

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Vidricksen at \_\_\_\_\_  
Chairperson

1:16 ~~xxx~~/p.m. on March 1, 1984 in room 531N of the Capitol.

All members were present except:

Senator Roitz

Committee staff present:

Bruce Kinzie - Revisor  
Julian Efird - Research

Conferees appearing before the committee:

Harley Duncan - Secretary of Revenue  
Walter Scott - DeHart and Darr  
Larry McGill - Independent Insurance Agents of Kansas  
Henri Fournier - Board of Cosmetology  
Shari Coltrain - Kansas Cosmetologists Assn.  
Vicki Stangl - Cosmetologist  
Don Israel - Hays Hairdressing School  
Virginia Kellogg - Hairstylist  
Pat Holly - Hairdresser  
Tony Allison - Hairdresser  
Nancy Sclof - Hairdresser

The Chairman called the meeting to order and introduced Senator Meyers who explained S.B. 703 concerning records of the division of vehicles of the Department of revenue. She stated that she was concerned that the manufacturers of motor vehicles have lists for recall purposes but felt this bill should make it clear that the records are not available for purchase. Harley Duncan distributed two memorandums to the committee explaining the purpose and provisions of the bill is intended to provide clearly that records of the Division of Vehicles are to be treated in a fashion which is identical to all other public records and that they are open for public inspection and copying but may not be used for commercial purposes. (Exhibit A) Walter Scott distributed a copy of a letter from Bob Storey which expressed strong interest in being able to purchase the motor vehicle list from the Kansas Department of Revenue for furthering beneficial interests to consumers. (Exhibit B) Larry McGill presented testimony from the Independent Insurance Agents of Kansas requesting clarification of S.B. 703 in Section 1 and urged the committee to take positive action on the public policy issue in question and include wording which will allow MVR's to be made available locally. (Exhibit C)

Henri Fournier addressed the committee in behalf of S.B. 716 concerning cosmetologists and relating to a continuing education program. He explained that cosmetology has changed a lot and people need to be kept informed on the latest methods and treatments used in cosmetology. Shari Coltrain, Vicki Stangle, Don Israel and Virginia Kellogg voiced support and approval of this bill. Pati Holly and Tony Allison spoke against this bill explaining that shows and training seminars are very costly and not worth the time and expense involved to those costometologists who did not need that specialized training and who did not work full time.

Senator Francisco made a motion to approve the minutes. Senator Mulich seconded. Motion carried.

The Chairman announced that further committee hearings would be scheduled immediately after adjournment of the Senate on this date.

Upon adjournment the Committee took up S.B. 703 which addresses public access to records maintained by the Division of Vehicles and provides that records are open to the public subject to the access and copying privileges granted under the Open Records Act, that records of the Division may not be

## CONTINUATION SHEET

Minutes of the Senate Committee on Governmental Organization, March 1, 1984

used for commercial purposes and that persons requesting records must certify that the records will not be used or provided to others for commercial purposes. A motion was made by Senator Meyers to amend the provisions of H.B. 2865 into S.B. 703. This was seconded by Senator Johnston. Motion carried. A conceptual motion was made by Senator Hein to amend the Open Records bill to make available to groups licensed by state agencies for the purposes of continual education. This was seconded by Senator Gaar. Motion carried. Senator Meyers made the motion to report S.B. 703 favorably as amended. Senator Gaar seconded this. A roll call vote was made of the Committee with Senators Francisco, Gaar, Johnston, Meyers, Hein and Vidricksen voting "Yea"; Senator Mulich voting "Nay" and Senator Gaines passing. Motion carried.

Attention was turned to S.B. 479 which would abolish nine boards, committees or commissions. Senator Johnston made a motion to strike reference to all but three entities, each of which would be subject to abolition on July 1, 1984. Those being the Day Care Advisory Committee; the Rehabilitation and Halfway House Advisory Committee; and the Natural and Scientific Areas Advisory Board. In addition the amendments would change the name of one board, the Advisory Committee on Mexican American Affairs, to the Committee on Hispanic American Affairs. This was seconded by Senator Gaar. Motion carried. Senator Hein made a motion that the name change to "Committee on Hispanic American Affairs" take place on July 1, 1985. Senator Gaar seconded this. Motion carried. Senator Meyers made the motion to report S.B. 479 favorable for passage as amended. This was seconded by Senator Gaar. Motion carried.

S.B. 480 concerns the corrections ombudsman board and relates to the number of members of such board. As introduced, it would reduce the number of members on the Corrections Ombudsman Board from 10 to 5 members. Senator Gaar made a conceptual motion to amend S.B. 480 to provide for seven members, three of whom would be appointed by the Governor and one appointed by each of the following persons: Attorney General, Chief Justice, Speaker of the House and President of the Senate. This motion was seconded by Senator Gaines. Motion carried. A motion was made by Senator Johnston to recommend S.B. 480 favorably for passage. Senator Meyers seconded this. Motion carried. Senator Francisco made a conceptual amendment that would provide for appointment of members of both sexes. Senator Mulich seconded this. Motion carried.

S.B. 532 concerning the Kansas sunset law; continuing the Department of Human Resources and the Office of Secretary of Human Resources in existence. A motion was made by Senator Johnston and seconded by Senator Francisco to recommend this bill favorably for passage. Motion carried.

S.B. 568 relates to the Kansas Adult Authority and concerns the membership thereof. Senator Gaines made a motion to recommend this bill favorably for passage. This was seconded by Senator Gaar. Motion carried.

S.B. 659 concerns home health agencies, providing for the licensure and regulation, and granting powers to and imposing duties upon the secretary of Health and Environment; creating the home health services advisory council. A motion was made by Senator Meyers and seconded by Senator Francisco to incorporate the technical amendment presented by the Secretary of the Department of Health and Environment. Motion carried. Senator Meyers then made a motion which was seconded by Senator Hein to recommend S.B. 659 favorably for passage. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Governmental Organization,  
room 531N, Statehouse, at 1:30 ~~a.m.~~ p.m. on March 1, 1984.

A motion was made by Senator Meyers to amend S.B. 643 concerning disclosure of examinations to test subjects to allow persons taking the real estate salesperson or brokers examination to inspect their test results for a fee of \$15. This was seconded by Senator Francisco. Motion carried.

Senator Francisco then made a motion to pass SB 643 favorably out of Committee. This was seconded by Senator Meyers. Motion carried.

A motion was made by Senator Mulich to pass SB 679 favorably out of Committee. A seconded was made by Senator Gaines. Motion carried.

Senator Gaines then made a motion to recommend S.B. 696 as amended to allow the sale of used state vehicles and certain used equipment by means of either auctions or sealed competitive bids, favorably for passage. This was seconded by Senator Gaar. Motion carried.

A motion was then made by Senator Mulich to recommend S.B. 696 favorable for passage as amended. This was seconded by Senator Gaines and motion carried.

The meeting was then adjourned by the Chairman.

GUEST LIST

COMMITTEE: Senate Governmental Organization DATE: Mar. 1

NAME	ADDRESS	COMPANY/ORGANIZATION
Gaurie Hull	Topeka	Mexican American Affairs
John Kelly	Topeka	KACEH
Tom Miller	Topeka	Assoc. Credit Bureau of Kansas
Walt Scott	Topeka	DeHART + DARR
A. K. Ressler	✓	✓
Con Isaac & Shawnee KS	Shawnee KS	Flays Hairdressing School
Vicky L. Stogd	Topeka	Victoria Hair Unlimited
Sheri Bahm	Silver Lake KS	Harp Hairdressing School
Nancy Shobe	Topeka	Heckel Bros. Sty. Supply
Hand Turner	Topeka	# Board of Cos.
Shemi Calicaci	Parsons	Kansas Cosmetologist Assn.
Janeth W. Pully	Parsons	Studio One Hair Fashion
Betty Sigler	Topeka	Sec. Bd. of Cosmetology
Joe FURJANIC	TOPEKA	KASB
Lynelle King	"	Ks State Nurses Assn.
Bill Henry	"	KS Engineering Society
LARRY MAGILL	"	INDEP. INS. AGENTS OF KS.
Herb T. Turner	Topeka	Dept of Revenue
Bill FARR	"	"
Marian Mammone	Lawrence	LWVK
Mary Ellen Poirier	Topeka	LWVK
Cynthia Dennis	Topeka	Stover Hair Fashions
Pat Collier	Topeka	Townsite Hair Styling
Carlene Smith	Topeka	Stover Hair Fashions
Loni Allison	Topeka	Townsite Hair Styling
Pat Brew	Shawnee KS	Kansas Home Health Assoc.
Euclym Mathews	Shawnee KS	



*Kansas*  
DEPARTMENT OF REVENUE

State Office Building  
Topeka, KS 66625

EXHIBIT A

MEMORANDUM

February 29, 1984

TO: Representative Ardena Matlack

FROM: Harley T. Duncan  
Secretary of Revenue *Harley T. Duncan*

SUBJECT: House Bill 2865 as amended by the House Committee  
on Federal and State Affairs

The following is a summary of the provisions of House Bill 2865 as amended by the House Committee on Federal and State Affairs.

Purpose: The purpose of the bill is to place public records of the Division of Vehicles (driver license and vehicle registration lists) on the same footing with all other public records. Namely, they would be open for public inspection and copying, but they could not be used for commercial purposes, such as direct mail advertising. Under House Bill 2668 (the Open Records Act) as re-enacted by the 1984 Legislature and the Attorney General's interpretation of K.S.A. 74-2012, we feel they would be open for commercial purposes whereas no other public records are.

Provisions

Section 1(a) states that all Division of Vehicles records are public records except those relating to physical and mental condition, expungements and diversions.

Section 1(b) provides that vehicle records may not be used for the purposes prohibited by Section 11 of House Bill 2668 (commercial purposes) except that they may be used for purposes of (1) aiding manufacturers in the recall of vehicles with safety defects and emission problems, and (2) aiding insurance carriers in writing motor vehicle liability coverages. This section also allows law enforcement agencies that have access to vehicle records to provide driving record information to insurance carriers.

Section 1(c) provides that when a law enforcement agency provides such records, they are to charge the fee required by the Division (\$1.00 per record) plus any service fee for their costs.

Section 1(d) provides that the Department will not be liable for any false information provided by law enforcement agencies.

EX. A



Section 2 amends the Open Records Act to provide that agencies shall provide arrangements for copying public records. Current law says they may provide such facilities.

Section 3 amends the Open Records Act to provide that an agency may require a requester of records to sign a certification that the records will not be used for purposes prohibited by Section 11 of the Open Records Act (commercial purposes).

Section 4 makes a technical amendment (changing "person privacy" to "personal privacy") in Section 7 of the Open Records Act.

I hope this information is useful. Please contact me if you have any questions.

HTD:b/2/S412

cc: Rep. Marvin Barkis, House Minority Leader



*Kansas*  
DEPARTMENT OF REVENUE

State Office Building  
Topeka, KS 66625

MEMORANDUM

February 22, 1984

TO: The Honorable Ben E. Vidricksen, Chairman  
Senate Committee on Federal and State Affairs

FROM: Harley T. Duncan  
Secretary of Revenue

SUBJECT: Senate Bill 703 - Relating to Records of the Division of Vehicles

Thank you for the opportunity to appear before you in support of Senate Bill 703. The bill concerns public access to records maintained by the Division of Vehicles of the Department of Revenue which are principally listings of those persons licensed to drive in Kansas and their addresses, and listings of all vehicles registered in Kansas, including the owner's name, address and type of vehicle. The bill accomplishes four things:

1. The bill amends K.S.A. 74-2012 to provide that records of the Division of Vehicles, with the exception of those relating to physical or mental condition, expungements and diversions, are open, public records and are subject to the access and copying privileges granted under the Open Records Act passed by the Legislature (House Bill 2668). The medical, expungement and diversion records remain confidential records as they are under current law.
2. The bill amends section 11 of the Open Records Act to provide clearly that records of the Division of Vehicles may not be used or obtained with the intent of giving or selling them to another entity for purposes of "selling or offering for sale any property or service" with one exception. The exception is those records obtained for the purpose of providing information to manufacturers of motor vehicles registered in this state. This exception is necessary to allow the Department to continue its current contract with an organization which uses the vehicle registration lists to assist motor vehicle manufacturers in notifying owners that their vehicles are being recalled for safety defects, and to compile statistical reports (without identifying owners) for manufacturers. However, the bill also amends K.S.A. 74-2012 to specify that the information provided to such an organization may be used only for recall and statistical purposes. Under the current contract, the information is also used to make advertising mailings on behalf of manufacturers. This would be precluded under this bill, and the Department will modify its contract accordingly.

3. The bill provides that any person requesting vehicle records must sign a certification that the person does not intend to, and will not, sell, give or receive the information obtained for purposes of selling or offering for sale any property or services. This section (Section 1(b)) merely requires the requesting person to certify that they will abide by the proscriptions contained in Section 11 of the Open Records Act.
4. The bill strikes certain references in current law which list those persons to whom vehicle records must be provided, namely persons with a security interest in the vehicle, an employer or prospective employer of the person when driving a vehicle of the employer is required as a condition of employment, and a current or prospective insurer of the person. These enumerative references are considered unnecessary in that the Attorney General has ruled contrary to the Department's prior position that Division of Vehicles records are subject to the Open Records Act and that these persons would have access to the records whether they were enumerated in law or not. Neither is it felt that use by these individuals would contravene the prohibition on using public records for commercial purpose contained in Section 11 of the Open Records Act. Therefore, it is our determination that the listing contained in current law is unnecessary.

In short, the intent of Senate Bill 703 is to make Division of Vehicles records virtually identical to all other public records; i.e., subject to the Open Records Act and available for public inspection and copying, but unavailable for commercial purposes or the soliciting of sales of property or service.

The bill is made necessary by a rather strange convergence of events. As originally passed, the Department had taken the position that the Open Records Act did not apply to vehicle records and that the list of persons to whom copies were to be made available in K.S.A. 74-2012 was limiting. The Attorney General, however, ruled that the Department was in error and that copies were to be provided to all parties having the right to inspect the records, which was anyone. The correction of the technical error in the Open Records Act had the effect of causing Division of Vehicles records to be excepted from the ban on the use of public records for commercial purposes. This correction, in the Department's view, coupled with the Attorney General's ruling, makes vehicle records the only records available for commercial purposes.

The Department feels this is inappropriate and urges your favorable consideration of Senate Bill 703 for the following reasons:

1. We support the concept of "sunshine" in government and public access to public information. Senate Bill 703 makes vehicle records clearly open records and treats them like all other state agency records.
2. We believe Senate Bill 703 preserves the intent of the 1983 Legislature in passing the Open Records Act. It is our understanding that the Legislature relied upon the Department's interpretation that the Open Records Act did not affect vehicle records because K.S.A. 74-2012 was



limiting as to whom copies were to be provided. The reference to vehicle records in Section 11 of the Act was made, we are told, on the premise that further legislation would be necessary before they could be used for commercial purposes. The Attorney General's ruling, however, changed this, and the end result is, in our estimation, contrary to prior legislative intent. Senate Bill 703 will treat vehicle records like all other public records. We believe this is appropriate.

3. We believe that it would be breaking faith with drivers and motor vehicle owners in Kansas if the State were to sell for commercial mailing list purposes the names and addresses they are required to give us to enjoy driving privileges. Obviously, nearly every person's name is currently on one or more mailing list. They appear there, however, through some voluntary step taken by the individual. Moreover, if an individual is aware that one entity with whom he/she is doing business is repeatedly selling names for mailing list purposes, he/she can take steps to sever that relationship. Providing a name and address for driver license or vehicle registration purposes is not, however, voluntary. Therefore, we believe we owe the public the security of knowing that the information they provide will not be used for commercial mailing list purposes.
  
4. Finally, we believe that if it is widely known that state driver license and vehicle registration lists are sold for commercial purposes it will hinder compliance with obtaining accurate information for our files. This is especially important because without a current address, drivers will not receive a license or registration renewal, and if they fail to renew, they will be driving contrary to law. Furthermore, the ability to notify drivers of suspensions or other disciplinary action is complicated by improper addresses. Lack of a proper address could also introduce a due process consideration into the proceedings if the driver fails to receive our written notices.

In short, Senate Bill 703 is intended to provide clearly that records of the Division of Vehicles are to be treated in a fashion which is identical to all other public records. That is, they are open for public inspection and copying, but they may not be used for commercial purposes. We urge your favorable consideration of this bill.

HTD:b/2/S405A

COGSWELL, STOREY, GREEN & CHUBB

LAW OFFICES

GLENN D. COGSWELL  
BOB W. STOREY, P.A.  
T. L. GREEN  
JANET A. CHUBB

SHADOW WOOD OFFICE PARK  
5863 S.W. 29TH STREET  
TOPEKA, KANSAS 66614  
913/273-4550

February 29, 1984

*Walter Scott  
(Sandy copy)*

EXHIBIT B

The Hon. Ben E. Vidricksen, Chairperson  
Senate Governmental Organization Committee  
Capitol Building  
Topeka, KS 66612

Re: Senate Bill 703

Dear Ben:

This letter is to advise that I, along with Walter N. Scott, represent DeHart and Darr Associates, Inc. This is a public relations firm which has clients in the state of Kansas and throughout the United States.

Our client has a very strong interest in Senate Bill 703 and other related pieces of legislation presently before the 1984 Kansas Legislature. Our client wants to be able to purchase the motor vehicle list from the Kansas Department of Revenue. It would use that list for some of its clients in furthering beneficial interests to consumers.

As you are well aware, legislation of this nature has been considered almost every year for the past several years. I know it is getting rather tiresome to hear these remarks every year; however, I am still perplexed as to why there should be any opposition to making the motor vehicle list public, and to charging a fee to any person or organization wanting to purchase the same.

I have not heard from any consumer groups, nor has there been any public testimony before any of the committees this year of which I am aware, showing any concern by any member of the public that his or her name was disclosed to a potential user of the list from the Motor Vehicle Department. I know there are certain members of the legislature, and certain members of this committee, who are opposed to making the list public. However, I would submit to you that I can think of absolutely no reason that the list should not be for sale to those consumer advocates who wish to make sales available to the citizens of the state of Kansas. Again, unless there is a public outcry against the legislation, I urge this committee to support House Bill 2865 or related legislation.

If in fact there are members of the committee who are concerned about those persons in the public sector who do not wish to have

*✓ off in Registration of vehicle  
DEPART. of Revenue testified now \$900,000 plus  
-CAN. be even MORE*

EX. B

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February 29, 1984

Re: Senate Bill 703

their names placed on the list which would be for sale, then you should consider adopting an amendment. Such amendment could be in conformance with the rules and regulations of the Illinois Vehicle Code (a copy of which is attached). This would simply mean that any member of the public whose name would appear on a motor vehicle registration list, and who did not want his or her name published, would only need to make the Motor Vehicle Department aware of that. This could be done by that person merely checking a blank space or doing whatever the Motor Vehicle Department thought necessary to inform it of that person's desire. Then the name of that individual would not be made public. If this amendment were adopted and the bill were passed, you can readily see that no public disclosure of any person's name would be made, if in fact that person did not want his or her name published. This would appear to eliminate all opposition to the selling of the motor vehicle list, since no one could possibly be damaged if this procedure were followed.

In addition, I believe the committee should realize the amount of money which would be available to the state of Kansas from the sale of this list. If it were made public there is no question that it would bring in excess of one million dollars per year. Or, if the Secretary of Revenue decided more money was needed, then all he or she would have to do would be to increase the fee or charge for the list and the revenue of course would be greater. It is my understanding that the state of Illinois makes approximately six million dollars per year from the sale of their list. Of course, that is money which does not have to be raised from the public, and which can go directly to the general fund. Hopefully this revenue would reduce, or at least hold in place, the enormous budget which the state is now faced with each and every year.

If I can answer any further questions, I will be most happy to do so.

Thank you for your consideration of this matter.

Very truly yours,

BWS:ef  
Encl.

BOB W. STOREY

## ILLINOIS REGISTER

## SECRETARY OF STATE

## TEXT OF EMERGENCY RULES FOR CODIFICATION

TITLE 92: TRANSPORTATION  
CHAPTER 11: SECRETARY OF STATEPART 1002  
SALE OF INFORMATION

## Section

- 1002.10 Applicability
- 1002.20 Definitions
- 1002.30 Fees
- 1002.40 Requests
- 1002.50 Lists of Purchasers
- 1002.60 Contract
- 1002.70 Public Records
- 1002.80 Lists of Licenses
- 1002.90 Social Security Numbers

AUTHORITY: Implementing Section 2-123, authorized by Section 2-104, 2-107, and 2-123 of the Illinois Vehicle Code (Ill. Rev. Stat., 1981, ch. 95½, pars. 2-104, 2-107, and 2-123.)

SOURCE: Adopted and codified at 7 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1002.10 Applicability

These Rules apply to the sale and dissemination of information contained in the Office of the Secretary of State, which information has been collected pursuant to the Illinois Vehicle Code for the issuance of drivers licenses, vehicle titles, and vehicle registrations. This information is a public record; however, social security numbers are not public information.

## Section 1002.20 Definitions

"Secretary" means the Secretary of State of Illinois.

"Office" means the Office of the Secretary of State and not any particular department, address, or location.

"Driver Services" means the Department of Drivers Services of the Office of the Secretary of State.

"Vehicle Services" means the Department of Vehicle Services of the Office of the Secretary of State.

"Director" means the Director or Acting Director of either Driver Services or Vehicle Services, depending on the context.

~~02-11-81~~

## SECRETARY OF STATE

## TEXT OF EMERGENCY RULES FOR CODIFICATION

"Drivers list" means the entire list or any part thereof of all licensed drivers by the State of Illinois, the information contained on the list includes the driver's name, address, weight, height, sex, color of eyes, color of hair, and date of birth.

"Vehicle list" means the list of all vehicles by identification number, with the name and address of the owners, which are registered by the State of Illinois.

"Title list" means the list of all vehicles titled by the State of Illinois.

"Request" means the written application upon the designated form for the obtaining of a drivers list, vehicle list, title list, or a driving abstract.

"Driving abstract" means a record kept by the Department of Drivers Services on each driver licensed by the State of Illinois, containing all information required by Section 6-106(b) of the Illinois Vehicle Code, and all records of each driver's violations of the traffic laws, and administrative actions pertaining to driving privileges.

"Section 2-123" means Section 2-123 of the Illinois Vehicle Code, found at Illinois Revised Statutes 1981, Chapter 95½.

## Section 1002.30 Fees

- a) The fee for the sale of a drivers list pursuant to paragraph a of Section 2-123 is \$500.00.
- b) The fee for the sale of a title list or a vehicle list pursuant to paragraph a of Section 2-123 is \$500.00.
- c) For the purposes of Section 2-123(d), the fee for the additional copies of the registration lists furnished to sheriffs and chiefs of police by the Secretary shall be \$80.00 per list.
- d) All fees will be paid in advance before delivery of any list to any purchaser.
- e) Fees for information supplied by means of computer connections between the Secretary's computers and those of any other agency or person may be paid on a daily or monthly basis for all information delivered during that day or month, as determined by the Secretary and the agency or person to be the economically simplest way of billing.
- f) No fees may be charged from those local, State, and Federal government agencies who obtain information from the Secretary to enforce criminal laws.
- g) Computer terminal connections to the Secretary's computer may be provided to other State agencies. This service may be made available at no charge so long as the requesting agency incurs all terminal costs and so long as the service does not substantially increase costs or network traffic on the Secretary's computer.

## SECRETARY OF STATE

## TEXT OF EMERGENCY RULES FOR CODIFICATION

- h) Computer terminal connection may be allowed to non-State agencies at a monthly charge of \$300.00. This service may be terminated at any time, should the connection interfere with the Secretary's internal work schedules and processing.

## Section 1002.40 Requests

- a) All requests for any type of information sale pursuant to Section 2-123 must be in writing, signed by the person requesting the information, and that person's address, and include the purpose of the request, the specific information or type of information sought, the name and address of any organization represented, the position of the requestor in the organization, the intended use of the information, and identification of the requestor including the requestor's drivers license number.
- b) Requests for information received by telephone shall have the information sought in paragraph a above obtained from the caller by an employee of Drivers or Vehicles and placed on a printed form.
- c) Information obtained by means of a computer connection between the Secretary's computers and those of any organization need not be requested in writing and a record kept as required in a) or b) above. The requesting organization shall comply with the provisions of a) at the time of the original request and contract period.
- d) For the purposes of Section 2-123(b), each request by a purchaser for the purchase of the drivers or vehicles list shall be treated as separate from any prior or succeeding request of that purchaser, and the \$200.00 advance fee shall apply to each request. For example, a request for information in January of a year followed by other requests from the same requester for the latest names or information relating to the first request, then each request shall be treated as separate and require the statutory fee.

## Section 1002.50 Lists of Purchasers

All names of purchasers of information from Drivers or Vehicles shall be maintained for at least four (4) years by those Departments. These requests are public records and shall be disclosed to anyone requesting to inspect them during normal Secretary of State business hours at the office of the Director of Vehicles or Drivers, as is appropriate. Copies of these records may be purchased at the cost of \$.50 per page.

## Section 1002.60 Contract

All commercial or business purchasers of the drivers, vehicle or title lists shall sign a contract with the Secretary, which shall contain those terms he deems necessary and appropriate to protect the integrity of the lists, including but not limited to, a requirement that a mail preference list maintained by a recognized trade association used to delete names of persons who do not wish



## SECRETARY OF STATE

## TEXT OF EMERGENCY RULES FOR CODIFICATION

to have their name sold, that the list will not be used for criminal or immoral purposes, that violation of any terms could result in the Secretary's denial of sale of the lists to the purchaser for a term of five years, and the return of the vehicles or drivers list to the Secretary.

## Section 1002.70 Public Records

- a) The drivers lists, title list, vehicle list, and list of purchasers for these lists are public records and may be examined and purchased for the appropriate fees by anyone for a legitimate and lawful purpose and use.
- b) The Secretary may sell the lists in their entirety on the medium he deems most economical and efficient, or in any reasonable part, such as by county or counties, age group, zip code groups, make or model of car, restriction codes, license issue data, license expiration data, city, or other governmental or geographic division. No list will be prepared and sold by the Secretary for any person or organization for commercial purposes where the request is for the Secretary to extract from a larger group certain persons or types of persons to be solicited by the requestor, when the requestor, by the purchase of the larger group of names, titles, or registrations could extract the information it seeks.

## Section 1002.80 Lists of Licenses

All persons or organizations licensed by the Office to act as new or used car dealers, remittance agents, used parts dealers, scrap processors, automotive parts recyclers, and rebuilders, together with the business addresses for such persons or organizations, may be placed on a list or lists and sold for the fee of \$.50 per page for each copy of each list of separate licensees.

## Section 1002.90 Social Security Numbers

- a) Social Security Numbers of persons licensed to drive by the State of Illinois shall not be disclosed to any person, public or private agency, corporation, or governmental body, except as permitted by the Illinois Vehicle Code, Ill. Rev. Stat. 1981, ch. 95 $\frac{1}{2}$ , par. 2-123, as amended by Public Act 83-0148.
- b) Individual drivers may authorize the Secretary to release to designated persons or agencies the individual's Social Security Number. This authorization shall be in a written, notarized statement delivered to the Director of the Department of Driver Services in Springfield and shall remain in effect until terminated in the same manner by the individual driver.

Testimony on SB 703

By: Larry W. Magill, Jr., Executive Vice President  
Independent Insurance Agents of Kansas

Thank you for the opportunity to appear today and express our concerns about SB 703 as it is presently drafted. We, as an association, have no position on whether motor vehicle reports should be open or closed. That is a public policy issue which we feel comfortable letting the Legislature decide. However, we would like the committee to consider several amendments to the proposal.

First, we would like to ask the committee to clarify under Section 1(b) that an insurance agent or company requesting a list of names in conjunction with applications for insurance is not subject to the prohibitions in Section 1(b). At the request of Rod Bieker with the Attorney General's office, this change has been made to HB 2865, a similar bill reported favorably for passage by the House Federal & State Affairs Committee.

Motor vehicle reports are perhaps the most important objective underwriting tool available to agents and their companies for writing auto insurance. They contain accident and moving violation information that has a direct bearing on the probability that an insured would have an accident. Good, law abiding drivers should pay less for their auto insurance. We assume that this issue is not a question here. By tying the exception for insurance agents and companies to applications it would prevent someone from just randomly requesting motor vehicle reports to solicit insurance. The wording in the present statute refers to applications for, or renewal, or cancellation of a casualty insurance policy on lines 43 and 44.

Whether the agent asked the customer to quote on the customer's auto insurance or the customer seeks out the agent, the agent would be quoting at the customer's request and for the customer's benefit. It is, nevertheless, a sales situation of a service which we think would be

EXHIBIT C

EX. C

covered under Section 1(b) without our amendment. We do not believe this is the legislative intent, as the agent would be requesting the MVR with the knowledge and agreement of the consumer.

Since the agent or the company may have a number of applications to process at one time, it is quite possible they might request a "list" of names which we presume would mean any number in excess of one.

Our second amendment would allow motor vehicle reports to be made available through local law enforcement agencies if the local law enforcement agency chooses to. We have been seeking this amendment whether present law is changed or not in regard to open versus closed records. In fact, last year this committee passed SB 310 with an amendment in it allowing motor vehicle reports to be made available through local law enforcement agencies - essentially the same wording as we are requesting today. That wording was deleted by the Conference Committee on SB 310. To our knowledge, there were no specific opponents to allowing MVR's to be made available locally last year nor have any come forward this year.

This change has also been incorporated into HB 2865 with the Attorney General's office.

Up until 1982 many of the larger local police and sheriff's offices were providing MVR's to local agents for use in underwriting auto insurance applications.

The local agent or the insured by obtaining a copy of the MVR, at the time the insurance is applied for, can guarantee complete, accurate information is used to underwrite their auto insurance. This avoids the embarrassing and often aggravating situation where an insured has "forgotten" about a few speeding tickets or mistakenly thought they received them more than three years prior to the effective date of insurance. The consumer

is not well served if the insurance company then must come back and request additional premium or cancel and rewrite into a higher rated plan in a different company or refuse to offer coverage at any price.

The situation could also occur where the insured thought a ticket was received in the last three years and it was actually longer ago. They might then end up paying more for their insurance than they should. Most people honestly cannot remember specific dates and tickets received on all drivers in a household.

This issue is becoming increasingly important to our members as more companies shift underwriting responsibilities to the field with their agents to increase efficiency.

Our amendment is intended to permit, but not require, local law enforcement agencies to provide MVR's and charge the fee set by the Division of Motor Vehicles plus an additional amount to cover their local processing costs. The state's fee must be paid monthly to the Secretary of Revenue and they keep the portion to cover local costs.

Because it is possible that a local law enforcement agency could release information they should not such as expunged records, the Department of Revenue asked for a hold harmless clause. The state's computer is set up with a specific code for requesting an MVR and another code for requesting a police department report which could contain expunged information. It should not be a problem to simply order the correct type of report. If there is an error, it should be covered by the agency's insurance program, assuming they have the proper coverage.

The Department of Revenue aided in the drafting of our amendment and supports the concept. They properly interpreted present law two years ago to not allow local law enforcement agencies to provide MVR's to either the individual driver or his agent. Their notice stated that "law

enforcement agencies have access to those files for law enforcement purposes only and are not authorized to release that information (referred to in K.S.A. 74-2012) to anyone else for any other purpose."

We urge the committee to take positive action on the public policy issue in question and to include wording which will allow MVR's to be made available locally. We would be happy to answer questions and provide any additional information we can. Thank you for your favorable consideration.