

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by SENATOR ROBERT V. TALKINGTON at
Chairperson

9:00 a.m./p.m. on Wednesday, February 8, 1984 in room 254-E of the Capitol.

All members were present except:

Senators Hein and Rehorn

Committee staff present:

Fred Carman, Hank Avila, Rosalie Black

Conferees appearing before the committee:

SB 618 - Harley Duncan, Secretary of Revenue; Jack Quinlan, KS Motor Car Dealers Association; Art Brown, Kent Brown Chevrolet; Steve Wiechman, KS Auto Wreckers

The meeting was called to order by Senator Talkington, Chairman, who introduced Harley Duncan, Secretary of Revenue, to discuss SB 618.

SENATE BILL NO. 618 - HEARING AND ACTION

Secretary Duncan indicated that the Department of Revenue has no problem with the proposal that reinstates the licensing of motor vehicle salesmen. He suggested formal procedure of updating salesmen on laws pertaining to vehicle sales by returning to the open book testing given to car salesmen in the past.

Jack Quinlan requested an amendment that would require written examinations as a condition precedent to licensing motor vehicle salesmen. He added that after the repeal of provisions requiring licensing of salesmen during the 1983 legislative session, dealers realized it to be a valuable tool in relationships between dealerships and customers. (See Attachment 1.)

As a franchised car dealer, Art Brown also recommended reinstatement of salesmen licensing provisions to instill needed consumer confidence in the sales industry and to provide protection for the dealer from salespersons working for more than one dealer at a time. As another means of upgrading the industry, Mr. Brown asked for testing procedure before issuance of salesmen's licensing as well as

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:00 a.m./p.m. on February 8, 1984

SENATE BILL 618 - HEARING AND ACTION (con't)

an annual re-test prior to receiving renewal of the license. (see Attachment 2.)

Also testifying in favor of salesmen licensing and open book examination, Steve Wiechman said that testing offers an important educational tool concerning titles and followup details to the salesman to complete customer satisfaction.

Senator Burke moved for a conceptual motion for an open book examination prior to licensing vehicle salespersons; seconded by Senator Morris and passed.

Senator Morris moved that Senate Bill No. 618 be reported favorable as amended; seconded by Senator Thiessen and passed.

The meeting adjourned at 9:47 a.m.

Robert N. Jaeger

Please PRINT Name, Address, the organization you represent, and the Number of the Bill in which you are interested. Thank you.

NAME	ADDRESS	ORGANIZATION	BILL NO.
Steve Weichman	Topeka	Kans Auto Workers	618
Harley Duncanson	Topeka	Dept of Revenue	618
Harold B. Ferriter	Topeka	" " "	618
Jim Sullivan	Topeka	Ks Motor Car Dealers Assn	618
Jack Quinlan	"	"	618
Art Brown	"	"	618
Nancy Zielke-Kipps	Topeka	DOT	
Glenn Jewell	Lawrence	Sen. Rehorn	618

Statement Before the
SENATE COMMITTEE ON TRANSPORTATION & UTILITIES

Regarding SB 618

Wednesday, February 8, 1984

Mr. Chairman and Members of the Committee. I am Jack Quinlan of Topeka and for a number of years now I have appeared before this Committee and the Legislature as legislative counsel to the Kansas Motor Car Dealers Association. This Association, I would remind you, is made up of approximately 425 franchised new vehicle and truck dealers across the state of Kansas. Members of this Committee were here, and you will recall that a few years back, if memory serves me correctly it was about 1980 or 1981, we recodified and wrote the legislation pertaining to the Dealers and Salesman Licensing Act and other sections of Chapter 8 pertaining to the motor vehicle industry. This was done primarily with the cooperation of the Division of Motor Vehicles of the Kansas Department of Revenue and our Association. At that time it was considered and determined that the examination of vehicle salesman or mobile home salesman would be discontinued. I believe it was in the last session, the 1983 session or possibly the 1982 session of the Kansas Legislature, when a provision requiring the licensing of salesman was repealed.

Frankly at that time the dealers didn't appear to be at all concerned and didn't express any judgment either way but

obviously didn't consider that examination and licensing of salesman was all that important to their industry.

Today these dealers are requesting that the Kansas legislature consider reinstating the requirements of a written examination as a condition precedent to the licensing of motor vehicle salesman. They have learned through experience that what they once had and have lost is a very valuable tool to their relationship between their dealership and the customers. Most salesman work on a commission basis with certain fringe benefits and therefore are naturally prone to overreach occasionally. When this occurs usually we have a customer who believes that he or she was misled and accordingly it is the dealer's responsibility to make things right. We believe that this would cut down on "sales puffing" and eliminate some of these customer relation problems because of overreaching on the part of the salesman. We also believe it would give the dealer, who is a prospective employer of a salesman, some insight into the salesman's "track record". If the salesman has been working for a number of dealers and is a "floater" usually there is some good reason for this but at the present time it is difficult to learn. But if, for example, the salesman has been cited by the department for some violation involving fraud, misrepresentation, or anything of that nature certainly this will come out and the prospective employer will be able to learn of this or possibly avoid employing someone who would get him into trouble with his customers. While Senate Bill 618 only refers to licensure we

would like to see the Bill amended to include the language that was in the law which required the examination of the salesman before licensure. The purpose, of course, is to keep the salesperson abreast of many things involving the dealership, but primarily such things as the Kansas Consumer Protection Act, the Magnuson-Moss Act at the federal level, Odometer laws and such other things that salespeople should be aware of and have some understanding before meeting the prospective customer.

You might be pleased to learn that in all probability you will be hearing fewer complaints from customers of the dealers because there is now in place through the efforts of the Kansas Motor Car Dealers Association Board of Directors a program known as AUTOCAP. AUTOCAP stands for Automotive Consumer Action Program and it sets up an arbitration procedure. The arbitration panel would consist of six to eight members with at least 50% of the members being from the general public with absolutely no ties to the automotive industry. Mr. Jim Sullins of the Kansas Motor Car Dealers Association has been responsible for putting that program into action in Kansas and to date there have been substantially fewer complaints made to various consumer protection groups including district attorneys and city attorneys. Once a dissatisfied customer knows that they have access to an arbitration program which is binding upon the dealer; which in no way binds the customer to the decision of the arbitration panel, then we are finding that fewer and fewer consumer complaints are

ending up in litigation which is expensive to all parties concerned.

We believe that our Association constantly strives to improve the image of the dealers in Kansas and accordingly the Association asks your favorable consideration of Senate Bill 618 and we would hope that you would amend that Bill to include examination requirements. We are given to understand by the Motor Vehicle Division that this would be very simple to reinstate as the whole program is still in their files and can be immediately put into action.

Thank you for your consideration and we will be happy to answer any questions that you might have and perhaps Mr. Chairman you might wait until after the other conferees will testify. We have with us today Mr. Art Brown of Kent-Brown Chevrolet in Topeka and I am sure you would give him your attention and if you have any questions he would be happy to try to answer them.

Thank you.

STATEMENT

to the

SENATE COMMITTEE ON TRANSPORTATION & UTILITIES

Regarding SB 618

Wednesday, February 8, 1984

Mr. Chairman and Members of the Committee. I am Art Brown, Kent-Brown Chevrolet, Topeka. I appreciate the opportunity to come before you today in support of SB 618, a proposal to reinstate the Salesman Licensing provisions of the Dealer and Manufacturer Licensing Act which were repealed during the 1983 legislative session.

I feel that we, the dealers, have lost something very important with the repeal of these statutes last session. Also, I feel that the consumers of Kansas may have been hurt by this loss as well.

The franchised dealers of Kansas are very aware of the fact that many people do not look upon our industry with a great deal of respect. We feel that this is one step which we can take which could instill some much needed consumer confidence in our industry.

The purchase of a new automobile or truck is the second largest purchase that an individual makes, second only to the purchase of a home. I feel that the purchaser of an automobile should have some security in the knowledge that the person with whom he is negotiating the purchase has some knowledge of the product as well as the laws surrounding the sale of the vehicle. With a licensing procedure, the customer knows that the salesperson has a license which could be lost if improper statements or offers are made.

Art Brown

The licensing of salespersons also provides protection for the dealer, as it assures that the salesperson is working for only one dealer at a time. Presently, without the license requirements, it is quite possible that a salesperson could be working for more than one dealer, working both sides of the street if you will. I do not think this is a good situation for any dealer's business.

Senate Bill 618 is a good first step to what I would like to see happen in the future, and would like for you to consider now. At some point in time, I would like to see a licensing procedure for vehicle salespersons similar to the real estate license requirements. When considering the merits of this bill, I would hope that you would also consider putting into the bill some type of testing procedure which would be required before a license could be issued, as well as an annual re-test prior to receiving renewal of the license. This, I feel, would be a sure way of upgrading the industry as well as offering consumer protection. I am not suggesting an immediate step to something like the real estate test, but a written exam similar to what was done a few years back would be a good stepping stone for the future.

Finally, I would like to point out one additional benefit to salespersons being licensed, one which is realized by the law enforcement officials in Kansas and other states. Today, if a salesperson is stopped for some reason while driving a dealer's vehicle, he has no way to prove to that officer that he is entitled to drive the vehicle. With a license which can be carried with a driver's license, the salesperson can immediately verify that he is an employee of the dealership and has not stolen the vehicle. I know of a case where a dealership employee was driving a vehicle back from business in Colorado and was stopped by the Colorado state patrol. It took several hours

for him to convince, and the patrol to finally verify, that he was an employee of a Kansas dealership and was entitled to operate the vehicle. In this particular case, it was the dealer's son who is the General Manager of the dealership and a part owner of the business. The officer asked for the owner's registration or some type of proof of ownership which could not be produced on the spot as dealers do not carry the information in the vehicle. The officer indicated that he had no way to tell if the person driving the vehicle was a dealership employee or that the vehicle belonged to the dealership. If we had salesman licensing provisions in the Kansas law, the dealer's son would have been able to show his license which would have verified that he was a dealership employee and the dealer number on the license would have matched the license tag on the vehicle.

I urge your favorable consideration of SB 618 and hope that you will consider adding some type of testing procedure to the bill.

Thank you for your time, and I will be happy to answer any questions.

* * * * *