

MINUTES OF THE House COMMITTEE ON Transportation

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

1:30 ~~xx~~ a.m./p.m. on February 4, 1985 in room 519-S of the Capitol.

All members were present ~~except~~:

Committee staff present:

Hank Avila, Legislative Research Department
Fred Carman, Office of the Revisor of Statutes
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Mr. Richard V. Davis, Kansas Motorcycle Industry Council
Mr. Bob Haley, Kansas Department of Transportation

The meeting was called to order by Chairman Crowell and the first order of business was a request for introduction of a bill redefining "motorized bicycle" by Mr. Richard V. Davis, representing the Kansas Motorcycle Industry Council.

Mr. Davis distributed information to Committee members about the new three wheeled motorized bicycle which will be marketed primarily for senior citizens and the disabled. (See Attachment 1) Mr. Davis explained the three wheeled motorized bicycle has one wheel in front and two wheels in the rear, and will comply with all other "motorized bicycle" specifications.

A motion was made by Representative Spaniol to introduce the requested legislation as Committee legislation, and ask that the bill be referred back to the Committee. The motion was seconded by Representative Dillon. Motion passed.

Mr. Bob Haley of the Kansas Department of Transportation, presented bill requests from KDOT, the first one being to make admissible evidence relative to nonuse of seat belts in tort claims actions. (See Attachment 2)

A motion was made by Representative Justice that this concept be introduced as legislation and request that it be referred back to this Committee. The motion was seconded by Representative Spaniol. Motion passed.

Mr. Haley briefed the Committee on another request by the KDOT which would provide the Department discretionary authority to set aside projects or portions of projects for bidding by disadvantaged businesses/minority business enterprises only.

A motion was made by Representative Wilbert that legislation be introduced providing KDOT discretionary authority to set aside projects or portions of projects for bidding by disadvantaged businesses/minority business enterprises only. The motion was seconded by Representative Dillon. Motion passed.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~xxx~~ p.m. on February 4, 1985

Chairman Crowell requested that Mr. Haley provide information on whether or not womens' business enterprises are still included in the disadvantaged businesses/minority business enterprise category, and if they are not, what has been the effect on womens' business enterprises.

Mr. Haley explained the next requested legislation concerns technical amendments to statutes relative to the State Rail Transportation Plan. KDOT requests the statute be amended so it provides broader authority to administer federal funds.

A motion was made by Representative Dillon to introduce legislation to amend statutes relative to the State Rail Transportation Plan. The motion was seconded by Representative Justice. Motion passed.

The next legislation requested by Mr. Haley was for changes in statutes relative to temporary construction workers. Mr. Haley said KDOT is requesting authority to hire temporary employees for the duration of the construction season.

Chairman Crowell asked what benefits the temporary construction workers do not receive, that the permanent workers receive. Mr. Larry Morlan of KDOT said the temporary workers receive Workmens' Compensation, but not health coverage.

Representative Justice asked if this is in conflict with the Rule of Five. Mr. Haley replied these are entry level positions, and there is no list for these positions.

Chairman Crowell requested that Rule of Five be defined. Representative Justice said it is the top five people on any list to be hired, and whomever is hired must come from the top five if they are available.

A motion was made by Representative Spaniol to introduce legislation for changes in the statutes relative to temporary construction workers. The motion was seconded by Representative Sutter. Motion passed.

Mr. Fred Carman distributed copies of a proposed bill draft concerning the use of safety belts, to the Committee. (See Attachment 3)

A motion was made by Representative Patrick to introduce legislation concerning the requirement for use of safety belts. The motion was seconded by Representative Justice. Motion passed.

Representative Dillon made a motion to introduce a bill that would provide for increasing the connecting link money by \$250 a year per lane mile over a 3-year period to \$2,000 per lane mile. The motion was seconded by Representative Justice.

The Chairman requested that Mr. Haley explain what is meant by connecting link money for the new members of the Committee. Mr. Haley said state law provides that the state highway system go from city limit to city limit, with the exception of interstates that go through a city. He said city connecting links are those sections of the road within a city which connect state highways. In some towns, the connecting link roads are maintained by KDOT. Some cities are paid a certain amount to maintain the connecting link roads themselves.

A vote was taken on the motion. Motion passed.

The meeting was adjourned at 2:40 p.m.


Rex Crowell, Chairman

KANSAS MOTORCYCLE INDUSTRY COUNCIL

Represented By Richard V. Davis

PROPOSES

Change of KSA 8-126(aa) concerning redefining "Motorized Bicycle"

From: 0131 (aa) "Motorized bicycle." Every device having ~~two tandem wheels~~ which may be propelled by either human power or helper motor, or by both, and which has: A motor which produces not more than 3.5 brake horsepower; a cylinder capacity of not more than 50 cubic centimeters; an automatic transmission; and the capability of a maximum design speed of no more than 30 miles per hour.

To: 0131 (aa) "Motorized bicycle." every device having two tandem wheels ~~(or three wheels)~~, which may be propelled by either human power or helper motor, or by both, and which has: A motor which produces not more than 3.5 brake horsepower; a cylinder capacity of not more than 50 cubic centimeters; an automatic transmission; and the capability of a maximum design speed of no more than 30 miles per hour.

- A. The purpose of this request results from a new product soon to be marketed by a major manufacturer of "Motorized bicycles". This new product has one wheel in front and two wheels in the rear, and will comply with all other "Motorized bicycle" specifications. This 3-wheeled "Motorized bicycle" will be marketed primarily for Senior Citizens and the disabled.
- B. No conflict can be construed between the 3-wheeled "Motorized bicycle" and the other classification, "All-terrain vehicle", because a "Motorized bicycle" is for street use and an "All-terrain vehicle" is for off-highway use only, devoid of brake lights, turn signals and horn. Also the requirements of "All-terrain vehicles" specifically requires low pressure tires that are at least 6 inches wide. The 3-wheeled "Motorized bicycle" has tires significantly narrower than 6 inches.
- C. Likewise no confusion should exist as to the possibility that a 3-wheeled "Motorized bicycle" could be construed to be a motorcycle. The engine produces no more than 3.5 brake horsepower, a cylinder capacity of no more than 50 cubic centimeters, an automatic transmission, and a maximum design speed of no more than 30 miles per hour, which are the other requirements of a "Motorized bicycle".

Attach. 1
2/4/85

The 1985 Honda Scooters

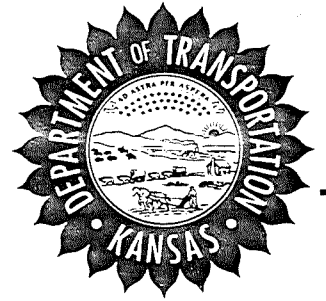
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KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

MEMORANDUM TO: HOUSE TRANSPORTATION COMMITTEE

REGARDING: KANSAS DEPARTMENT OF TRANSPORTATION LEGISLATIVE REQUESTS

DATE: FEBRUARY 4, 1985

FROM: ROBERT HALEY
DIRECTOR OF ADMINISTRATION

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM ROBERT HALEY, DIRECTOR OF ADMINISTRATION FOR THE KANSAS DEPARTMENT OF TRANSPORTATION. I AM APPEARING BEFORE YOU TODAY TO DISCUSS THE LEGISLATIVE REQUESTS OF THE DEPARTMENT. SECRETARY KEMP WOULD NORMALLY MAKE THIS PRESENTATION, HOWEVER, HE IS STILL UNABLE TO RETURN TO WORK AT THIS TIME.

THE COMMITTEE IS WELL AWARE OF THE DEPARTMENT'S POSITION ON TWO ISSUES WHICH HAVE BEEN ADDRESSED ALREADY THIS SESSION, FUNDING AND NATIONAL MINIMUM DRINKING AGE. SO LET ME ADDRESS THE LEGISLATIVE REQUESTS FROM THE DEPARTMENT:

- + ADMISSIBILITY OF EVIDENCE RELATIVE TO NONUSE OF SEAT BELTS IN TORT CLAIMS ACTIONS.
- + CHANGES TO PROVIDE THE DEPARTMENT DISCRETIONARY AUTHORITY TO SET ASIDE PROJECTS OR PORTIONS OF PROJECTS FOR BIDDING BY DB/MBE'S ONLY.
- + TECHNICAL AMENDMENTS TO STATUTES RELATIVE TO THE STATE RAIL TRANSPORTATION PLAN.

*Attach. 2
2/4/85*

- + CHANGES IN STATUTES RELATIVE TO TEMPORARY CONSTRUCTION WORKERS.

ADMISSIBILITY OF NONUSE OF SEAT BELTS

IN TORT ACTIONS, CURRENTLY, THE GENERAL RULE IS THAT EVIDENCE OF SEAT BELT USAGE MAY NOT BE INTRODUCED UNDER THE COMPARATIVE NEGLIGENCE DOCTRINE EITHER ON THE ISSUE OF CONTRIBUTING NEGLIGENCE OR IN MITIGATION OF DAMAGES. AS A RESULT, THE STATE MAY NOT INTRODUCE SUCH EVIDENCE TO SEEK REDUCED DAMAGE AWARDS; AND, THE STATE AS A WHOLE, BEARS THE BURDEN FOR THE INDIVIDUAL'S FAILURE TO USE AVAILABLE PASSENGER RESTRAINTS.

THE DEPARTMENT IS COOPERATING WITH THE GOVERNOR'S OFFICE IN EFFORTS TO ENACT LEGISLATION TO PERMIT THE INTRODUCTION OF EVIDENCE OF SEAT BELT USAGE IN TORT ACTIONS.

MINORITY BUSINESS SET ASIDE

SECTION 105(f) OF THE 1982 SURFACE TRANSPORTATION ASSISTANCE ACT (P.L. 97-424) REQUESTS THAT "NOT LESS THAN 10 PERCENTUM OF THE AMOUNTS AUTHORIZED TO BE APPROPRIATED UNDER THIS ACT SHALL BE EXPENDED WITH SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS." AS A RESULT OF THESE PROVISIONS, THE FEDERAL HIGHWAY ADMINISTRATION (FHWA) INCREASED THE DISADVANTAGED BUSINESSES/MINORITY BUSINESS ENTERPRISE (DB/MBE) PARTICIPATION IN FEDERAL-AID APPORTIONMENTS.

THE INCREASES IN THE FEDERALLY REQUIRED (DB/MBE) PARTICIPATION RATES HAVE NECESSITATED THE IMPLEMENTATION OF NEW PROCEDURES AND INTENSIFICATION OF EXISTING METHODS. FAILURE ON THE PART OF THE STATE TO MEET THE DB/MBE PARTICIPATION LEVELS COULD ULTIMATELY RESULT IN THE WITHHOLDING OF FEDERAL HIGHWAY FUNDS.

THE DEPARTMENT IS COOPERATING WITH THE GOVERNOR'S OFFICE IN EFFORTS TO ENACT LEGISLATION WHICH WOULD PROVIDE THE DISCRETIONARY AUTHORITY TO THE DEPARTMENT TO SET ASIDE CERTAIN PROJECTS OR PORTIONS OF PROJECTS FOR BIDDING BY DB/MBE'S ONLY.

STATE RAIL TRANSPORTATION PLAN

K.S.A. 75-5025 AUTHORIZES THE SECRETARY TO "EXERCISE THOSE POWERS NECESSARY TO QUALIFY FOR RAIL SERVICE CONTINUATION SUBSIDIES" PURSUANT TO THE FEDERAL 4 R ACT. (EMPHASIS ADDED). HOWEVER, IN 1981 CONGRESS AMENDED THE 4 R ACT BY DELETING THE "RAIL SERVICE CONTINUATION" PROVISION WHILE CONTINUING TO MAKE FUNDS AVAILABLE FOR OTHER PURPOSES, INCLUDING "REHABILITATION OR IMPROVEMENT" OF RAIL FACILITIES. (THE DISTINCTION IS BETWEEN OPERATING SUBSIDIES AND CAPITAL IMPROVEMENTS.)

ALTHOUGH THERE APPEARS TO BE NO NEED FOR THE EXPRESS AUTHORITY THAT K.S.A. 75-5025 HAS PROVIDED FOR RAIL PLANNING ACTIVITIES--SUCH ACTIVITIES CLEARLY WOULD COME WITHIN THE SCOPE OF K.S.A. 75-5023, 5026, AND 68-404(J)--NONETHELESS, THE PRESENCE OF K.S.A. 75-5025 ON THE STATUTE BOOKS SUGGESTS A BELIEF BY THE LEGISLATURE THAT SUCH AN EXPRESS AUTHORIZATION WAS REQUIRED. IT IS UNDESIRABLE TO HAVE A STATUTE IN EFFECT WHICH SPECIFICALLY AUTHORIZES SUCH ACTIVITIES, FOR A PURPOSE OTHER THAN THAT WHICH IS CURRENTLY BEING SERVED, WHILE FAILING TO AUTHORIZE THOSE ACTIVITIES FOR ANY OTHER PURPOSE, INCLUDING THAT FOR WHICH THEY ARE CURRENTLY BEING PERFORMED.

IT WOULD BE DESIRABLE TO HAVE CLEAR STATUTORY AUTHORITY FOR PERFORMING THIS ACTIVITY, GIVEN THAT IT INVOLVES SUBSTANTIAL PUBLIC CONTACT, THAT THE FEDERAL PROGRAM REQUIRES US TO CERTIFY THAT WE HAVE SUCH AUTHORITY, AND THAT THE LEGISLATURE HAS SEEN FIT TO PROVIDE SUCH EXPRESS AUTHORITY IN THE PAST FOR A DIFFERENT BUT CLOSELY RELATED PURPOSE. IF THE LEGISLATURE WERE TO SIMPLY REPEAL THE EXISTING STATUTE WITHOUT SUBSTITUTING AN UPDATED VERSION, SOME DOUBT MIGHT BE CREATED AS TO WHETHER KDOT MAY LAWFULLY CONTINUE SUCH ACTIVITIES UNDER SOME MORE GENERAL POWER, WHERE WE HAVE RELIED ON AN EXPRESS GRANT OF AUTHORITY IN THE PAST.

IF THE STATUTE IS AMENDED, IT IS DESIRABLE TO DO SO IN TERMS WHICH ARE SUFFICIENTLY BROAD AS TO AVOID FUTURE CONFLICTS OF THIS KIND IN THE EVENT THAT FURTHER CHANGES IN FEDERAL LAW ARE TO OCCUR. IT IS HIGHLY LIKELY THAT SUCH CHANGES WILL OCCUR, INCLUDING THE EVENTUAL PHASING OUT OF THE FEDERAL PROGRAM, AND THE POSSIBLE CREATION OF A NEW PROGRAM TO ACCOMPLISH SIMILAR PURPOSES. EVEN IF NO FEDERAL FUNDING IS AVAILABLE IN THE FUTURE, IT IS ALSO PROBABLE THAT KDOT WILL WISH TO CONTINUE DEVELOPING STATE RAIL PLANS FOR OTHER PURPOSES WITHIN ITS STATUTORY AUTHORITY.

TEMPORARY CONSTRUCTION WORKERS

THE ACCELERATED HIGHWAY PROGRAM HAS PRODUCED A SHORTAGE OF WORKERS FOR TESTING HIGHWAY MATERIALS, PERFORMING CONSTRUCTION SURVEYING AND GENERAL CONSTRUCTION INSPECTIONS, UNDER THE SUPERVISION OF KDOT ENGINEERING TECHNICIANS. INCREASED WORK LOADS ARE EXPERIENCED FROM EARLY SPRING THROUGH NOVEMBER. IN ORDER NOT TO INCREASE THE PERMANENT HEADCOUNT, THE AGENCY HIRES TEMPORARY EMPLOYEES TO MEET THE INCREASED WORK LOAD. UNDER EXISTING PERSONNEL STATUTES, THE DEPARTMENT IS LIMITED TO MAKING AN APPOINTMENT FOR 25 WEEKS OR 999 HOURS, WHICHEVER OCCURS FIRST. SINCE TEMPORARY CONSTRUCTION WORKERS ARE REQUIRED TO PUT IN OVERTIME, THEIR EMPLOYMENT IN EFFECT IS LIMITED TO ONLY 16 WEEKS. THE DEPARTMENT THEN IS REQUIRED TO FIND A NEW WORKER, LOSING ALL THE TRAINING INVESTED IN THE ORIGINAL WORKER.

AT THE SUGGESTION OF THE STATE DIVISION OF PERSONNEL SERVICES, THE DEPARTMENT IS REQUESTING THAT K.S.A. 75-2945 BE AMENDED TO ALLOW THE AGENCY TO APPOINT TEMPORARY CONSTRUCTION WORKERS ON HIGHWAY CONSTRUCTION PROJECTS FOR THE CONSTRUCTION SEASON DURATION.

HOUSE BILL NO. _____

By Committee on Transportation

AN ACT concerning motor vehicles; requirement for use of safety belts.

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

Section 1. This act may be cited as the safety belt use act.

Sec. 2. As used in this act, "passenger car" means a motor vehicle with motive power designed for carrying 10 passengers or fewer, but does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis or with special features for occasional off-road operation.

Sec. 3. (a) Except as provided in K.S.A. 8-1344 and 8-1345 and amendments thereto and in subsection (b), each front seat occupant of a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard No. 208 shall have a safety belt properly fastened about such person's body at all times when the vehicle is in motion.

(b) This section does not apply to an occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system.

(c) The secretary of transportation shall initiate an educational program designed to encourage compliance of restraint devices in reducing the risk of harm to their users as well as to others, and on the requirements and penalties specified in this act.

(d) The secretary shall evaluate the effectiveness of this act and shall include a report of the findings in the annual evaluation report on the highway safety plan that the secretary submits under 23 U.S.C. 402.

2/4/85
Attachment 3

Sec. 4. (a) Persons violating subsection (a) of section 3 shall be fined not less \$25.

(b) Evidence of a violation of subsection (a) of section 3 shall be admissible in mitigation of damages with respect to any person who is involved in an accident while violating such subsection and who seeks in any subsequent litigation to recover damages for injuries resulting from the accident.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.