to check required safety equipment, is not unreasonable. *State v. Williams*, 8 KA.2d 14, 20, 22, 648 P.2d 1156 (1982).

74-2113. Patrol created; appointment and salary of superintendent; appointment and qualifications of assistant superintendent, officers and troopers; restrictions. (a) There is hereby created a Kansas highway patrol. The patrol shall consist of: (1) A superintendent, who shall have the rank of colonel and who shall have special training and qualifications for such position; (2) an assistant superintendent, who shall have the rank of lieutenant colonel; and (3) officers and troopers who are appointed in accordance with appropriation acts and as provided in this section. The superintend-

CHRONOLOGY OF EVENTS

EXHIBIT B

1. April 1983 - HB 2327, the Open Records Act was approved by the Legislature on the presumption that it did not apply to Division of Vehicle records due to Department of Revenue's interpretation of K.S.A. 74-2012. That interpretation held that while Division of Vehicle records were public records and open for inspection, copies of those records were to be provided only to persons specified in K.S.A. 74-2012.

Based on the above presumption, HB 2327 contained language in Section 11 precluding the use of public records obtained under the Act for commercial purposes. That section, however, contained language stating that the preclusion pertained to "other than public records of the division of vehicles..." on the understanding that further legislation would be proposed by direct mail marketers to allow Division of Vehicle records to be used for commercial purposes under certain conditions and for certain fees.

2. May 1985 - HB 2327 was signed into law, but the reference to Division of Vehicle records contained in Section 11 was omitted.
3. September 1983 - The Attorney General, in response to the U. S. Selective Service System, informed the Department of Revenue that its interpretation of K.S.A. 74-2012 imposing restrictions on persons to whom copies of vehicle records could be provided was in error. He stated (letter attached) that copies were to be provided to all persons eligible to inspect the records (at the cost of production) or they were to be allowed to copy the records.

Since this time, the Department has adhered to the position of the Attorney General. We have, however, informed those requesting vehicle records that they may not be used for commercial purposes pursuant to Section 11 of the Open Records Act as signed into law.

4. January 1984 - To cure a possible constitutional defect because of the difference between the passed and signed versions of the bill, the Legislature proposed to pass another bill identical to that passed by the 1983 Legislature.

Ex. B

However, it is the opinion of the Department of Revenue that including the original language of "other than public records of the division of vehicles" in Section 11 which precludes the use of public records for commercial purposes would have the effect of authorizing the use of vehicle records (which per the Attorney General we are required to provide) for commercial purposes.

While the Legislature may decide ultimately that this is appropriate, it is the Department's position that such was not intended in the original passage of H. B. 2327. If vehicle records are to be opened for commercial purposes, that ought to be the subject of legislative debate.

Recommendation : The Department recommends that H.B. 2327 be re-enacted in the form in which it was signed, rather than the form in which it was originally passed. The Department will adhere to the Attorney General's opinion declaring that copies are to be provided to persons eligible to inspect such records. Under the recommendation, however, they will not be available for commercial purposes.

The Department should note, however, that it does intend to propose legislation similar to 1983 S. B. 310 (as introduced) which would limit those persons to whom vehicle records are to be provided. The list would be expanded from those currently authorized under K.S.A. 74-2012 to include law enforcement agencies and other local, state and federal government agencies.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

 MAIN PHONE (913) 296-2215
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 ANTITRUST 296-5299

 ROBERT T. STEPHAN
 ATTORNEY GENERAL

September 13, 1983

 Mr. Robert Bugg
 Director of Vehicles
 Department of Revenue
 State Office Building
 Topeka, Kansas 66612

Re: Public Inspection of Division Records

Dear Mr. Bugg:

Recently my office was contacted by the Selective Service Board concerning the registration of all Kansas males aged 18 to 21. It is my understanding from talking to a representative from the Board that the Selective Service made a request to your office to provide them with a list of the names, addresses, and ages of all those Kansas drivers who met the above criteria. Such request was subsequently denied.

Upon inquiry by our office, we were informed that under K.S.A. 1982 Supp. 74-2012, your agency believed it was precluded from providing such requested information to the Board. Your agency's rationale was that the above statute allowed your office to release copies of the information only to those requesters set out in subsections (a), (b) and (c) of that statute. While I can appreciate your willingness to comply with the above statute, such a position, in my opinion, is overbroad in its application.

K.S.A. 1982 Supp. 74-2012 reads in part as follows:

"All records of the division of vehicles pertaining to title, registration, licenses, dealers, drivers' licenses and accident reports shall be public records and open to inspection by the public Copies of information contained in public records relating to any person shall be provided by the division to such person upon request. Copies

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of such information shall be provided to any person, firm, corporation, partnership or association either upon the written authorization of the person to whom such information relates or upon the requesting party's written certification that:

"(a) The requesting party has a security interest in a motor vehicle owned by such person, or such person has offered to pledge such motor vehicle to the requesting party as security for a loan; or

"(b) the requesting party is an employer or prospective employer of such person who, as a condition of such employment, will be engaged in the operation of motor vehicles owned by the requesting party; or

"(c) the information relates to an application for or renewal or cancellation of a casualty insurance policy issued by the requesting party or through its authorized agent, and that the requesting party or any such agent is fully licensed by the Kansas insurance department." (Emphasis added.)

While this statute specifically sets out those persons to whom copies of the information must be provided, the statute does not allow or provide for your agency to refuse access to such public records or to refuse to allow anyone to make copies of such information.

The Open Records Act, K.S.A. 1982 Supp. 45-201 et seq., is applicable to your agency and its records. It provides that "[a]ll official public records of the state . . . shall at all times be open for personal inspection by any citizen, and those in charge of such records shall not refuse this privilege to any citizen." (Emphasis added.) Although the Open Records Act does make exceptions for those records that are confidential or specifically closed by law, the information requested in this instance is not closed by law nor is it otherwise confidential.

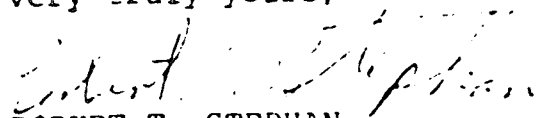
Moreover, K.S.A. 45-204 authorizes anyone, who has legal access to inspect public records, to make copies of such records. May I call to your attention the Kansas Supreme Court case of State v. Harder, 230 Kan. 573 (1982), in which the Court held that information contained on computer tapes was public record and therefore available for inspection and copying. If any information contained on such computer tapes

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is confidential, the same must be deleted and an edited copy supplied to the requesters. Any additional costs incurred by the agency to produce the edited information is to be borne by the requester. While you do not have to make copies of the information requested by the Selective Service at state agency expense, the agency cannot deny the right to inspect and copy.

If you have any question, my office staff will be available to discuss this issue in further detail. I am confident that we can reach an amicable solution to this matter. Please advise me of your intentions to proceed.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas

RTS:hle

cc: Ray Beers, Jr.